

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

**C(2021)7567**

**COMMISSION REGULATION (EU) 2021/1891 OF 26 OCTOBER 2021 AMENDING  
ANNEXES XIV AND XV TO REGULATION (EU) No 142/2011 AS REGARDS  
IMPORTS INTO AND TRANSIT THROUGH THE UNION OF ANIMAL BY-  
PRODUCTS AND DERIVED PRODUCTS**

Submitted by the Department for Environment, Food and Rural Affairs

29 November 2021

**SUBJECT MATTER**

1. This Regulation amends Commission Regulation (EU) No 142/2011 to amend three export health certificates for exports of animal by-products from third countries to the European Union (EU). It adds flexibility to the Regulation.
2. Animal by-products (ABPs) by definition are not intended for human consumption.
3. The UK asked for and negotiated these changes with the European Commission which reduce costs of and barriers to trade for GB exporters.
4. The easements are:
  - an amendment of the relevant export health certificates for exports to the EU of animal by-products (ABPs) for use in pet food manufacturing, for purposes outside the feed chain or for trade samples to provide an alternative to the requirement of the ABPs to originate from livestock that comply with a 40-day pre-slaughter residency in their last holding;
  - an amendment of the relevant export health certificate to remove the requirement to add a marker to rendered fats that originate from Category 3 ABPs and are exported to be used for certain purposes outside the feed chain.
5. This Regulation falls under the Northern Ireland Protocol and will therefore apply to movements of the commodities involved from GB to Northern Ireland.

## **SCRUTINY HISTORY**

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

## **MINISTERIAL RESPONSIBILITY**

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

## **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

8. Trade is a reserved matter under the UK's devolution settlements. This Explanatory Memorandum is however likely to be of interest to the devolved administrations and they have been consulted in its preparation.
9. The Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA) have confirmed that they have an interest as it falls under the scope of the Northern Ireland Protocol. No other substantive comments have been received.

## **LEGAL AND PROCEDURAL ISSUES**

### **10.**

#### **i. Legal Base**

The legal basis for this Commission Regulation is Article 42 of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption.

#### **ii. Voting Procedure**

Qualified majority voting.

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

The Regulation was adopted on 26 October and published in the Official Journal of the European Union on 29 October. It therefore came into force on 18 November.

## **POLICY IMPLICATIONS**

11. This Regulation is a trade facilitation measure.
12. Great Britain exports of animal by-products to the EU must be accompanied by the relevant completed export health certificate for exports from third countries to the EU from 1 January 2021, after the end of the transition period for the UK exit from

the EU. Under the provisions in the Northern Ireland Protocol, animal by-products moved from Great Britain to Northern Ireland also have to be accompanied by these certificates. Animal by-products are defined as entire bodies or parts of animals, products of animal origin or other products obtained from animals, which are not intended for human consumption.

13. The export health certificates for exports of third countries into the EU include requirements related to animal and public health as part of the sanitary and phytosanitary checks. These include some requirements that the UK Government believes are not proportionate for exports from Great Britain, as the risk to animal and public health of our exports has not significantly changed since 1 January 2021.
14. The requirement to use the export health certificates has caused friction in the trade between Great Britain and the EU, and in movements from Great Britain to Northern Ireland. Following discussions with the European Commission, the Regulation introduces easements to reduce this friction. These are explained below.
15. The export health certificates for the export of animal by-products for the manufacture of pet food, for purposes outside the feed chain or for trade samples required the animal by-products to originate from livestock that had remained in their last holding for a period of at least 40 days and which had been transported directly to the slaughterhouse without contact with other animals which did not comply with the same health conditions. This requirement is very difficult to comply and verify by official veterinarians in Great Britain, due to the structure of the industry. The amendment provides for alternative conditions for animal by-products that originate from livestock from countries from which imports of fresh meat of ungulates are authorised without any restrictions in accordance with EU legislation, as it is the case for Great Britain. The alternative conditions can be met and verified in Great Britain.
16. The draft amending Regulation was supported by EU Chief Veterinary Officers in the summer and the European Commission agreed that the amended requirements for these exports could be implemented early through bilateral agreements. This easement is therefore already being applied for exports to a number of EU Member States and for movements to Northern Ireland; the coming into force of the Regulation extends this easement to all EU Member States and provides regulatory certainty.
17. The export health certificate for rendered fats exported to be used for certain purposes outside the feed chain required that all rendered fats had glyceroltriheptanoate (GTH) added. The intention of this provision is to avoid these products being diverted for use in the feed chain. The requirement included

rendered fats originating from categories 1 and 2 animal by-products and from category 3. The UK's position is that there is no need to mark rendered fats originated from Category 3 ABPs, as there is no risk. In addition, the provisions in EU Regulation 142/2011 only require addition of GTH to rendered fats originated from Category 1 and 2 ABPs; the export health certificate requirements were more restrictive than the legislation. The Regulation amends this requirement, so it only applies to rendered fats originated from Category 1 and 2 ABPs.

18. The Regulation therefore introduces flexibilities in export health certificates that partially alleviates identified barriers to trade, which is welcomed. The case remains though that animal by-products moved from Great Britain to Northern Ireland will continue to move less freely than before 1 January 2021.
19. The Northern Ireland Protocol, as it is currently operating, is presenting very significant challenges for people and businesses in Northern Ireland. We published the UK's aims in our command paper 'Northern Ireland: the way forward' on 21 July 2021. Our officials are working closely with their EU counterparts, and Lord Frost remains in close contact with VP Sefcovic. There is an opportunity for both parties to the Northern Ireland Protocol to find more effective arrangements which deliver on everyone's interests, while doing a better job to protect the peace process. Doing so would deal with the most sensitive and difficult issue in EU-UK relations, putting them on a stable footing for the long-term, and have a hugely positive effect in Northern Ireland itself.

## **CONSULTATION**

20. There has been no formal consultation on this proposal. There has been regular engagement with industry, which asked for and support the changes introduced by the Regulation.

## **FINANCIAL IMPLICATIONS**

21. The easements introduced by the Regulation will reduce the costs to industry of exporting these products. There will be savings from not having to add a marker to rendered fats originated from Category 3 animal by-products. The changes to the pre-slaughter residency requirement also reduces a trade barrier and will facilitate exports of the relevant commodities. These savings have not been quantified.

Richard Benyon.

**LORD BENYON  
PARLIAMENTARY UNDER SECRETARY OF STATE (MINISTER FOR RURAL  
AFFAIRS AND BIOSECURITY)  
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

**PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:**

**COMMISSION REGULATION (EU) 2021/1891 OF 26 OCTOBER 2021 AMENDING ANNEXES XIV AND XV TO REGULATION (EU) NO 142/2011 AS REGARDS IMPORTS INTO AND TRANSIT THROUGH THE UNION OF ANIMAL BY-PRODUCTS AND DERIVED PRODUCTS**

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**EM 10637/08, COM(08)345: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN HEALTH RULES AS REGARDS ANIMAL BY-PRODUCTS NOT INTENDED FOR HUMAN CONSUMPTION (ANIMAL BY-PRODUCTS REGULATION)**

**DEFRA EMS DATED 27 JUNE 2008, 4 NOVEMBER 2008 AND 11 MARCH 2009**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
<b>THE COMMITTEE REPORTED ON TWO OCCASIONS THAT THE PROPOSAL RAISED ISSUES OF POLITICAL IMPORTANCE AND COMPLETED SCRUTINY ON 25 MARCH 2009 (REPORTS 30, 07/08 &amp; 13, 09/09)</b>	<b>THE PROPOSAL WAS EXAMINED BY THE THEN SUB-COMMITTEE D LORD SIFT NO.1329. DATED 08/07/08 LORD SIFT NO. 1339. DATED 11/11/08 LORD SIFT NO. 1353. DATED 24/03/09 AND COMPLETED SCRUTINY ON 23 APRIL 2009 WHEN THE CHAIR CONCLUDED CORRESPONDENCE WITH THE GOVERNMENT</b>