

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

C(2023) 3854 FINAL + ANNEX

**COMMISSION DELEGATED REGULATION (EU) .../... OF 19.6.2023 AMENDING
DELEGATED REGULATION (EU) 2021/630 AS REGARDS THE INCLUSION OF
CERTAIN SPREADS AND PREPARATIONS FOR MAKING BEVERAGES
CONTAINING COCOA, CERTAIN PREPARED FOODS OBTAINED FROM
CEREALS OR CEREAL PRODUCTS, CERTAIN PREPARED FOODS OBTAINED
FROM RICE AND OTHER CEREALS, CERTAIN CHIPS AND CRISPS, AND
CERTAIN SAUCES AND CONDIMENTS IN THE LIST OF COMPOSITE PRODUCTS
EXEMPTED FROM OFFICIAL CONTROLS AT BORDER CONTROL POSTS AND
AMENDING ANNEXES I AND III TO DELEGATED REGULATION (EU) 2019/2122**

Submitted by the Department for Environment, Food and Rural Affairs

19 December 2023

SUBJECT MATTER

1. The European Union's Sanitary and Phytosanitary (SPS) import legislation requires certain animals and animal products to meet relevant SPS import rules. These rules include the requirement for goods to enter the EU through a point of entry where checks are carried out to ensure import requirements are met. However, certain goods which are considered to pose a low risk to human and animal health may be exempted from official controls at the border. This means that documentary, identity, and physical checks may be carried out at a location other than the point of entry such as the place of destination or operator premises.
2. This Regulation extends the list of shelf-stable goods exempted from border controls. It includes products such as spreads and preparations for making beverages containing cocoa, products obtained from cereals, cereal products, prepared pastries, chips and crisps, prepared rice products, and miso and soy sauce containing a small amount of fish soup stock.
3. Imports of small amounts of certain, specified goods for personal use or consumption are exempt from border controls. The Regulation amends the personal imports legislation to ensure that personal imports of the goods referred to in paragraph 2 are exempt from border controls due to the low risk they pose to human and animal health.

SCRUTINY HISTORY

4. The Parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in the attached Annex A.

MINISTERIAL RESPONSIBILITY

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

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

6. DAs have been consulted. Scottish and Welsh Governments do not have any comments. Northern Ireland have said that any proposed changes to this list in the legislation will have minimal impact, however it is of interest to the Food Standards Agency in Northern Ireland who did not have any specific points to make on the content and will engage with District Councils to inform them of this legislation as needed.

LEGAL AND PROCEDURAL ISSUES

7.
 - i. **Legal Base:** Article 48(d) and (h) and Article 77(1)(k) of Regulation (EU) 2017/625
 - ii. **Voting Procedure:** The Delegated Regulation is adopted in line with the EU's Comitology procedures, as set out in Article 144 of Regulation (EU) 2017/625.
 - iii. **Timetable for adoption and implementation:** This Regulation entered into force on 21 September 2023.

POLICY AND LEGAL IMPLICATIONS

8. The new Regulation is not expected to create any additional barriers for moving goods from Great Britain to Northern Ireland. It will add a number of shelf-stable products to the list of goods exempt from controls at points of entry.
9. Most of these goods can move under the NI Retail Movement Scheme (NIRMS) as agreed in the Windsor Framework. This change will remove the individual marking requirements under Regulation (EU) 2023/1231 from these products.

10. If these products are moving onward to the EU (i.e. moving through the red lane), they will need to be accompanied by a Private Attestation, completed by the importer, confirming compliance with animal and public health requirements applicable under Annex 2 of the Windsor Framework. Risk based controls may be carried out away from the point of entry e.g. at the point of destination.

11. Therefore, we consider that this regulation would have a no to minimal impact on UK stakeholders. It may have a slightly positive impact for GB producers and NI consumers as it will remove the requirement for individual product labelling for these products under NIRMS.

CONSULTATION

12. A consultation has not been carried on the draft Regulation.

FINANCIAL IMPLICATIONS

13. This Regulation is unlikely to impose any additional financial burdens on traders.

A handwritten signature in blue ink, appearing to read 'K Douglas-Miller', with a long horizontal line extending to the right.

**LORD DOUGLAS-MILLER
PARLIAMENTARY UNDER SECRETARY OF STATE (MINISTER FOR
BIOSECURITY, ANIMAL HEALTH & WELFARE)
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:

COMMISSION DELEGATED REGULATION (EU) /... AMENDING DELEGATED REGULATION (EU) 2021/630 AS REGARDS THE INCLUSION OF CERTAIN SPREADS AND PREPARATIONS FOR MAKING BEVERAGES CONTAINING COCOA, CERTAIN PREPARED FOODS OBTAINED FROM CEREALS OR CEREAL PRODUCTS, CERTAIN PREPARED FOODS OBTAINED FROM RICE AND OTHER CEREALS, CERTAIN CHIPS AND CRISPS, AND CERTAIN SAUCES AND CONDIMENTS IN THE LIST OF COMPOSITE PRODUCTS EXEMPTED FROM OFFICIAL CONTROLS AT BORDER CONTROL POSTS AND AMENDING ANNEXES I AND III TO DELEGATED REGULATION (EU) 2019/2122

COM(2023)124: REGULATION (EU) 2023/1231 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 14 JUNE 2023 ON SPECIFIC RULES RELATING TO THE ENTRY INTO NORTHERN IRELAND FROM OTHER PARTS OF THE UNITED KINGDOM OF CERTAIN CONSIGNMENTS OF RETAIL GOODS, PLANTS FOR PLANTING, SEED POTATOES, MACHINERY AND CERTAIN VEHICLES OPERATED FOR AGRICULTURAL OR FORESTRY PURPOSES, AS WELL AS NON-COMMERCIAL MOVEMENTS OF CERTAIN PET ANIMALS INTO NORTHERN IRELAND

FCDO SUBMITTED AN EM DATED 17 APRIL 2023

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
THE HOUSE OF COMMONS EUROPEAN SCRUTINY COMMITTEE RETAINS THE REGULATION UNDER SCRUTINY AS RAISING ISSUES OF LEGAL AND POLITICAL IMPORTANCE AND HAS CORRESPONDED WITH THE GOVERNMENT WITH FURTHER QUESTIONS (REPORT 18, 22/23)	THE REGULATION HAS ALSO BEEN RETAINED UNDER SCRUTINY BY THE HOUSE OF LORDS PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE AND HAS CORRESPONDED WITH THE GOVERNMENT WITH FURTHER QUESTIONS.

**EUROPEAN COMMISSION DELEGATED REGULATION 2021/631
OF 16 FEBRUARY 2021**

DEFRA SUBMITTED AN EM DATED 4 JUNE 2021

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
THE HOUSE OF COMMONS EUROPEAN SCRUTINY COMMITTEE DID NOT REPORT SUBSTANTIVELY ON THE EM COMPLETING SCRUTINY ON 23 JUNE 2021 (REPORT 4, 19/21).	THE EM WAS DRAWN TO THE ATTENTION OF THE HOUSE OF LORDS PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (EAC CHAIR'S SIFT 3, 10 JUNE 2021); THE SUB-COMMITTEE HAD NO QUESTIONS