NOTIFICATION TO THE SCOTTISH PARLIAMENT

EXITING THE EUROPEAN UNION
ANIMAL HEALTH

Agriculture (Zootechnics) (UK) (EU Exit) (Miscellaneous Amendments)

A brief explanation of law that the proposals amend

The proposed statutory instrument (SI) is being made using powers in the European Union (Withdrawal) Act 2018 in order to correct deficiencies in what will become retained EU law relating to zootechnical (animal breeding) regulation.

The legislation amended is as follows:

- Council Regulation (EU) 2016/1012 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals and the germinal products thereof. This legislation applies to purebred equines, cattle, sheep, pigs and goats, hybrid breeding pigs and their germinal products (such as semen and embryos).

- Commission Implementing Regulation (EU) 2017/716 of 10 April 2017 laying down rules for the application of Regulation (EU) 2016/1012 of the European Parliament and of the Council with regard to the model forms to be used for the information to be included in the lists of recognised breed societies and breeding operations.


The legislation puts in place EU-wide standards and arrangements for the breeding of ovine, bovine, caprine, porcine and equine species of animals. The legislation as it stands is directly applicable in the UK, including Scotland and will become part of retained EU law following the withdrawal of the UK from the European Union.

*Council Regulation (EU) 2016/1012 on zootechnical and genealogical conditions for the breeding, trading in and entry into the Union of purebred breeding animals and the germinal products thereof*
This Regulation facilitates trade in purebred breeding animals and their germinal products. Separate species-specific legislation was replaced by this new streamlined regulation which applies from 1 November 2018. It allows breed societies to apply to be recognised and have their breeding programme approved by a member state competent authority if they meet zootechnical standards.

Commission Implementing Regulation (EU) 2017/716 laying down the rules for the application of Regulation (EU) 2016/1012 of the European Parliament and of the Council with regard to the model forms to be used for the information to be included in the lists of recognised breed societies and breeding operations.

Member States are to draw up and keep an up-to-date list of breed societies and breeding operations that their competent authorities have recognised and this implementing Regulation provides model forms for that within its Annex.


With regard to trade in purebred breeding animals and their germinal products, consignments of these commodities should be presented with an accompanying zootechnical certificate(s). This implementing Regulation provides model forms for such certificates within its Annex and covers purebred animals of the ovine, bovine, caprine and porcine species.


Article 32(1) of Regulation (EU) 2016/1012 provides that, by way of derogation from Article 30(6) thereof, in the case of purebred breeding animals of the equine species, the information to be contained within a zootechnical certificate can be contained in a single lifetime identification document for equidae. This implementing Regulation provides within its Annex a model form of the zootechnical certificate that is to be contained in the single lifetime identification document for equidae and covers purebred animals of the equine species.

Summary of the proposals and how these correct deficiencies

The UK Government intends to bring forward the proposed SI under section 8 of the European Union (Withdrawal) Act 2018. The purpose is to address deficiencies in the zootechnical legislation described above becoming retained EU law to ensure that it will operate effectively in the event of a ‘no-deal’ UK Exit from the EU on 29 March 2019.

The legislation amended currently contains various EU references, terminology and definitions that will not be appropriate once the UK is no longer an EU Member State.
The proposed SI will address deficiencies in retained EU law by making appropriate deletions and/or amendments.

The amendments made by this instrument do not change existing policy, but are necessary to ensure that the law, principally Regulation 2016/1012, continues to operate effectively, in particular to prescribe what pedigree breeding businesses have to do in order to become 'officially recognised' and what activities (referred to as a 'breeding programme' in Regulation 2016/1012) they may carry out.

Regulation (EU) 2016/1012 and the wider zootechnical regime seeks to facilitate trade in live breeding pedigree animals and germinal products such as semen and embryos, and support the integrity of genetic resources. It does this by promoting high standards of production and record keeping across all participating territories and ensuring equality of treatment for purebred breeding animals (and germinal products) between businesses in different territories. The amendments made by the proposed SI seek to ensure that the Regulation continues to operate effectively in the UK as retained EU law so as to adhere to existing EU regulatory standards.

The UK processes for reaching decisions will mirror those of EU Member States under Regulation (EU) 2016/1012. As examples, the recognition and approval of breed societies and breeding programmes will continue as it does now. Each UK administration will continue to be able to make its own decisions about the zootechnical regime in its territory (for example by ensuring breed societies they are responsible for meet the necessary standards). This is reflective of the general approach in that where under Regulation (EU) 2016/1012 as amended administrative functions fall to be exercised, they will be exercisable, in relation to Scotland, by Scottish Ministers. All administrations have agreed to work together to ensure a UK-wide zootechnical regime carries on after leaving the EU.

Certain obligations will no longer be applicable and or appropriate after UK’s withdrawal from the EU. These obligations have been amended or removed and an example of this is for the requirement to notify, inform or report to the Commission. For example, there will no longer be an obligation to inform the Commission when an application for recognition is refused.

Regulation (EU) 2016/1012 contains provision conferring EU legislative powers. Such provision will be amended in a separate transfer of functions SI which will be brought forward by Defra. The Scottish Government remains in discussions with Defra and the other devolved administrations about this. The Scottish Parliament will be separately notified in relation to the transfer of functions SI in due course.

**An explanation of why the change is considered necessary**

The changes are considered to be necessary to ensure that legislation remains effective and operable to allow the zootechnical regime to continue to be in operation in the UK after EU withdrawal. It is hoped that maintaining in the UK a system which is based on EU wide rules will help to facilitate and maintain zootechnical trade between the UK and the EU. Overall there is no policy change being made.

**Scottish Government categorisation of significance of proposals**
• **Category A:** The deficiencies corrected in this SI are of a technical nature and do not include policy changes. The amendments made are to ensure the continued operation of arrangements for organisations officially recognised under zootechnical legislation. The Scottish Government agrees with DEFRA on the appropriate approach. So far as the proposed SI makes the provision for exercise of administrative functions it does so in a manner consistent with the devolution settlement, as discussed elsewhere in the notification.

**Impact on devolved areas**

Zootechnical standards, as an element of agriculture, is a devolved area. In making provision to address deficiencies this instrument respects the devolution settlement.

For example, under the zootechnical legislation as amended by the proposed SI administrative functions will generally be exercisable, in relation to Scotland, by the Scottish Ministers.

Those functions in Regulation (EU) 2016/1012 to be amended by the proposed SI that involve making legislation are intended to be addressed in a separate UK transfer of functions SI which will be separately notified to the Scottish Parliament at a later date.

**Summary of stakeholder engagement/consultation**

The Scottish Government meets frequently with a very broad range of stakeholders to discuss animal health and welfare related matters. The technical amendments to legislation made by this proposed instrument will continue to ensure that the Scottish Government’s policy is aligned to the views of its key stakeholders and is able to operate effectively after the UK’s withdrawal from the European Union as they do now to meet the needs of stakeholders. We have written to Scottish breed societies with regard to zootechnical regulations post-EU Exit and to request some early information from them with regard to trade.

**A note of other impact assessments, (if available)**

An Impact Assessment has not been prepared for this instrument. There is expected to be no significant impact as a direct result of this proposed SI, primarily because it relates to the maintenance of existing legislation.

**Summary of reasons for Scottish Ministers’ proposing to consent to UK Ministers legislation**

The Scottish Ministers believe that the changes to zootechnical legislation to be made by this proposed instrument are necessary to ensure the existing zootechnical regime continues to apply in the same way after the UK’s withdrawal from the European Union as it does currently.

In the current circumstances where there is existing directly applicable EU law having effect throughout the UK, the Scottish Ministers consider that it is appropriate
for fixing legislation be made on a UK-wide basis by the UK Government. This is particularly in circumstances where the instrument protects Scottish Ministers interests under the devolution settlement. Given existing practical and collaborative zootechnical working arrangements across the UK, this approach is favoured.

Where relevant – detail how Scottish Ministers’ have had regard to the guiding principles on animal welfare and the environment

The amendments made by this proposed instrument do not significantly change existing policy and will make modifications needed to generally preserve the application of existing EU law based arrangements in relation to zootechnical standards as retained EU law within the UK after EU exit. The relevant EU law has been made with the guiding principles on animal welfare and the environment in mind. In these circumstances what will become retained EU law will continue to give sufficient regard to the guiding principles (in particular that regard must be had to the welfare requirements of animals as sentient beings).

Intended laying date (if known) of instruments likely to arise

The instrument is subject to the negative procedure and will be laid for sifting at Westminster on 29 November 2018. We are working with Defra on the basis no EU Exit SIs will proceed to be made (for negative procedure SIs), or laid in draft (for affirmative SIs), until after they have been through the consent process agreed with the Scottish Parliament.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Ministers’ proposal to consent, why not?

The Scottish Parliament will have 28 days to scrutinise.

Information about any time dependency associated with the proposal

N/A

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

There are no anticipated broader governance issues anticipated with this instrument. These are technical amendments to ensure the continued operation of the current regime for zootechnical standards in the event of a ‘no deal’ UK exit from the EU on 29 March 2019.

Any significant financial implications?

These Regulations are not expected to have any financial implications, including for the Scottish Government and for stakeholders in Scotland.

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