

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND WINDSOR FRAMEWORK

C(2023) 636 FINAL + ANNEX

COMMISSION DELEGATED REGULATION (EU) .../... OF 30.1.2023 AMENDING DELEGATED REGULATION (EU) 2020/687 SUPPLEMENTING REGULATION (EU) 2016/429 OF THE EUROPEAN PARLIAMENT AND THE COUNCIL AS REGARDS RULES FOR THE PREVENTION AND CONTROL OF CERTAIN LISTED DISEASES

Submitted by the Department for Environment, Food and Rural Affairs

11 May 2023

SUBJECT MATTER

1. Commission Delegated Regulation (EU) 2020/687 lays down rules supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council ('Animal Health Law') as regards the prevention and control of certain listed diseases, notably category A (e.g., highly pathogenic avian influenza, foot and mouth disease, African swine fever), B and C diseases. Among others, Delegated Regulation (EU) 2020/687 provides for establishment of restricted zones, for restrictions and conditions for movements of animals and products thereof within and from restricted zones as part of the measures to control the spread of category A diseases. Such measures should be proportionate to the risks involved.
2. This Delegated Regulation amends certain Articles of Delegated Regulation (EU) 2020/687 and certain Annexes to align those measures with the risk involved in certain circumstances.

SCRUTINY HISTORY

3. Delegated Regulation 2020/687 that this Regulation amends was not deposited for scrutiny following consultation with the clerks of the EU Select Committees.

MINISTERIAL RESPONSIBILITY

4. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

5. Animal health policy is a devolved matter. The animal health policy area is subject to a common framework, identified as one for implementation of common rules and ways of working, alongside a non-legislative framework agreement.

6. Scottish Government Ministers, the Welsh Ministers, Department of Agriculture, Environment and Rural Affairs (DAERA) and the Northern Ireland Executive Ministers have an interest and the devolved administrations have been consulted in the preparation of this Explanatory Memorandum. This Delegated Regulation will apply in Northern Ireland.
7. DAERA have The derogation not to apply restriction zones for an establishment where up to 50 captive birds are kept and have no direct or indirect contact with poultry is also welcome and will have a positive impact. Any use of this derogation of course will be subject to a rigorous veterinary risk assessment.
 - Amendments to articles 28 and 43 relating to the designation of the establishment of destination being done in cooperation between the competent authority of the establishment of origin and that of the establishment of destination has little impact. It is for the competent authority in each jurisdiction to manage in collaboration. For NI this will be NI/GB and NI/ROI given the nature of the industry.
 - The amendment to allow for ready to lay poultry to move from zones is also welcome and will have a positive impact noting the conditions attached.
 - The clarification on starting point of the minimum period aligns with our interpretation. No impact.
 - Clarity on movements of day-old-chicks from an SZ - to be relaxed and aligned with those available for movements from a PZ is welcome and positive impact.
 - Changes to Article 52 welcome and positive impact.
 - Article 59(2) amendment welcome to correct error.
 - No impact on sheep/goat pox treatment amendments.
 - No impact on addition of heat treatment for ASF.

The changes to Annex VI prohibiting the movement of hatching eggs into a PZ/SZ will create a negative impact should a hatchery be in a restricted area – though this can be licensed.

LEGAL AND PROCEDURAL ISSUES

8.

i. Legal Base

The legal basis for this Delegated Regulation is Article 264(1) of Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law').

ii. Voting Procedure

The Windsor Framework provides that limited areas of EU law will continue to apply to the UK in respect of Northern Ireland. This EU legislation supplements the Animal Health Law which applies in Northern Ireland by virtue of the Windsor Framework.

iii. Timetable for adoption and implementation

This Delegated Implementing Regulation was adopted on 30 January 2023 as Delegated Regulation (EU) 2023/751 at [EUR-Lex - 32023R0751 - EN - EUR-Lex \(europa.eu\)](#).

POLICY IMPLICATIONS

9. This legislation introduces technical amendments to existing EU legislation. On balance impacts are minor and only apply where NI are dealing with an outbreak of a Category A exotic disease, so this will have little impact on normal movement of goods from GB-NI.
10. As 2020/687 is a key piece of implementing legislation in the Animal Health Law, these amendments to 2020/687 will only have an impact on NI when they respond to any outbreaks of the exotic diseases covered, notably avian influenza, foot and mouth disease, African swine fever.
11. There are 11 amendments to 2020/687 in this regulation, all but one of which are minor corrections or bringing the legislation in line with World Animal Health Organisation (WOAH) definitions. Only one amendment - the changes to Annex VI prohibiting the movement of hatching eggs into a protection or surveillance zone - will create a negative impact should a hatchery be in a restricted area – though these moves can be licensed if the hatchery is designated. This amendment is to prevent an increase in the population of susceptible species in those zones, particularly for outbreaks of avian influenza or Newcastle Disease and reinstates the position post end of transition period. At present the movement of live birds is prohibited, so day-old-chicks currently cannot move into the zones except under license. The amendment strengthens this position.
12. Since 1 January 2021, 173 consignments of hatching eggs for chickens (171) and turkeys (2) have moved from GB to NI. In the event of an avian influenza or Newcastle disease outbreak in NI some of these moves may be affected which could cause business disruption due to lack of available hatcheries (if hatcheries are located in protection or surveillance zones, and noting that in some cases there may be limited availability of alternative hatcheries).
13. Technical amendments continue to be made to both EU and GB (England, Wales, Scotland) legislation on exotic disease control to reflect improved ways of responding to outbreaks of these diseases. Many of the changes in both EU and GB legislation have their roots in technical changes to the World Organisation for Animal Health's Terrestrial Animal Health Code. Future minor changes are currently planned in 2023 and 2024 to English, Welsh and Scottish legislation

separately, but these are unlikely to impact hugely on divergence. Larger temporary divergences may occur, for example on allowing vaccination of poultry against avian influenza, where changes can be made in EU legislation much faster than in GB legislation. We are engaged with international discussions (EU and globally) on this topic.

CONSULTATION

14. We have not launched a formal consultation on this regulation. We do not expect objections from stakeholders to this Delegated Regulation as these are technical amendments that generally will have little or a positive effect on individual stakeholders. On the amendment with a negative impact, it will affect a limited number of stakeholders, which with licensing of these movements, the impact will be significantly reduced.

FINANCIAL IMPLICATIONS

15. There are no financial implications for GB from these amendments. There may be additional costs for licencing additional moves of hatching eggs into hatcheries within protection or surveillance zones, but these will be limited.



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