

## UK MINISTERS ACTING IN DEVOLVED AREAS

### 149 - The Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No. 2) Regulations 2019

*Laid in the UK Parliament: 25 July 2019*

#### **Sifting**

Subject to sifting in UK Parliament?	No
Procedure:	Draft 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	N/A
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 54
SICM under SO 30A (because amends primary legislation)	N/A

#### **Scrutiny procedure**

Outcome of sifting	N/A
Procedure	Draft affirmative
Date of consideration by the Joint Committee on Statutory Instruments	04/09/19
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	05/09/19

#### Commentary

These Regulations are proposed to be made by the UK Government under section 8 of the European Union (Withdrawal) Act 2018.

This instrument amends retained European Union (“EU”) legislation relating to the common organisation of agricultural markets (“Common Market Organisation” or “CMO”).

The CMO is the framework for the market measures provided for under the Common Agriculture Policy (“CAP”) since its inception. It provides the framework for the market support schemes set up in the various agricultural sectors.

After EU Exit, without amendment, the retained EU legislation will contain inoperable provisions that would prevent the UK government and the Devolved Administrations from being able to deliver the market support

schemes to the agricultural and fisheries sector. This instrument will address operability issues created by the UK leaving the EU to ensure that the CMO can continue to operate effectively after EU Exit

The regimes will continue to function after the UK's withdrawal from the EU in a similar way to how they did previously. This instrument changes the identity of the bodies carrying out the specified functions and converts the EU procedures to UK procedures, as appropriate.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 7 August 2019 regarding the effect of these Regulations.

The written statement says that:

“Functions transferred on a concurrent basis so that they are not only exercisable by the Welsh Ministers, but also by the Secretary of State subject to the consent of the Welsh Ministers, may constitute functions of a Minister of the Crown for the purposes of Schedule 7B to the Government of Wales Act 2006. This therefore may be a relevant consideration in the context of the Assembly's competence to legislate in future in the areas in question.”

In another written statement (relating to The Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) (No. 2) Regulations 2019), the Welsh Government stated that the issue of concurrent functions impacting on the legislative competence of the Assembly will be addressed by amending Schedule 7B to the Government of Wales Act 2006 (by a section 109 order).

However, there is no similar suggestion in this written statement. It may be useful to seek clarity from the Welsh Government as to why that is the case.

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.