

## UK MINISTERS ACTING IN DEVOLVED AREAS

### 015 - [The Trade in Animals and Related Products \(Amendment and Legislative Functions\) Regulations 2022](#)

*Laid in the UK Parliament: 20 October 2022*

#### Sifting

Subject to sifting in UK Parliament?	N/A
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	Unknown
Date of consideration by the House of Commons Statutory Instruments Committee	Unknown
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Unknown

#### Background

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

#### Summary

These Regulations correct deficiencies in retained EU law that relates to the importation of animals and related products. The Regulations transfer functions of EU bodies to the “appropriate authority” so that the retained EU law operates effectively in domestic law.

These Regulations give functions (including regulation-making powers) to UK Ministers as the appropriate authority. By giving those powers to UK Ministers as the appropriate authority, UK Ministers will (among other things) be able to exercise the powers in devolved areas in Wales, but only with the consent of the Welsh Ministers.

## **Statement by Welsh Government**

These Regulations do not give regulation-making powers to the Welsh Ministers. However, the Welsh Government's written statement of 21 October 2022 says:

*"The Welsh Ministers will shortly be making equivalent regulations, which will create a number of regulation-making powers for the Welsh Ministers".*

Therefore, when these regulation-making powers will be used in devolved areas in Wales, there will be a choice as to who can exercise them, i.e. it can either be:

1. the Welsh Ministers acting alone, or
2. UK Ministers acting on behalf of Wales, with the consent of the Welsh Ministers.<sup>1</sup>

In a letter to the Legislation, Justice and Constitution Committee dated 21 October, Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd sets out the following background regarding the common GB-wide approach in this area:

*"Similar functions in the sphere of Animal Health and Welfare have previously been approved on the basis there is a mutual interest for all administrations in the application of coherent disease prevention and the functions in the draft Regulations need to work for the whole of Great Britain. Furthermore, they are exercised in the context of a functioning Common UK Animal Health and Welfare Framework with clearly defined governance processes for cross-government engagement. Any policy changes or use of the powers will be discussed at the Animal Disease Policy Group, which is the governance body of this Common Framework, and where policy decisions are made by consensus.*

*It is important to note that the Secretary of State's ability to exercise this function depends upon the Welsh Ministers' consent. We envisage this would only happen in exceptional circumstances. This function is therefore appropriate and mirrors what already happens in other legislation and administrative processes in this policy area.*

*I would like to reassure this committee it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved*

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<sup>1</sup> The same consent process applies as regards the Scottish Ministers and Scotland.

*competence. However, in certain circumstances there are benefits in working collaboratively with the UK Government where there is a clear rationale for doing so. On this occasion, therefore, I am giving my consent to these Regulations for reasons of efficiency and expediency in future policy change and adherence to international obligations, and cross-government coordination and consistency."*

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

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

Senedd 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.