

Rt Hon Carwyn Jones AM
First Minister of Wales
Welsh Government

28 November 2018

Dear Carwyn

The Animal Welfare (Amendment) (EU Exit) Regulations 2018

The Animal Welfare (Amendment) (EU Exit) Regulations 2018 were laid before the UK Parliament on 13 November 2018. On 16 November 2018, Julie James AM, Leader of the House and Chief Whip, laid before the National Assembly an accompanying written statement as required by Standing Order 30C.

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

The Constitutional and Legislative Affairs Committee considered the Welsh Government's written statement at its meeting on 26 November 2018. The final paragraph of the statement states:

"Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy".

The Explanatory Memorandum to the Regulations, prepared by the UK Government, notes that the Regulations make a policy change in respect of the recognition of certificates of competence for slaughterers. Paragraphs 10.1 and 2.17 of the Explanatory Memorandum state:



"10.1 ... this instrument makes mainly technical amendments...it does not change the substantive policy with the exception of the proposal to no longer recognise EU27 certificates of competence for slaughterers..."

"2.17 ... As well as these technical changes to ensure operability of the regulation after exit, the instrument also introduces a policy change. Currently, certificates of competence, issued to slaughterers by other Member States, must be recognised in the UK. Certificates of competence are required by slaughterhouses in the EU to demonstrate that an individual has been trained and successfully assessed as DExEU/EM/7-2018.2 4 reaching a sufficient level of competence to undertake the animal handling, stunning and killing and related operations required of them. The amendments made to Article 21(4) of Council Regulation (EC) 1099/2009 removes this recognition requirement..."

Paragraph 2.18 of the Explanatory Memorandum notes that there could be enforcement issues if certificates continued to be recognised:

"2.18 Continued recognition of certificates issued in other Member States would open up potential enforcement issues as we would be unable to suspend or revoke a certificate issued in another Member State in the event a slaughterer breached the requirements of the retained EU legislation or domestic legislation. The European Commission has already confirmed that certificates of competence issued in the UK will not be recognised in other Member States after the UK has left the EU."

The Welsh Government's written statement does not explain the reasoning for deciding that it was appropriate for the UK Government to provide for this policy change in a UK statutory instrument, nor how many people in Wales will be affected by this provision.

Paragraph 8 of the Intergovernmental agreement on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks states that the powers in sections 7, 8 and 9 of the European Union (Withdrawal) Act 2018 will not be used to enact new policy in devolved areas.

For that reason, I draw your attention to these Regulations, the Explanatory Memorandum and the Welsh Government written statement and ask for an explanation as to why the Welsh Government has adopted this approach and chosen to allow the UK Ministers to make the Regulations on its behalf.



I am copying this letter to Mark Drakeford AM, the Cabinet Secretary for Finance, Lesley Griffiths AM, the Cabinet Secretary for Energy, Planning and Rural Affairs, and Julie James AM, Leader of the House and Chief Whip.

I would be grateful for a response by 7 December 2018.

Yours sincerely

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw AM

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

