

**Explanatory Memorandum** to the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020.

This Explanatory Memorandum has been prepared by the Agriculture, Sustainable Development Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

**Minister/Deputy Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Lesley Griffiths MS

**Minister for Environment, Energy and Rural Affairs**

10 November 2020

## **PART 1**

### **1. Description**

These Regulations amend the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 (2019//250 (W. 62)) in order to implement the Protocol on Ireland/Northern Ireland and for the purposes of dealing with matters arising out of, or related to, in that protocol.

The amendments effected by the Regulations will ensure the trade or movement of equines between Wales and Northern Ireland isn't impacted by UK's exit from the European Union.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

There are no matters of special interest to the Legislation, Justice and Constitution Committee.

### **3. Legislative background**

This instrument relates to the withdrawal of the United Kingdom from the European Union and is being made under paragraph 11M(1) of Schedule 2 to the European Union (Withdrawal) Act 2018 ('the 2018 Act'). Paragraph 11M of Schedule 2 to the 2018 Act was inserted by section 22 of the European Union (Withdrawal Agreement) Act 2020. The 2020 Regulations are made under Part 1C of Schedule 2 to the 2018 Act and are not subject to the sifting requirement. Devolved authority' is defined in section 20(1) of the 2018 Act to mean the Welsh Ministers.

Pursuant to paragraph 8F(8) of Schedule 7 to the 2018 Act, as the 2020 Regulations do not contain provision falling within paragraph 8F(2) of Schedule 7, they are subject to annulment in pursuance of a resolution of the Senedd. These Regulations are therefore being made under the negative resolution procedure.

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made any relevant statements in Part 2 of the Annex to this Explanatory Memorandum.

### **4. Purpose and intended effect of the legislation**

#### ***What did any relevant EU law do before exit day?***

These Regulations amend the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 (2019//250 (W. 62)), which make amendments to the Equine Identification (Wales) Regulations 2019 (2019/57 (W. 20)) which

supplement and make provision for the enforcement of Commission Implementing Regulation (EU) 2015/262 laying down rules pursuant to Council Directives 90/427/EEC and 2009/156/EC as regards the methods for the identification of equidae in Wales. The Equine Identification (Wales) Regulations 2019 set out the responsibilities of equine keepers and provide for the identification of equines in Wales. The Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 were made in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. They ensure Welsh keepers will be able to move and trade equines with other Member States.

### ***Why is it being changed?***

The minor and technical changes made by the instrument are necessary to ensure that retained EU legislation and the domestic EU legislation enforcing it continues to operate effectively, in order to implement the Protocol on Ireland/Northern Ireland and for the purposes of dealing with matters arising out of, or related to, that protocol. The changes made to ensure that it operates effectively include the substitution of 'United Kingdom' with 'Great Britain' and references to 'a member State' to refer to 'Northern Ireland or a member State'.

### ***What will it now do?***

The instrument will ensure that the Protocol on Ireland/Northern Ireland is implemented and equine trade continues to operate effectively in Wales at the end of the implementation period.

## **5. Consultation**

As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain unchanged by the withdrawal of the United Kingdom from the European Union.

## **6. Regulatory Impact Assessment (RIA)**

An RIA has not been produced in relation to these Regulations as it has no impact on Sections 72-75 or 77-79 of the Government of Wales Act 2006. In addition no impact is foreseen on the private, voluntary or public sectors.

# Annex

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(7) and 4(3), Schedule 7  <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i>	The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI  Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement	A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the LJC Committee (as sifting committee)
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have	A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action.

		committed to make the same statement when exercising powers in Schedule 2	
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	<p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p>
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority.	A statement to explain why it is appropriate to create such a sub-delegated power.

		Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority	
Urgency	Sub-paragraph (2) and (8) of paragraph 7, Schedule 7	Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7	A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion.

## Part 2

### Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

#### 1. Sifting statement(s)

Not applicable.

#### 2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2020 does no more than is appropriate”. The provisions of the 2020 Regulations are limited to amendments necessary to implement the Protocol on Ireland/Northern Ireland, and for the purposes of dealing with matters arising out of, or related to, that protocol.

#### 3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”. These are the continued trade and movement of equines between Wales, Northern Ireland and other countries.

#### 4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s) “The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

4.3 “In relation to the instrument, I, Lesley Griffiths have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

## **5. Explanations**

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

## **6. Criminal offences**

Not applicable

## **7. Legislative sub-delegation**

Not applicable

## **8. Urgency**

Not applicable