NOTIFICATION TO THE SCOTTISH PARLIAMENT:
EXITING THE EUROPEAN UNION
ANIMALS
The Equine (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2018

Brief explanation of law that the proposals amend

- The proposed SI will amend the directly applicable EU Commission Implementing Regulation (EU) 2015/262, which lays down rules pursuant to Council Directives 90/427/EEC and 2009/156/EC as regards the methods for the identification of equidae (Equine Passport Regulation), becoming retained EU law following the UK’s exit from the EU.

- The legislation is particularly important to facilitate the movement of equines from the UK and into the EU because it sets out the necessary standards of identification and exists in particular to ensure that horse meat entering the food chain is safe. The EU established a system to identify equine animals individually and to record whether any horse has been given veterinary medicine that would mean it must be excluded from the food chain.

- The proposed SI will also amend related Commission Decision/s:
  - 92/216/EEC - relating to the collection of data concerning competitions for equidae and the competent authority of each constituent territory of the UK appointing a coordinating authority responsible for collecting the data concerned
  - 92/353/EEC - laying down the criteria for the approval or recognition of organisations and associations which maintain or establish stud-books for registered equidae and
  - 92/354/EEC - laying down certain rules to ensure coordination between organisations and associations which maintain or establish stud-books for registered equidae

- The proposed SI will also amend relevant related provision in Annex 1 (Veterinary and Phytosanitary matters) to the Agreement on the European Economic Area.

Summary of the proposals and how these correct deficiencies

- The amendments in the proposed SI will not change existing policy and will make modifications 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 equine identification and aspects of the safety of the food chain.

- In particular, the amendments in the proposed SI will amend provision on administrative functions (i.e. functions that do not involve making legislation) that
currently provide for exercise of functions by Member States to instead refer to functions being exercised, post exit, by Scottish Ministers. The proposed SI will not make any amendments to legislative functions (i.e. functions that involve making legislation).

- The proposed SI will make modifications to preserve in the UK the effective application of in particular Commission Implementing Regulation (EU) 2015/262 regarding the identification of equidae. Various amendments to EU references will be made by the proposed SI. These include references to ‘Member States’ and ‘Member State competent authority’. Where necessary these will be replaced or updated with references to the ‘United Kingdom’ or Scotland, England, Wales and Northern Ireland - as ‘constituent territories of the United Kingdom’ - or to ‘appropriate authority’ being, in relation to Scotland, the Scottish Ministers.

- EU related cross-references in the legislation will be amended as appropriate. For example, redundant cross references to EU legislation will be removed, replaced or updated with the correct references to EU or domestic legislation.

**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 govern the system of identification of equidae can continue to operate effectively in the UK context after EU Exit. It is hoped that maintaining in the UK a system which is based on EU wide rules will help to facilitate and maintain trade and travel of equines between the UK and the EU.

**SG categorisation of significance of proposals**

- **Category A**: the deficiencies that will be corrected in the proposed SI are of a technical nature and do not include any policy changes. The Scottish Government agrees with DEFRA on the appropriate approach. So far as the proposed SI will make provision for exercise of functions it will do so in a manner consistent with the devolution settlement.

**Impact on devolved areas**

- The proposed SI will make provision in a devolved area and, in making provision to address deficiencies in Commission Implementing Regulation (EU) 2015/262 in particular as it becomes retained EU law, will respect the devolution settlement. For example, amendments will be made to reflect that certain functions of Member States in terms of the Regulation as it stands will instead be exercisable by the ‘appropriate authority’ defined as, in relation to Scotland, the Scottish Ministers. Similarly, where the Regulation refers to functions of member State competent authorities, amendments will be made to the effect that the competent authority in the UK will be the ‘appropriate authority’ and so, in relation to Scotland, the Scottish Ministers.
Summary of stakeholder engagement/consultation

- The Scottish Government has not undertaken any specific stakeholder engagement as the proposed SI will not effect any changes to existing policy and will instead make technical amendments to legislation. The SG will however continue to meet frequently with equine stakeholders where any related matters may be highlighted.

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 the identification requirements of equine animals can be dealt with in the same way as they are now after the UK’s withdrawal from the European Union.

- In current circumstances where there is existing directly applicable EU law having effect throughout the UK and which requires to be amended in order to prepare for a ‘no-deal’ exit from the EU, the Scottish Ministers consider that it is appropriate for the fixing legislation to be made on a UK-wide basis by the UK Government. This is particularly the case in circumstances where the instrument protects Scottish Ministers’ interests under the devolution settlement.

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

- As highlighted earlier, the amendments 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 EU arrangements, in particular Commission Implementing Regulation (EU) 2015/262 regarding the identification of equidae, 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

- This instrument is subject to the negative procedure and will be laid for sifting at Westminster on 20th 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 equine identification in the UK.

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