

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

**C(2023) 4572 FINAL + ANNEX**

**COMMISSION DELEGATED REGULATION (EU) .../... OF 10.7.2023 AMENDING  
DELEGATED REGULATION (EU) 2020/689 SUPPLEMENTING REGULATION (EU)  
2016/429 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS  
REGARDS RULES FOR SURVEILLANCE, ERADICATION PROGRAMMES, AND  
DISEASE-FREE STATUS FOR CERTAIN LISTED AND EMERGING DISEASES**

Submitted by the Department for Environment, Food and Rural Affairs

20<sup>th</sup> September 2023

**SUBJECT MATTER**

1. Commission Delegated Regulation (EU) 2020/689 lays down rules supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council ('Animal Health Law') for surveillance, eradication programmes, and disease-free status for certain listed and emerging diseases, notably category A (e.g., highly pathogenic avian influenza, foot and mouth disease, African swine fever), B and C diseases. The delegated regulation covers terrestrial and aquatic species.
2. This delegated regulation makes changes to Delegated Regulation (EU) 2020/689 to:
  - Article 1(1) and (4) supplement the surveillance rules to allow competent authorities to implement surveillance in animal species that are currently not included in the design of the surveillance programmes. This amendment will further enable and support competent authorities to conduct structured surveillance for highly pathogenic avian influenza (HPAI) in mammals as appropriate and it is intended to better address the objective of contributing to increased knowledge on HPAI posing a potential zoonotic risk provided for in the EU surveillance programme laid down in Section 2 of Part I of Annex II to Regulation (EU) 2020/689;
  - Article 1(2) and (3) make it possible to obtain disease-free status based on historical information and surveillance data without time limitation for all relevant listed diseases in terrestrial and aquatic species;
  - Article 1(4) fine tunes the rules to maintain non-vaccination status for infection with Newcastle disease virus.

## **SCRUTINY HISTORY**

3. There is no Parliamentary scrutiny history relevant to this Explanatory Memorandum.

## **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 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. The Department of Agriculture, Environment and Rural Affairs (DAERA) have welcomed all the amendments made by this regulation and indicated that all the amendments either have no or a positive impact as follows:
  - Article 1(1) – DAERA are content with the introduction of this paragraph and how it is worded. It provides a requirement to include species of animals not listed when the Competent Authority deems there is a risk to animal or public health. DAERA have been discussing their approach in NI to this issue and this provides a further lever and clarity is therefore welcome.
  - Article 1(2) – DAERA is content with the approach to provide the possibility for a Member State to obtain the disease-free status in terrestrial species for all relevant diseases based on historical and surveillance data and without a time limitation.
  - Article 1(3) – DAERA is content with the approach to provide the possibility for a Member State to obtain the disease-free status in aquatic species for all relevant diseases based on historical and surveillance data and without a time limitation.
  - Article 1 (4) – DAERA is content with the clarity this amendment provides.

## 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.

### ii. **Voting Procedure**

The Commission has not yet adopted this delegated act, but will do so in due course in accordance with the procedure set out in Article 264 of Regulation 2016/429, under which it can enter into force if no objection is expressed by the Council or Parliament within two months of notification, or if they indicate that they will not object.

### iii. **Timetable for adoption and implementation**

This Delegated Implementing Regulation has not yet been adopted.

## POLICY AND LEGAL IMPLICATIONS

9. 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.

10. This legislation introduces technical amendments to existing EU legislation. The impacts are minor and are in relation to additional surveillance in other species only, so this will have negligible impact on normal movement of goods from GB-NI.

11. This Delegated Regulation makes changes to Delegated Regulation (EU) 2020/689 to:

- Article 1(1) and (4) supplement the surveillance rules to allow competent authorities to implement surveillance in animal species that are currently not included in the design of the surveillance programmes. This amendment will further enable and support competent authorities to conduct structured surveillance for highly pathogenic avian influenza (HPAI) in mammals as appropriate and it is intended to better address the objective of contributing to increased knowledge on HPAI posing a potential zoonotic risk provided for in the EU surveillance programme laid down in Section 2 of Part I of Annex II to Regulation (EU) 2020/689;

- Article 1(2) and (3) make it possible to obtain disease-free status based on historical information and surveillance data without time limitation for all relevant listed diseases in terrestrial and aquatic species;
- Article 1(4) fine tunes the rules to maintain non-vaccination status for infection with Newcastle disease virus.

12. Assessment of the amendments has indicated any divergences would be minor. Articles 1(1) and (4) would have a minor impact on Northern Ireland in that they will have the requirement, where they consider it necessary, to undertake the additional surveillance in other species. Should this minor divergence occur, this will not impact the Windsor Framework, movement of goods from GB to NI or vice versa or NI's place in the UK. GB can only currently do this surveillance in peacetime on a voluntary basis in kept mammals.

13. Amendments in 1(2) and (3) on regaining disease freedom based on historical information will have a positive impact across both terrestrial and aquatic species allowing additional flexibility. NI will take the decision on whether to take advantage of this flexibility.

14. Amendments in 1(4) will not apply to NI as vaccination for Newcastle disease routinely occurs in the poultry industry there.

15. 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**

16. 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 negligible effect on individual stakeholders.

## **FINANCIAL IMPLICATIONS**

17. There are no financial implications for GB from these amendments.

*Richard Benyon.*

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