

UK MINISTERS ACTING IN DEVOLVED AREAS

98 - The Animal Feed (Amendment) (EU Exit) Regulations 2019

Laid in the UK Parliament: 5 February 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	Not known
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 27
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 under section 8(1) of the European Union (Withdrawal) Act 2018.

The purpose of these Regulations is to ensure that there will continue to be a functioning statute book on exit day which maintains continuity in relation to food and feed (animal feed) policy and legislation.

Legal Advisers agree with the statement laid by the Welsh Government dated 6 February 2019 regarding the effect of these Regulations.

It is also worth noting how clear and helpful the Welsh Government statement is, and how helpful that is to the Committee.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect and the extent to which these Regulations would enact new policy in devolved areas.

Legal Advisers draw the Committee's attention to the following issues in relation to paragraph 8 of the Memorandum on the European Union

(Withdrawal) Bill and the Establishment of Common Frameworks.
Paragraph 8 states (emphasis added):

“The UK Government will be able to use powers under clauses 7, 8 and 9 to amend domestic legislation in devolved areas but, as part of this agreement, reiterates the commitment it has previously given that it will not normally do so without the agreement of the devolved administrations. **In any event, the powers will not be used to enact new policy in devolved areas; the primary purpose of using such powers will be administrative efficiency.**”

The Welsh Government statement notes that the Regulations make some technical changes but that they also make “a more substantive change” (i.e. they transfer important food safety functions from the European Food Safety Authority (EFSA) to the Food Safety Authority (FSA)).

This appears to be a breach of the Intergovernmental Agreement in that the UK Government is using its powers under the European Union (Withdrawal) Act 2018 to make enact new policy. Transferring important functions from the EFSA to the FSA, no matter how uncontroversial, certainly seems to amount to more than securing “administrative efficiency”.]