NOTIFICATION TO THE SCOTTISH PARLIAMENT:

EXITING THE EUROPEAN UNION

ANIMALS

The Veterinary Medicines and Animals and Animal Products (Examination of Residues and Maximum Residue Limits) (Amendment etc.) (EU Exit) Regulations 2018

Brief explanation of law that the proposals amend

- The proposed SI will be made using powers in section 8 in particular of the European Union (Withdrawal) Act 2018 in order to correct deficiencies in what will become retained EU law relating to regulation of veterinary medicines and establishment of maximum residue levels for veterinary medicines in animals and produce from treated animals and associated monitoring. The proposed SI will also make provision in exercise of in particular section 2(2) of the European Communities Act 1972 to update EU References to the Veterinary Medicines Regulations 2013 ("the 2013 Regulations").

- The proposed SI will amend in particular the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (England and Scotland) Regulations 2015 ("the Residues Regulations"). The Residues Regulations prohibit the use of certain substances as growth promoters and provide for a surveillance programme for residues of veterinary medicines. These Regulations help ensure animal welfare, protect the safety of treated animals, people handling the medicines, consumers of produce from treated animals and the environment. The Residues Regulations cover a mix of reserved (veterinary medicines) and devolved (e.g. protection of public health, food safety) elements and so far as covering devolved elements amendments to be made to the Residues Regulations by the proposed SI trigger this notification.

- The Residues Regulations are a UK SI extending to England and Scotland, having been made by the UK Government in exercise of powers including section 2(2) of the European Communities Act 1972, relying on section 57(1) of the Scotland Act 1998.

- The proposed SI will also make amendments to provision in the 2013 Regulations and amendments to, or revocation of, number of EU instruments making provision in relation to the production, distribution, possession, dispensing and administration of veterinary medicines (including in relation to the establishment of maximum residue levels). In terms of section J4 of Part 2 of schedule 5 of the Scotland Act 1998 the regulation of veterinary medicinal products (within the meaning of regulation 2(1) of the 2013 Regulations) is a reserved matter. The amendments to the 2013 Regulations and amendments/revocation directly applicable EU law are not referred to further in this notification.

Summary of the proposals and how these correct deficiencies
The amendments to the Residues Regulations in the proposed SI will not change existing policy and will make largely technical modifications (e.g. definitions) that will be needed, in the event of a 'no deal' UK exit from the EU on 29 March 2019, to generally maintain in the UK the system that is in place that governs surveillance for veterinary medicines residues in food. For example the proposed SI will remove or update references to EU instruments to ensure that these operate effectively following EU withdrawal.

An explanation of why the change is considered necessary

The changes that will be made by the proposed SI are necessary to ensure that the current EU-wide rules that provide for a surveillance programme for residues of veterinary medicines can continue to operate effectively in the UK, including Scotland, after EU Exit, including to ensure the protection of human health through monitoring the residues of veterinary medicines in animals and produce from treated animals.

As the Residues Regulations were made by the Secretary of State with consent from Scottish Ministers (in exercise of the power in section 2(2) of the European Communities Act 1972, relying on section 57(1) of the Scotland Act 1998) and extend to England and Scotland, it is appropriate that the required amendments to correct deficiencies in those Regulations as retained EU law is made by the UK Government in the proposed SI.

SG categorisation of significance of proposals

Category A: the deficiencies in the Residues Regulations that will be corrected in the proposed SI are minor, are of a technical nature and do not include any policy changes. The Scottish Government agrees with DEFRA on the appropriate approach. The proposed SI will not contain provision relating to the exercise of functions: so far as the Residues Regulations as they stand provide for exercise of Ministerial functions they provide for functions to be exercisable, as respects Scotland, by the Scottish Ministers and are consistent with the devolution settlement.

Impact on devolved areas

The Residues Regulations cover a mix of reserved (veterinary medicines) and devolved (e.g. protection of public health, food safety) elements and so far as covering devolved elements amendments to be made to the Residues Regulations by the proposed SI trigger this notification. The amendments made by the proposed SI comprise technical changes and do not change existing policy.

Summary of stakeholder engagement/consultation
The Scottish Government has not undertaken any specific stakeholder engagement as the proposed SI will not affect any changes to existing policy and will instead make technical amendments to legislation.

A note of other impact assessments (if available)

- An impact assessment has not been carried out in relation to the proposed SI as it is aimed at generally preserving the effect of the current regimes.

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

- The Scottish Ministers believe that the changes in the proposed SI will be necessary to ensure that surveillance for the presence of residues of veterinary medicines in foods can be dealt with in the same way as it is now in the event of the UK’s withdrawal from the European Union without a deal.

- As the 2015 Regulations were made by the Secretary of State and extend to England and Scotland - having been made by the UK Government in exercise of powers including section 2(2) of the European Communities Act 1972, relying on section 57(1) of the Scotland Act 1998 - it is appropriate that the amendments required to correct deficiencies arising as a result of the UK’s exit from the EU are made in the proposed SI.

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

- As highlighted earlier, the amendments to the Residues Regulations that will be made by the proposed SI will not change existing policy and will make modifications needed to generally preserve the application of existing arrangements. The relevant EU law which the Residues Regulations implement 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

- This instrument is subject to the negative procedure and will be laid for sifting at Westminster on 22th November. We are working with DEFRA on the basis that 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 detail why not?
N/A – The Scottish Parliament will have 28 days to scrutinise.

Information about any time dependency associated with the proposal

N/A.

Any significant financial implications?

None – the proposed SI is not expected to have any financial implications, including for stakeholders, in Scotland.

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 the proposed SI and the SG will continue its good working relationships with UK Government and the other Devolved Administrations. The proposed SI makes technical amendments to ensure the continued operation of the current regime for surveillance for veterinary medicines in food.

Lead Official: JESUS GALLEGOM
Animal Health and Welfare Division
Ext. 49796

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