

STATUTORY INSTRUMENT CONSENT MEMORANDUM

The Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before the National Assembly for Wales (“Assembly”) if a UK Statutory Instrument (SI) makes provision in relation to Wales amending primary legislation within the legislative competence of the Assembly.
2. The Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019 (“2019 Regulations”) were laid before the sifting committees in the Houses of Parliament on 13 December 2018. The Regulations can be found at:

<https://beta.parliament.uk/work-packages/MtHRLa9i>

Summary of the Statutory Instrument and its objective

3. The objective of the SI is to address failures of retained EU law to operate effectively and other deficiencies arising from the UK leaving the European Union as provided for by the European Union (Withdrawal) Act 2018. It also covers operability amendments.
4. In addition, the SI makes amendments to:
 - The Farriers (Registration) Act 1975 (“The 1975 Act”).
 - the Animal Health Act 1981 (“The 1981 Act”).

Relevant provision to be made by the SI

5. The amendments made to the 1975 Act by the 2019 Regulations, are to the following provisions:
 1. The Act is amended as follows.
 - (1) In section 3, omit subsection (2A)(a).
 - (2) In section 4, omit subsection (5)(b).
 - (3) In section 7(c) —
 - (a) in subsection (1)—
 - (i) in paragraph (d), at the end, insert “or”;
 - (ii) in paragraph (e), for “a relevant European State” substitute “the United Kingdom”;
 - (iii) omit paragraphs (f) and (g);
 - (b) omit subsections (6) to (9).

- (4) In section 9 (d)—
 - (a) omit subsections (2) to (5);
 - (b) in subsection (6), omit “, (2), (3) or (4)”;
 - (c) in subsection (7), omit “, (2), (3) or (4)”.
 - (5) In section 10(1)(b)(e), for “, or Part IV or Part V” substitute “or Part IV”.
 - (6) In section 15(1)(f), omit paragraph (d) and the “or” before it.
 - (7) In section 15A(1) (g), omit sub-paragraph (iii) and the “or” before it.
In section 16(2) (h), omit paragraph (c) and the “or” before it.
6. The 2019 Regulations remove the existing legislative provisions which transposed Directives 2005/36EC and 2013/55/EU - known as the Mutual Recognition of Professional Qualifications (MRPQ) Directive - into the 1975 Act. The UK regulations that implement the MRPQ into the 1975 Act are set out in the European Recognition of Professional Qualifications Regulations 2015 (as amended). This facilitated the route to registration for EU/EEA nationals under the 1975 Act. The amendment ensures that any person holding a farriery qualification obtained outside the UK who wishes to register with the Farriers Registration Council (FRC) must have a qualification meeting their equivalent standards or take an examination. Qualifications held by non-EU/EEA nationals will have to be assessed by the FRC to ensure that they comply with their required standards – and failing that sit an appropriate examination.
 7. The amendments made to the 1981 Act by the 2019 Regulations, are to the following provisions:
 - (1) The Animal Health Act 1981 is amended as follows.
 - (2) In section 64A (b)—
 - (a) in the heading, for “EU obligations” substitute “retained EU law”;
 - (b) in paragraph (a), in the words after sub-paragraph (ii), for “in implementation of any EU obligation” substitute “which is retained EU law”.
 - (3) In Schedule 3(2A)(4)(c), omit paragraph (a).
 8. The second amendment (in terms of primary legislation) is to the 1981 Act. These amendments will ensure the current power of entry (which exists where there is secondary legislation made under the Act to give effect to an EU obligation) continues to exist.
 9. The changes identified in paragraphs 6 and 8 relate to functions that are within the legislative competence of the National Assembly for Wales, which could be the subject of a National Assembly Bill.
 10. Section 108A of the Government of Wales Act 2006 enables the Assembly to legislate on any subject except those specifically reserved to the UK Parliament in Schedule 7A to the Act. The Assembly has legislative competence in relation to animal health and welfare and farriery.

Why it is appropriate for the SI to make this provision

11. There is no divergence between the Welsh Government and the UK Government on the policy of the correction. Therefore, making separate SIs in Wales and England to correct the reference in question would lead to duplication, and unnecessary complication of the statute book. Consenting to this SI ensures that there is a single legislative framework across England and Wales, which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

Lesley Griffiths AM

Minister for Environment, Energy and Rural Affairs

19 December 2018