

Consultation on the amendments to sanitary and phytosanitary (SPS) rules on imports of EU goods

**Summary and Government response
December 2022**

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Audience

Bodies and persons likely to be affected by proposals to amend the rules on imports of sanitary and phytosanitary (SPS) goods into Wales.

Overview

This document provides a summary of the consultation responses and feedback received on proposals to introduce legislation to extend the transitional staging period and to remove the exemption on pre-notification of certain SPS goods entering Wales from the Republic of Ireland, and the Government's response.

Action required

None – for information only

Further information

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Additional copies

This document and the consultation are published on the Welsh Government's website at [Post EU-exit border controls and infrastructure | GOV.WALES](#)

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1. Background

1.1 Extension of the transitional staging period

Under the Official Control Regulations (OCR), checks were due to be introduced on sanitary and phytosanitary (SPS) goods imported into Wales from January 2020. However, the UK Government has implemented several extensions to the transitional staging period to delay the introduction of these controls (with the consent of the Welsh Government). The most recent extension expires on 31 December 2022 at which point the requirement for documentary, identity and physical checks under the OCR will come into effect, unless legislation to further extend the transitional staging period is made.

On 28 April 2022, the former Minister for Brexit Opportunities and Government Efficiency issued a Written Statement, which set out the UK Government's intention to suspend further introduction of border controls until the end of 2023, and that the UK Government would be accelerating its programme to digitise Britain's borders. He explained the re-envisioned approach would be presented in a UK Government-led *Target Operating Model*, due for publication in the autumn of 2022 and implemented by the end of 2023.

In light of the UK Government's announcement, the Welsh Government accepts it would not make sense at this stage to introduce the following controls separately in Wales:

- A requirement for sanitary and phytosanitary checks currently at destination to be moved to a border control post.
- A requirement for safety and security declarations on EU imports.
- A requirement for further health certification and sanitary and phytosanitary checks for EU imports.
- A requirement for sanitary and phytosanitary goods to be presented at a border control post.
- Prohibitions and restrictions on the import of chilled meats from the EU.

We, therefore, propose to bring forward legislation to extend the transition period until 31 January 2024, this would delay the introduction of SPS controls scheduled to come into effect on 1 January 2023. The proposed date avoids disruption over the Christmas and New Year period. Some checks could be introduced before this date and the Welsh Government would commit to giving notice of any earlier introduction of checks to enable businesses and others to prepare.

The Welsh Government understands that similar legislation to further extend the transitional staging period will be introduced to take effect in England and Scotland.

This extension to the transitional staging period will allow the Welsh Government to continue to work with other UK governments to finalise and implement the *Target Operating Model*, to ensure a coherent, effective and efficient system of

controls, thereby enhancing biosecurity and minimising the impact on importers. If a safe, secure, and efficient import system can be achieved through harnessing innovative new technologies to streamline processes and reduce frictions, this is something the Welsh Government can support. However, it will want to be assured that its long-term strategic responsibilities to protect the health of people, animals and plants in this country are given sufficient weight.

1.2 Pre-notification

It is vital that Welsh Ministers, responsible for biosecurity, food safety and sanitary and phytosanitary controls in Wales, understand the quantity, nature and risk profile of products entering Welsh ports. It is also key for local authority partners who are responsible for port health functions in Wales.

The Official Controls (Extension of Transitional Periods) (England and Wales) (Amendment) (No. 2) Regulations 2021 included amendments to the provisions of the OCR¹ to exempt certain goods from the island of Ireland from the requirement to pre-notify. The UK Government's decision to exempt these goods from the pre-notification requirement has left the Welsh Government and local authorities with a significant data gap which has not been possible to satisfactorily address through other sources.

Data deficiency is hampering the planning and development of Wales' border controls and associated operations. It has impeded meaningful analysis of the impact of emerging Target Operating Model proposals on future infrastructure and resources needed to enable BCPs to serve the ports of Holyhead, Pembroke Dock and Fishguard to implement sanitary and phytosanitary checks efficiently when they eventually come into effect.

Welsh Ministers therefore announced their intention to bring forward legislation to remove the exemption on pre-notification on some additional categories of SPS goods imported into Wales from the Republic of Ireland (ROI) from 1 January 2023.

This would mean that importers of products of animal origin, notifiable and regulated plants not currently subject to pre-notification and certain animal by-products, imported into Wales from the Republic of Ireland, would need to enter a limited amount of information about their consignments in the online IPAFFS system. No paperwork or certification would be required. Importers who also deal with imports from mainland EU would be familiar with this requirement.

2. Consultation

2.1 The Welsh Government issued a consultation between 27 October and 11 November 2022 to seek the views of bodies and persons representative of the interests of those involved in importing SPS goods to Wales on proposals to amend the rules:

- to extend the transition period so that SPS controls scheduled to come into effect in January 2023 are not introduced until 31 January 2024.
- to remove the exemption on pre-notification on some additional categories of SPS goods imported from the Republic of Ireland from 1 January 2023.

The consultation was targeted at key stakeholders in the agriculture, haulage, food and trade sectors, including representative organisations, interest groups and local authorities/Port Health Authorities. It provided an opportunity to comment on the impact of revising the timeline for the phased introduction of controls and the potential impact of not legislating to amend the rules.

69 organisations, businesses and individuals were consulted directly, and the invitation extended through the Welsh Government's Food Cluster Network and the Wales Plant Health Evidence Advisory Group. The consultation was also published on the Welsh Government's website [Post EU-exit border controls and infrastructure | GOV.WALES](#) and promoted via Business Wales channels. Respondents were able to submit their views and comments in Welsh or English by email to BorderInfrastructureProgramme@gov.wales.

2.2 At the close of consultation, the Welsh Government had received 15 responses:

Respondent	Number of responses
Port Authority	2
Ferry operator	1
Local Authority	1
Haulage sector - representative organisation	1
Farming sector - representative organisation	2
Veterinary sector - representative organisation	1
Food sector - representative organisation	2
Business sector - representative organisation	1
Haulage sector - individual business	1
Food sector – individual business	2
Individual	1
Total	15

2.3 In addition to the formal responses received, Welsh Government officials received feedback on the proposals in informal discussions with the UK Government's Cabinet Office and their Department for Environment, Food and Rural Affairs and the Irish Government's Brexit and International Trade Division within the Department of Agriculture, Food and the Marine.

3. Summary of responses

This document is intended to provide a summary of the responses to the Welsh Government's consultation on its proposals to bring forward legislation:

- to extend the transition period until 31 January 2024 so that SPS controls, scheduled to come into effect on 1 January 2023, are not introduced
- to remove the exemption on pre-notification on some additional categories of SPS goods imported from the Republic of Ireland from 1 January 2023.

The document does not capture every point of detail raised by respondents, but each response has been considered carefully and this document conveys the key messages. Several matters were raised that did not have a direct bearing on the subject of the consultation. We have noted these matters but not considered them in any detail within this summary.

3.1 Overview of responses

- On the proposal to extend the transitional staging period until 31 January 2024, respondents broadly understood the need for the extension given the significance of full import checks and supply chain pressures and most (12) expressed general support for the proposed changes, but some reservations were expressed such as the continued lack of a level playing field in terms of the application of border controls to GB exporters to the EU versus those importing into GB. A few (3) respondents did not express a view nor comment on the proposal in their responses.
- On the proposal to remove the exemption on certain SPS goods imported from the Republic of Ireland, a few respondents (2) were in support whilst nearly half the respondents (6) did not express a view nor comment on the proposal in their responses. However, 7 respondents raised concerns over the timing, whether pre-notification data would provide sufficiently robust information and the perceived additional burden and cost for businesses to undertake the requirements. Some also commented on the risk of diverting trade and lack of a level playing field with other Irish Sea ports.

3.2 Extension of the transitional staging period proposal

- Of the 15 responses received, most (12) expressed general support for the proposal to extend the transitional staging period until 31 January 2024. The remaining respondents (3) did not express a view or did not provide comment on the proposal.

Respondents provided comment on the following issues:

3.2.1 Disruption of markets (4 respondents)

- The extension was needed to avoid confusing traders and hampering the internal UK markets.

- Welsh Government should await the publication of the Target Operating Model (TOM) before implementing any further changes.
- If the extension were not introduced, there would be insufficient time for stakeholder engagement and communication with the wider trade industry.
- European Union (EU) importers have a competitive advantage over UK exporters to the EU. Extending the TSP will prolong this imbalance between UK exporters and EU importers.

3.2.2 **Timing** (4 respondents)

- There was insufficient time for businesses to prepare, so an extension was the only possible course of action.
- The proposed extension date of 31 January 2024 avoids Christmas and New Year.
- Stakeholders highlighted that there is support to delay the introduction of controls to end Q1 2024, as reflected in feedback from previous UKG engagement with stakeholders.

3.2.3 **Border controls infrastructure** (2 respondents)

- Stakeholders noted that as the infrastructure was not yet completed in Wales the proposal to introduce the extension was foreseen.
- It was also recognised that failing to introduce the extension would put considerable pressure on Welsh Government to build a temporary facility for the interim.

3.2.4 **Coherent GB regime** (4 respondents)

- The timescale should align with that of English and Scottish ports.
- Concerns around biosecurity were also expressed in the responses to the consultation. However, the respondents did recognise that it would not make sense for Wales to introduce checks independently.

3.2.5 **Resourcing** (3 respondents)

- There were inadequate resources in place presently. If the extension was not introduced, there would be pressure on stakeholders to rapidly develop operating procedures and recruit/train staff.

3.2.6 **IT systems integration** (1 respondent)

- One respondent expressed concerns about the reliability of the IPAFFs system and the risk of delaying the introduction of border control checks until new technology is developed.

3.2.7 Risks of continued delay to introduction of controls (3 respondents)

- Stakeholders highlighted that delaying the introduction of controls could have serious repercussions for the protection of human health, animal, and plant health.
- Stakeholders noted that failing to implement infrastructure in Wales soon could cause reputational damage and legal objections.
- Whilst there was general recognition and acceptance of the rationale for extending the TSP, respondents did stress that this decision should not impede the delivery of permanent infrastructure in Wales.

Government response (TSP extension)

Welsh Government is very grateful to everyone who gave the time and effort to respond to the consultation and shared their thoughts on the proposal to extend the transition period so that SPS controls scheduled to come into effect in January 2023 are not introduced until 31 January 2024

The Welsh Government acknowledges the potential issues that have been raised through the consultation regarding implementation of this proposal, including the concerns around biosecurity; the competitive advantage that EU importers have over UK exporters; and delivery of permanent facilities in Wales. However, we believe the short-term risk to biosecurity with goods originating primarily from Ireland, a country with a good biosecurity record, are tolerable whilst the border regime is finalised and border control facilities are constructed.

The Welsh Government appreciates that exporters may feel that they are being unfairly treated, however we cannot control the treatment they receive beyond our borders and can provide assurances that checks on imports will be implemented as soon as possible. No-one wants to lower biosecurity or food safety standards. The consultation responses revealed that respondents broadly understood the need for the extension given the significance of full import checks and supply chain pressures and most expressed general support for the proposed changes.

After considering all of the consultation responses, Welsh Government intends to introduce an extension of the transitional staging period until 31 January 2024. A further extension to the transitional staging period will allow the Welsh Government to continue to work with other UK governments to finalise and implement the *Target Operating Model*, to ensure a coherent, effective and efficient system of controls, thereby enhancing biosecurity and minimising the impact on importers. If a decision is taken to introduce any checks before this date, the Welsh Government commits to giving notice of changes to enable businesses and other stakeholders to prepare.

It is anticipated that similar legislation to extend the transitional staging period will be introduced to take effect in England and Scotland.

4. Prenotification proposal

Of the 15 consultation responses received, two respondents were in support of the proposal whilst nearly half (6) did not express a view or provide any comment. Seven respondents were opposed to the proposals due to issues over the timing, the perceived additional burden and cost for businesses to undertake the requirements, whether pre-notification data would provide sufficiently robust information, and the risk of diverting trade due to lack of level playing field.

Respondents provided comment on the following issues:

4.1.1 **Alternative data** (4 respondents)

- Stakeholders expressed their willingness to collaborate with the Welsh Government to provide further intelligence and data.
- Stakeholders questioned whether the Welsh Government had access to alternative sources of data such as UK Government import data.
- The responses emphasised that whilst the Welsh Government needed data to ensure that the BCPs built in Wales met expected demand and future needs, this could not come at the expense of the flow of trade through Welsh ports.

4.1.2 **IPAFFS data and system of notifying are flawed** (5 respondents)

- Stakeholders expressed concerns around how the Welsh Government would validate the data without physical checks on goods.
- Stakeholders highlighted issues with the IPAFFs system, notably that the IPAFFs system requires a GB importer or agent to have a UK address, which presents a challenge for Irish importers; the IPAFFs entry is triggered by the requirement to have a health certificate, but a health certificate is currently not a current pre-notification requirement for EU to GB movements; data would be lacking any information on products moved from the Republic of Ireland to GB via Northern Ireland; and the value of the data would be impacted by potentially low levels of trader compliance.
- Concerns were also expressed about the legal status of pre-notification, particularly whether an import would be illegal if the IPAFFs entry was not validated.

4.1.3 **Level playing field with Liverpool / risk of diverting trade** (4 respondents)

- The different official border procedures for routes serving ROI/Wales compared to the routes serving ROI/England could bring about trade distortion and create an unlevel playing field.
- Stakeholders highlighted how this would be problematic for ferry operators operating between ROI/Wales, as the change will put the ROI/Wales ports and ferry services at a competitive disadvantage to their counterparts operating between ROI/England.

4.1.4 **Cost- admin burden** (3 respondents)

- The Port of Dublin charges for the validation of IPAFFs. It was queried whether this would be the case at Welsh Ports.
- Stakeholders expressed concerns around the charges that will be incurred as a result of an agent inputting the data for IPAFFS entries from ROI.

4.1.5 **Incoherent GB regime/ consistency with the UK and Scottish Government** (2 respondents)

- Stakeholders noted that they want consistency with the approach taken by the Scottish Government and UK Government.
- There should be a unified border regime across the UK to ensure a level playing field is maintained and to avoid disruption of trade.

4.1.6 **Notice period, short lead time** (4 respondents)

- Responses acknowledged that, although some importers dealing with goods from mainland EU may have some experience with IPAFFs, there are a number of importers who have no experience with IPAFFs and would need sufficient time to prepare.
- Timing of the change is detrimental as Christmas is one of the most commercially important periods for consumers and stakeholders involved in the importing of food.
- With the wider trade industry constraints, including the impact of the pandemic and the cost of the living crisis, businesses need a longer lead time to engage with industry and prepare for any changes, especially in terms of recruiting/training staff and developing updated operation processes.

4.1.7 **Lack of enforceability and resistance from traders, businesses** (2 respondents)

- Welsh Government should engage closely with DEFRA, the ROI authorities, Irish trade bodies and the European Commission to limit resistance to the proposals.
- ROI traders likely to express some opposition to the changes.
- Welsh Government should make a formal public statement to introduce the change.

4.1.8 **Non-compliance** (2 respondents)

- Stakeholders expressed concerns around the procedure for dealing with incomplete and/or incorrect IPAFF entries, particularly whether the goods will be refused entry or considered illegal.

4.1.9 **Wait until the TOM is published** (2 respondents)

- Stakeholders highlighted that it has been a challenging time for the trade industry, with numerous changes and delays. Therefore, stakeholders are awaiting the publication of the TOM before they make any further adjustments to their businesses and organisations.

4.1.10 **Reasons in favour of the prenotification proposals given by those respondents who supported them:**

- Two respondents were in favour of pre-notification and stated that this was due to the opportunity for data sharing, biosecurity and modelling of costing and staffing. However, concern was raised around there being no paperwork or certification requirement.

Government response (pre-notification)

The Welsh Government is very grateful to everyone who gave the time and effort to respond to the consultation and shared their thoughts on the proposal to remove the exemption on pre-notification from 1 January 2023.

The Welsh Government recognises the concerns voiced by stakeholders regarding the available lead time to prepare to pre-notify imports from 1st January 2023. In addition, the Welsh Government is also acutely aware of the resource constraints around Christmas and the New Year for businesses and the wider trade industry. Therefore, after considering the consultation responses, the Welsh Government has decided to postpone the removal of the exemption for pre-notification on these additional categories of SPS goods imported into Wales from the Republic of Ireland until later in 2023. However, an open-ended delay is not an option – pre-notification will ultimately be required, and we would much rather introduce it in advance of the start of full identify and physical checks at border control posts to give businesses and agencies time to get used to these arrangements and minimise any hold-ups at the border resulting from errors.

The Welsh Government acknowledges the advantages of agreeing a common date to remove the exemption on pre-notification for west-coast ports importing goods from Ireland and remains in dialogue with the UK Government on this topic. The Welsh Government will continue to engage closely with all stakeholders on this matter and commits to giving notice to the industry before these requirements are introduced.