

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

7350/21+Add 1

C(2021) 1784 final+ ANNEX

## **COMMISSION DELEGATED REGULATION (EU) .../... OF 23.3.2021 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

04 May 2021

### **SUBJECT MATTER**

1. This draft Regulation was adopted by the EU on 23 March 2021. It makes minor amendments to Commission Delegated Regulation (EU) 2020/689 which was adopted by the EU on 17 December 2019. That Regulation supplements the rules on surveillance, eradication programmes and disease-free status for certain listed diseases and emerging diseases of terrestrial, aquatic and other animals as provided for in Regulation (EU) 2016/429.

### **SCRUTINY HISTORY**

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

### **MINISTERIAL RESPONSIBILITY**

3. The Secretary of State for Environment, Food and Rural Affairs is responsible for matters that may arise from this amended Regulation, which does not however apply to domestic law as it falls outside the Transition Period and is not related to retained legislation. The subject matter is devolved.

### **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

4. As a result of the European Union (Withdrawal Agreement) Act 2020 there is no legal requirement to implement this legislation GB wide. Northern Ireland, however are required to align with the Animal Health Regulation as of 21st April 2021, alongside other Animal Health and Welfare legislation set out in Annex 2 to the Northern Ireland Protocol.

## LEGAL AND PROCEDURAL ISSUES

5.

### i. **Legal Base**

The Regulation has been adopted within the framework 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.

The legal base for Regulation 2016/429 was Articles 43(2), 114 and 168(4)(b) of the Treaty on the Functioning of the European Union.

### ii. **Voting Procedure**

None. This is a Commission Delegated Regulation adopted in accordance with Article 264 of Regulation 2016/429.

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

The Regulation was adopted on 23 March 2021 and is now in a period of consultation. If it does not receive any objections from the EU Parliament or Council, it will be published in the Official Journal of the European Union (OJEU) and come into force 3 days after.

## POLICY IMPLICATIONS

6. On Mycobacterium tuberculosis complex (MTBC or bovine tuberculosis) there is a minor correction of errors, which the UK first pointed out to the European Commission in 2019.
7. The addition of the word 'or' in two places in Annex IV to 2020/689 clarifies that in order to be deemed 'establishments free from infection with MTBC' all bovine animals brought into such establishments originate from establishments free from infection with MTBC and either (i) originate from a Member State or a zone free from infection with MTBC; or (ii) are over six weeks old and have tested negative for MTBC during a defined period.
8. This minor clarification gives EU Member States and Northern Ireland additional flexibility in terms of how they recognise 'establishments free from infection with MTBC'.
9. With regards to trade, this clarification has unquantified, likely minor, benefits for any movements of bovine animals from Northern Ireland to the EU (or within the EU) which require animals to originate from establishments free from infection with MTBC. This requirement does not apply to movements to slaughter. However, it

has no implications for movements of bovine animals from Great Britain to Northern Ireland/the EU as these do not require animals to originate from establishments free from infection with MTBC.

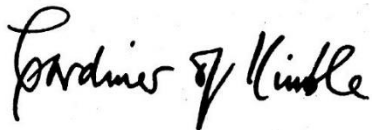
10. There are no implications arising from the amendments re: Bovine Viral Diarrhoea, which simply correct drafting errors in the original Regulation.
11. On aquatics, the key changes relate to sampling and diagnostic procedures. DAERA has engaged with its Official Laboratory and National Reference Laboratory on these. There are no other implications stemming from implementation and no impact on trade from GB to EU/NI or NI to GB.

## **CONSULTATION**

12. None.

## **FINANCIAL IMPLICATIONS**

13. None.



**LORD GARDINER OF KIMBLE  
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 DELEGATED REGULATION (EU) .../... OF 23.3.2021 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 (AND ADD 1)

EM 9468/13, COM(13)260: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ANIMAL HEALTH

DATE DEFRA EM SIGNED: 22 MAY 2013

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
THE COMMITTEE REPORTED THAT THE PROPOSAL RAISED ISSUES OF POLITICAL IMPORTANCE ON THREE OCCASIONS (REPORTS 9, 13/14, AND REPORTS 27 & 36, 14/15) AND COMPLETED SCRUTINY ON 11 MARCH 2015	THE PROPOSAL WAS EXAMINED BY THE THEN SUB-COMMITTEE D (SIFT 1507) AND FOLLOWING CORRESPONDENCE WITH MINISTERS COMPLETED SCRUTINY ON 10 JANUARY 2015