

SL(5)375 – The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

Background and Purpose

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to subordinate legislation, which applies in relation to Wales, relevant to cattle identification; the trade in animals and related products; examination for residues and the maximum residue limits in respect of animals and animal products; transmissible spongiform encephalopathies; seed marketing and plant health.

Procedure

Affirmative.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Regulation 7 amends the “Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019”. No such Regulations exist. It is understood that they are planned to be made under the negative procedure before the present Regulations are made. If that is not done, regulation 7 will have no effect. [Standing Order 21.2(vi) – defective drafting]
2. Regulation 8 amends the “Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019”. No such Regulations exist. It is understood that they are planned to be made under the affirmative procedure before the present Regulations are made. If that is not done, regulation 8 will have no effect. [Standing Order 21.2(vi) – defective drafting]

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications arising from exiting the European Union

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

These Regulations purport to amend two sets of Regulations that had not yet been made when this report was drafted. That is a very clear indication of the pressures under which the Welsh Government officials are working and the rapidly developing policies that it is sought to implement. [Standing Order



21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.]

Government Response

The Committee has raised two reporting points under Standing Order 21.2(v).

Timing of amendments

In respect of regulation 7 which amends the “Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019” the first reporting point suggests that the drafting is defective because the regulations do not exist, noting that they are planned to be made under the negative procedure before the present Regulations are made and if that is not done, regulation 7 will have no effect.

The Welsh Government does not agree that the provisions in these Regulations amount to defective drafting on the basis that the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019 are due to be made week commencing 11 March and will come into existence before the amending Regulations.

Timing of amendments

In respect of regulation 8 which amends the “Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019”, the second reporting point suggests that the drafting is defective because the regulations do not exist, noting that they are planned to be made under the affirmative procedure before the present Regulations are made and if that is not done, regulation 8 will have no effect.

The Welsh Government does not agree that the provisions in these Regulations amount to defective drafting on the basis that the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 are due to be debated on the 19 March and the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 are due to be debated on the 26 March. It follows that there will be a window within which the Regulations can be made and so come into existence before these amending Regulations.

Legal Advisers

Constitutional and Legislative Affairs Committee

6 March 2019

