

## **Explanatory Memorandum to The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) (No. 2) Regulations 2009**

This Explanatory Memorandum has been prepared by the Welsh Assembly Government and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

- (i) **Description** – This Statutory Instrument gives effect to European law. It concerns changes in personal imports permitted from third countries brought about by Commission Regulation (EC) No 206/2009. The Regulation introduces changes for importing into the Community, personal consignments of products of animal origin.
- (ii) **Matters of special interest to the Subordinate Legislation Committee** – The Products of Animal Origin (Third Country Imports) (Wales) Regulations 2007 (SI 2007/376) omitted to repeal The Products of Animal Origin (Third Country Imports)(Wales)(Amendment)(No 2) Regulations 2006 (SI 2006/1349). Those 2006 Amendment Regulations have therefore remained live unnecessarily and the opportunity will now be taken to repeal the 2006 Amendment Regulations.
- (iii) **Legislative Background** – Welsh Ministers have powers to make the legislation under section 2(2) of the European Communities Act 1972. By virtue of the European Communities (Designation) (No. 3) Order 2005, SI 2005/2766, the National Assembly for Wales was designated for the purposes of Section 2(2) in relation to the common agricultural policy of the European Community. By virtue of section 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006, functions conferred on the National Assembly for Wales by that designation are exercisable by the Welsh Ministers. This instrument will follow the negative resolution procedure.
- (iv) **Purpose and intended effect of the legislation** – The Products of Animal Origin (Third Country Imports) (Wales) Regulations 2006 transpose into domestic law, Council Directive 97/78/EC which sets out the rules for veterinary checks on imports of animal products (including meat, dairy products and fish). The Regulations also require all imported products to meet the import requirements set out in a substantial raft of Community legislation.
  - a. The Regulations also provide that the import conditions will not apply to certain products which form part of a traveller's personal luggage or are sent to a private, named individual either by post, courier service or private carrier. At present the rules for these personal imports are laid down in Commission Regulation 745/2004 and these conditions are reflected in our Regulations.

- b. The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) (No 2) Regulations 2009 take account of the changes in personal imports permitted from third countries brought about by Commission Regulation (EC) No 206/2009 which comes into effect on 1 May 2009.
  - c. Commission Regulation 206/2009 repeals Regulation 745/2004 and introduces new rules for personal imports which need to be implemented in National legislation.
  - d. The second part of the amendment SI seeks to address an omission in The Products of Animal Origin (Third Country Imports) (Wales) Regulations 2007. The 2007 Regulations should have repealed The Products of Animal Origin (Third Country Imports) (Wales) (Amendment (No 2) Regulations – which provide, in Schedule 1, certain protection measures in relation to the import of feathers from some third countries.
- (v) **Implementation** – If this SI is not made, we risk infraction proceedings being brought by the Commission against the UK government for a failure to implement community legislation then Wales will be out of step with European law which means that our domestic legislation would be inaccurate. It would also be inconsistent with England (who have just made their regulations), and the other Devolved Administrations who have agreed that they will be implementing the Regulation.
- (vi) **Consultation** – No consultation has been undertaken as the changes in the import conditions are a result of the need to implement EU rules and keep up to date the legislative base for enforcement. However explanatory letters and posters will be sent out to airports and port operators to make them aware of the changes.
- (vii) **Regulatory Impact Assessment** – An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. No special measures are foreseen for small businesses.
- (viii) **Post implementation review** - These Regulations implement changes to EU rules. New EU legislation will be monitored and the Regulations will be updated as and when necessary.