

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND NORTHERN IRELAND PROTOCOL

C(2022)5124 + ANNEX

**COMMISSION IMPLEMENTING REGULATION (EU) 2022/1322 OF 25 JULY 2022
AMENDING IMPLEMENTING REGULATION (EU) 2021/632 AS REGARDS THE
LISTS OF PRODUCTS OF ANIMAL ORIGIN, ANIMAL BY-PRODUCTS AND
COMPOSITE PRODUCTS SUBJECT TO OFFICIAL CONTROLS AT BORDER
CONTROL POSTS**

**LISTS OF ANIMALS, PRODUCTS OF ANIMAL ORIGIN, GERMINAL PRODUCTS,
ANIMAL BY-PRODUCTS AND DERIVED PRODUCTS, COMPOSITE PRODUCTS,
AND HAY AND STRAW SUBJECT TO OFFICIAL CONTROLS AT BORDER
CONTROL POSTS AS REFERRED TO IN ARTICLE 3**

Submitted by the Department for Environment, Food and Rural Affairs

10 November 2022

SUBJECT MATTER

1. Commission Implementing Regulation (EU) 2021/632 lays down the lists of animals and animal products subject to official controls at Border Control Posts (BCPs). Commission Implementing Regulation (EU) 2022/1322 makes two small changes to Regulation 2021/632. Regulation 2022/1322 amends the Annex to Regulation 2021/632 by adding various headings and Customs Nomenclature (CN) codes to the list, in order to clarify which consignments of goods are subject to official controls at the border. Northern Ireland will have to implement the provisions of this Regulation. Those provisions include:

- Certain coffee based products containing product of animal origin (POAO);
- Pasta, rice and cereal products that contain POAO;
- Certain fruit, nut and other edible plant products that contain POAO;
- Organic chemicals that contain animal products;
- Vitamin D3 if it is of animal origin;
- Certain animal pathogens.

SCRUTINY HISTORY

2. The Parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in Annex A.

MINISTERIAL RESPONSIBILITY

3. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs in England.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

4. The Devolved Administrations have been consulted. The Scottish Government and Welsh Government had no comments. The Northern Ireland Executive comment as follows. The respective remits and responsibilities of the FSA, DAERA and District Councils for the exercise of official controls at points of entry in NI are as follows. The Food Standards Agency (FSA) and DAERA are the central competent authorities responsible for providing the legislative framework through domestic regulations in Northern Ireland (NI) for imports that are subject to SPS controls in NI under the relevant EU legislation. The FSA is the Central Competent Authority for public health (human health) import policy. However, the FSA does not have any statutory function to deliver import controls at Points of Entry in NI. Consequently, the FSA does not have any immediate staffing resource at ports. Both DAERA and District Councils are the designated competent authorities for delivering official controls for goods imported into NI from outside of the EU SPS regulatory zone in accordance with the Official Controls Regulation (EU) 2017/625 (OCR). This also includes C(2022)5124: COMMISSION IMPLEMENTING REGULATION (EU) .../... of 25.7.2022 amending Implementing Regulation (EU) 2021/632
5. Defra has followed the Common Framework approach in involving the Devolved Administrations. Under the Framework approach – pursuant to the Devolution Memorandum of Understanding of September 2012 – the UK Government is committed to involving the Scottish Government, Welsh Government and Northern Ireland Executive as fully as possible in discussions about the formulation of the UK’s policy position on all EU and international issues which touch on devolved matters. For non-devolved matters, the MoU commits the Secretaries of State for Scotland, Wales and Northern Ireland to ensure the interests of all parts of the UK in non-devolved matters are properly represented and considered.

LEGAL AND PROCEDURAL ISSUES

6.

i. Legal Base

The Regulation was adopted under Article 47(2) (a) of Regulation (EU) 2017/625 (the Official Controls Regulation).

ii. Voting Procedure

Examination procedure (in accordance with Article 5 of Regulation (EU) NO 182/2011).

iii. Timetable for adoption and implementation

The Regulation was published on 29 July 2022 and entered into force on 18 August.

POLICY IMPLICATIONS

7. This regulation applies to both GB-EU and GB-NI trade. Under the current requirements of the Northern Ireland Protocol, Northern Ireland will have to implement the provisions of this Regulation.

Under the current requirements of the Northern Ireland Protocol, Northern Ireland will have to implement the provisions of this Regulation. This affects consignments which include the products listed above moving from GB into NI which will need to enter via a designated Point of Entry and be subjected to controls. Goods that are moved as part of the current Scheme for Temporary Agri-food Movements NI (STAMNI) arrangements will be exempt from these requirements.

8. Bringing additional products into the scope of OCR controls means that traders will need to comply with new rules. For example, POAO added into the scope of controls may require an Export Health Certificate (EHC) and potentially be checked at a BCP on entry into the EU or at the Point of Entry into NI, adding cost and complexity for traders, unless these goods bound for NI are moved under the current STAMNI arrangements.

In certain cases, business may be required to comply with the conditions of the new requirements as products will be subject to point of entry checks for the first time. In some cases, this regulation provides clarity rather than additional burden as a result of an update to the tariff codes.

9. The Northern Ireland Protocol is causing real problems. These include trade disruption and diversion, significant costs and bureaucracy for traders, and areas where NI have not been able to benefit from the same advantages as those in the rest of the UK. It is our preference to resolve this through talks. The Government is currently engaging in constructive dialogue with the EU to find solutions to these problems.
10. However, we are proceeding with legislation under the Northern Ireland Protocol Bill which will fix the practical problems the Protocol has created including removing the burden of unnecessary paperwork, checks and duties for goods remaining in the UK. The Bill protects the Belfast Good Friday Agreement, avoids a hard border on the island of Ireland, protects the integrity of the UK and safeguards the EU Single Market.

CONSULTATION

11. The EU Commission consulted with the Standing Committee on Plants, Animals, Food and Feed. However, we are not aware of any consultation with UK stakeholders.

FINANCIAL IMPLICATIONS

12. We are not aware of any significant financial implications.

Richard Benyon.

**THE RT HON LORD BENYON
MINISTER FOR BIOSECURITY, MARINE AND RURAL AFFAIRS
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1322 OF 25.7.2022 AMENDING IMPLEMENTING REGULATION (EU) 2021/632 AS REGARDS THE LISTS OF PRODUCTS OF ANIMAL ORIGIN, ANIMAL BY-PRODUCTS AND COMPOSITE PRODUCTS SUBJECT TO OFFICIAL CONTROLS AT BORDER CONTROL POSTS

EM 7760/22: COMMISSION DELEGATED REGULATION (EU) .../... OF 28.3.2022 AMENDING DELEGATED REGULATION (EU) 2019/625 AS REGARDS COMBINED NOMENCLATURE AND HARMONISED SYSTEM CODES AND IMPORT CONDITIONS OF CERTAIN COMPOSITE PRODUCTS, AMENDING DELEGATED REGULATION (EU) 2019/2122 AS REGARDS CERTAIN GOODS AND PET BIRDS EXEMPTED FROM OFFICIAL CONTROLS AT BORDER CONTROL POSTS AND AMENDING DELEGATED REGULATION (EU) 2021/630 AS REGARDS REQUIREMENTS FOR COMPOSITE PRODUCTS EXEMPTED FROM OFFICIAL CONTROLS AT BORDER CONTROL POSTS

DATE EM SIGNED: 08/06/2022

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
SCRUTINY COMPLETED (OUTCOME AGENDA NO 8 18/7/22)	CLEARED BY HOL LETTER DATED 8/9/2022. DRAWN TO THE ATTENTION OF THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 20; 14/6/22)

EM 10888/21,C(2021) 4298 FINAL:COMMISSION DELEGATED REGULATION (EU) .../... OF 13.7.2021 AMENDING DELEGATED REGULATION (EU) 2020/692 AS REGARDS THE ANIMAL HEALTH REQUIREMENTS FOR THE ENTRY INTO THE UNION OF PRODUCTS OF ANIMAL ORIGIN CONTAINED IN COMPOSITE PRODUCTS

DATE DEFRA EM SIGNED: 02/09/2021

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
SCRUTINY COMPLETED (OUTCOME AGENDA NO 15 22/9/21)	DRAWN TO THE ATTENTION OF THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 7; 16/9/21)

**7238/19: COMMISSION DELEGATED REGULATION (EU) .../... OF 4.3.2019
SUPPLEMENTING REGULATION (EU) 2017/625 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL WITH REGARD TO REQUIREMENTS FOR
THE ENTRY INTO THE UNION OF CONSIGNMENTS OF CERTAIN ANIMALS AND
GOODS INTENDED FOR HUMAN CONSUMPTION**

DATE DEFRA EM SIGNED: 27/03/2019

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
NOT IMPORTANT CLEARED (AGENDA FOR REPORT NO. 66 – 15/05/2019)	CLEARED (BUT SENT FOR INFORMATION TO ENVIRONMENT) AT CHAIRMAN'S SIFT 1735 - 02/04/2019