

**Explanatory Memorandum to the Trade in Animals and Related Products  
(Amendment and Legislative Functions) and Animal Health  
(Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Order 2025**

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer within the Department for Local Government, Housing, Climate Change and Rural Affairs of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Cabinet Secretary's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) (Amendment) Order 2025.

**Huw Irranca-Davies MS**  
**Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs**

28 March 2025

## **PART 1**

### **1. Description**

- 1.1 The Instrument amends The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (“the 2022 Regulations”).
- 1.2 The 2022 Regulations were made in December 2022. They address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. One element of the 2022 Regulations was to retain and vest functions contained in EU Directives with the Welsh Ministers. The Instrument addresses an omission in the 2022 Regulations regarding one legislative function.

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

- 2.1 These Regulations address reporting point 25 raised in the Legislation, Justice and Constitution Committee’s report of 7 December on the 2022 Regulations, [SL\(6\)292](#).
- 2.2 As the Order’s sole purpose is to address an error in the 2022 Regulations, the free issue procedure will be applied.

### **3. Legislative background**

- 3.1 The Instrument is made under section 10 of the Animal Health Act 1981. It is subject to the “laying only” procedure; it is required to be laid, after being made, before Senedd Cymru by virtue of section 10(6) of the 1981 Act, as read with paragraph 33 of Schedule 11 to, the Government of Wales Act 2006.
- 3.2 Functions under the 1981 Act were originally conferred on “the Ministers” (as defined in section 86 of that Act). The functions of “the Ministers”, so far as exercisable by the Secretary of State for Wales in relation to Wales, were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999. The joint functions of “the Ministers”, so far as exercisable by the Secretary of State for Scotland in relation to Wales, were transferred to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999. Functions of the Minister of Agriculture, Fisheries and Food were then transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002. The functions of the Secretary of State were transferred to the National Assembly for Wales (Transfer of Functions) Order 2004. These functions of the National Assembly for Wales are now exercisable

by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

- 3.3 Section 10 of the 1981 Act confers powers to make orders. Section 10(6) of the same Act, as read with paragraph 33 of Schedule 11 to the Government of Wales Act 2006 requires Orders made under section 10 to be laid in the Senedd once made.

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

- 4.1 The EU's Council Directive 2009/156/EC ("the Equine Directive") lays down animal health conditions for the movement between Member States and importation from third countries of live Equidae. The 2022 Regulations modified provisions within the Equine Directive and provided for specific functions referenced to be treated as part of domestic law and exercisable by the Welsh Ministers.
- 4.2 One function contained in article 5(5)(a) of the Equine Directive (as modified) provides, by reference to the making of regulations, for a time of the year during when it would be permissible for Equidae to be dispatched from zones with an African Horse Sickness (AHS) outbreak, into Wales.
- 4.3 As currently drafted, the omission of a reference to this power in the Schedule of the 2022 Regulations means article 5(5)(a) of the Equine Directive, as amended, would not be a functional regulation-making power. To address this error, this Order amends the modification made to article 5(5)(a) (by regulation 18(6)(e)(ii) of the 2022 Regulations) to the Equine Directive, to reference Orders made under section 10 of the Animal Health Act 1981 ('section 10 Orders'). Section 10 Orders enable equivalent provision to be made to the function that was omitted in the Schedule to the 2022 Regulations. This amendment will enable any Order made under section 10 for the purposes of AHS to be incorporated within the TARP enforcement regime.

#### **5. Consultation**

- 5.1 As the Instrument provides for a limited amendment, affecting a small number of individuals and does not reflect a change in the Welsh Government's policy, a formal public consultation was not considered necessary.
- 5.2 Section 91 of the Animal Health Act 1981 requires Orders made under that Act to be published in the London and Edinburgh Gazettes.

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

- 6.1 As this Instrument makes factual amendments to update subordinate legislation and the amendments do not alter the policy (or its impact) in any significant way or how it is applied in a given situation, an RIA is not required. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.