

## UK MINISTERS ACTING IN DEVOLVED AREAS

### 78 - The Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2019

*Laid in the UK Parliament: 17 January 2019*

#### Sifting

Subject to sifting in UK Parliament?	No
Procedure:	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	21/01/2019
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 12
SICM under SO 30A (because amends primary legislation)	Not required

#### Scrutiny procedure

Outcome of sifting	N/A
Procedure	Affirmative
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 7 of Schedule 4 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

These Regulations make technical amendments to a series of European Union Regulations and Decisions relating to the importation and transit of live animals, products of animal origin, germplasm and non-commercial movement of pet animals, equines and circus animals.

The purpose of the Regulations is to address failures of domestic legislation and other deficiencies arising from the UK's exit from the EU. The Regulations amend redundant references to EU laws and systems which will no longer be relevant once the UK leaves the EU, revoke redundant EU laws and transfer a series of functions from the European Commission to the "appropriate authority" in the UK,

which in relation to Wales means the Welsh Ministers or (with the consent of the Welsh Ministers) the Secretary of State.

The Regulations apply across the whole of the United Kingdom and provide a legal framework relating to the importation, movement of and trade in animals and animal products, and include arrangements for the authorisation of businesses, pet travel documents, animal and public health certificates and conditions for transport. The Regulations also enable actions to be taken by UK authorities in cases of reported non-compliance or disease outbreaks.

The amendments made by these Regulations will only come into force in the event of a no deal scenario.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 21 January 2019 regarding the effect of these Regulations:

1. The subject Regulations, at Schedule 2, revoke "Commission Decision 2006/65/EC on certain protection measures in relation to intra-Community trade in poultry intended for restocking of wild game supplies". The stated Commission Decision reference appears to contain an error, and should read "2006/605/EC".

The statement by the Welsh Government refers to the incorrect reference in its list of retained direct EU legislation being revoked, but also contains a duplicate reference to this Commission Decision (correctly referenced) in the section titled "European Directly Applicable Instruments".

2. The statement confirms that the amendments contained in these Regulations are "to be made by the Secretary of State in relation to UK or GB wide legislation in relation to which the Welsh Ministers have executive functions and the subject matter of the legislation, namely the movement of animals and preventive health measures that apply to the movement of animals in relation to Wales is within the legislative competence of the National Assembly."

However, the statement does not identify the impact these Regulations may have, either on the executive competence of the Welsh Ministers or the legislative competence of the Assembly, as required under Standing Order 30C.3(ii). **Legal advisers recommend that clarification is sought on which devolved powers are affected.**

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

As it is unclear from the Welsh Government's statement dated 21 January 2019 the impact the Regulations may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence, Legal Advisers have been

unable to assess whether 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.