

## UK MINISTERS ACTING IN DEVOLVED AREAS

### **166 - The Prohibition on Quantitative Restrictions (EU Exit) Regulations 2020**

*Laid in the UK Parliament: 13 July 2020*

#### **Sifting**

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed Negative
Date of consideration by the House of Commons European Statutory Instruments Committee	21 July 2020
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	28 July 2020 – recommended upgrade to the affirmative procedure
Date sifting period ends in UK Parliament	7 September 2020
Written statement under SO 30C:	Paper 38
SICM under SO 30A (because amends primary legislation)	Not required

#### **Scrutiny procedure**

Outcome of sifting	Not known
Procedure	Not known
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

#### **Commentary**

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (“the Withdrawal Act”).

These Regulations use powers in the Withdrawal Act to correct deficiencies in EU-derived legislation in relation to prohibitions on quantitative restrictions on imports and exports, after the end of the implementation period.

The purpose of these Regulations is to end the application of rights flowing from the provisions within the Treaty on the Functioning of the European Union (Articles 34 to 36) which prohibit the imposition of quantitative restrictions and equivalent measures on imports or exports within the EU, after the end of the implementation period. These directly

effective treaty rights will become retained EU law at the end of the implementation period, by virtue of section 4 of the European Union (Withdrawal) Act 2018, however these Regulations provide that these rights should cease.

These Regulations also make provisions in respect of similar provisions in the Agreement on the European Economic Area, the Agreement between the European Economic Community and the Swiss Confederation, signed at Brussels and the Agreement between the European Economic Community and Turkey, signed at Ankara.

The savings provision makes an exception allowing for the continuation of rights under the doctrine of exhaustion of intellectual property rights (the Intellectual Property (Exhaustion of Rights)(EU Exit) Regulations 2019).

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 23 July 2020 regarding the effect of these Regulations:

The Welsh Government's statement provides that "*consenting to a UK wide SI ensures that there is a single legislative framework across the UK*". Whilst the territorial extent of this Regulation is the UK, the territorial application of these Regulations does not extend to Northern Ireland, as the Northern Ireland Protocol will apply to the movement of goods between Northern Ireland and both the European Union and Great Britain. The Northern Ireland Protocol does apply Articles 34 to 36 of the Treaty on the Functioning European Union, and the similar provisions made in the EEA Agreements and the agreements with Switzerland and Turkey, in Northern Ireland.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.