

**UK MINISTERS ACTING IN DEVOLVED AREAS**

**204- The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020**

*Laid in the UK Parliament: 2 November 2020*

**Sifting**

Subject to sifting in UK Parliament?	No
Procedure:	Draft Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	N/A
Date sifting period ends in UK Parliament	N/A
SICM under SO 30A (because amends primary legislation)	Not required

**Scrutiny procedure**

Outcome of sifting	N/A
Procedure	Draft Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	11/11/2020
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	17/11/2020

**Background**

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, paragraph 7 of Schedule 4 and paragraph 21 of Schedule 7 to of the European Union (Withdrawal) Act 2018.

**Summary**

These Regulations make amendments to existing EU-retained regulations (as set out in the Written Statement) governing official controls on imports to Great Britain of animals and animal products, plants and plant products, including food and other imports relevant to the agri-food chain – collectively known as ‘sanitary and phyto-sanitary’ (“SPS”) goods.

These Regulations also amend the following domestic legislation:

- The Market Measures (Marketing Standards) (Amendments) (EU Exit) Regulations 2019;
- The Animal Welfare (Amendment) (EU Exit) Regulations 2019;
- The Veterinary Medicines and Animals and Animal Products (Examination of Residues and Maximum Residue Limits) (Amendment etc) (EU Exit) Regulations 2019;
- The Animals (Legislative Functions) (EU Exit) Regulations 2019.

Further, these Regulations rectify legal deficiencies arising from the withdrawal of the United Kingdom from the European Union which, if not amended, would prevent the existing, established and harmonised system of official controls from being able to operate after the end of the Transition Period. These are termed operability amendments.

#### **Statement by Welsh Government**

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 6 November 2020 regarding the effect of these Regulations:

These Regulations transfer non-legislative and legislative functions to the Welsh Ministers, the Scottish Ministers and the Secretary of state concurrently, the Secretary of State being able to exercise certain functions in relation to, and make regulations for, Great Britain with the consent of both the Scottish and Welsh Ministers.

Functions transferred so that they are exercisable by the Secretary of State with the consent of the Welsh Ministers have the potential to engage the requirement to consult the UK Government under Schedule 7B to the Government of Wales Act 2006 should a future Senedd Bill seek to remove or modify those functions.

On this point, Legal Advisers wish to draw attention to the following commentary in the Welsh Government's Written Statement:

"The concurrent functions contained in the Regulations have the potential to engage the consent requirements in Schedule 7B to the Government of Wales Act 2006 and, as such, represent a potential restriction on the future competence of the Senedd. However, we are in negotiations with the Secretary of State for Wales in relation to a section 109 Order under the Act to amend Schedule 7B to negate the potential restriction on the future competence of the Senedd."

#### **Intergovernmental Agreement on the European Union (Withdrawal) Bill**

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