

NOTIFICATION TO THE SCOTTISH PARLIAMENT

APH/054 - The Exemptions from Official Controls at Border Control Posts (Amendment) Regulations 2021

Is the notification Type 1 or Type 2

Type 1

A brief overview of the SI (including reserved provision)

This instrument exercises powers in the Official Controls Regulation to extend the exemption of categories of animals from undergoing official controls at border control posts. Invertebrates intended for scientific purposes are already exempted from the requirement for official controls to be carried out at Border Control Posts (BCPs). This instrument will extend the exemption to certain other types of animals used for scientific purposes.

This instrument will be laid in the UK Parliament on 6 April.

Details of the provisions that Scottish Ministers are being asked to consent to.

Article 48 of Regulation (EU) 2017/625 (“the Official Controls Regulation”) as amended by regulation 11(2) of UK S.I 2020/1481 provides that the “appropriate authority” may make regulations to establish cases where animals intended for scientific purposes are exempt from the requirement to be subject to official controls at a border control post. The definition of “appropriate authority” is inserted by 2020/1481, by Articles 3(2A) (in relation to Scotland, the Scottish Ministers) and 3(2B) (the Secretary of State, with consent). The Scottish Ministers are being asked to consent to these provisions in relation to Scotland. Under Article 144 of Regulation (EU) 2017/625, the power to make regulations includes the power to make consequential amendments. Consequential amendments will also be made to the Trade in Animals and Related Products (Scotland) Regulations 2012 which the Scottish Ministers are being asked to consent to.

Summary of the proposals

The overarching principle of the instrument is to allow animals imported into Great Britain for scientific purposes which must be licensed, to be subject to official controls at destination rather than at a border control post which official controls currently mandate. The SI will therefore allow animals to enter this way from third countries (including EU and EEA member states) when official controls at border control posts become mandated later this year at the end of a transitional staging period).

Invertebrates intended for scientific purposes are already exempted from the requirement for official controls to be carried out at BCPs and this instrument will

extend the exemption to certain other types of animals used for scientific purposes under licence under the Animals (Scientific Procedures) Act 1986. The certain other types of animals include mice, rats, dogs, cats and primates. A consequential amendment to the Trade in Animals and Related Products (Scotland) Regulations 2012 will result in these additional types of animals being exempt from the requirement to be subject to official controls at a border control post.

Does the SI relate to a common framework or other scheme?

No

Summary of stakeholder engagement/consultation

As required by Article 144(7) of Regulation (EU) 2017/625, Defra has liaised with all the stakeholders from the sector (having checked this with the Office for Life Sciences) and they have indicated that the response to the proposed legislation was favourable. Discussions have also been held with the European Animal Research Association (EARA) – the membership organisation for this sector - who engaged with Defra throughout on reviewing the legal drafting.

We are in regular contact and communication with Defra and other devolved administrations and this instrument has been developed in collaboration with Devolved Administration officials.

A note of other impact assessments, (if available)

There is no, or no significant, impact on the public sector.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The powers in the Official Controls Regulation under which this instrument would be made allowed for them to be made on a GB-wide basis by the Secretary of State, with the consent of Scottish and Welsh Ministers where it was appropriate to legislate in that basis. The Protocol agreed between Ministers and the Parliament applies in those circumstances.

On the basis that the legislation on animals intended for scientific purposes which are exempt from checks at Border control posts is currently Great Britain wide and the changes concern animals used for scientific procedures, the law on which is essentially the same throughout Great Britain (and a reserved matter), it is most appropriate to continue to legislate on a Great Britain wide basis. This is an area where, in order to legislate effectively, amendments to Great Britain wide legislation and Scotland-only legislation must be made to come into force at the same time and so it is appropriate that all be made in the same instrument.

Intended laying date (if known) of instruments likely to arise

This SI will be laid on 6 April 2021.

Annex I – List of EU regulations being amended

- Commission Delegated Regulation 2019/2122