03 December 2018

Dear Minister,

The Trade in Animals and Related Products (Amendment) (EU Exit) Regulations 2018

Thank you for your letter, dated 22 November 2018, relating to the consent notification for the above proposed SI.

In advance of the Committee’s consideration, members would find it helpful to have further information on a number of points. These are set out in the annexe to this letter.

The Committee intends to consider this consent notification at its meeting on 18 December. In order for this information to inform the Committee’s consideration, therefore, it would be helpful to have a response by close of play on Monday 10 December.

Yours sincerely,

Gillian Martin MSP
Convener
Environment, Climate Change and Land Reform Committee
The Statutory Instrument as Published

The Draft Trade in Animals and Related Products (Amendment) (EU Exit) Regulations 2018 and associated Explanatory Memorandum were published on Tuesday 27 November.

- Are these documents in keeping with the Scottish Government’s notification?

Grouping of Regulations – Animal Health

The Draft SI amends five GB-wide instruments and two instruments that apply to England only; the GB wide ones are:

- Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974
- Artificial Insemination of Pigs (EEC) Regulations 1992
- The Animals (Post-Import Control) Order 1995
- The Bovine Embryo (Collection, Production and Transfer) Regulations 1995
- The Non-Commercial Movement of Pet Animals Order 2011

- What process was followed to decide on this grouping of instruments?
- Are there other instruments that were considered, but not included?
- How will other aspects of animal health be addressed?

Consultation

The five SIs described in the notification are underpinned by offence provisions.

- Why was no stakeholder engagement or consultation undertaken other than engagement with DEFRA and other devolved administrations?
- Are affected individuals, businesses or enforcing authorities receiving fair notice of the changes?

PART 2 Amendment of secondary legislation that applies in Great Britain

This section seeks further explanation of how the proposals will correct deficiencies, and why the change is considered necessary.

The Notification states:

As the UK will no longer be a Member State [...] the proposed SI will amend EU references. Where necessary, for example, it will replace what will become obsolete references to EC Directives with references to relevant domestic instruments."

- In what way does the Draft SI replace EU references? Why are these considered to be appropriate?
• If the “relevant domestic instruments” are UK SIs in some cases and SSIs in others, could there be policy divergence between Scotland/devolved provisions, and the rest of GB/reserved provisions?

The Notification states that the:

 […] main aim is to remove what will become redundant references or provisions, add new definitions where necessary and generally ensure that existing GB legislation is operable upon EU exit.

• What new definitions are proposed; is it limited to e.g. changing references to “Member States” to “the United Kingdom”.

**Part 3 Amendment of secondary legislation that applies in England**

Part 3 of the instrument covers two instruments that apply only to England. There are Scottish devolved equivalents. Of these, the *Trade in Animals and Related Products (Scotland) Regulations 2012* (“TARP”) is a key domestic piece of legislation on trade in live animals and genetic material. The amendments to the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974 that are included in this notification, refer to TARP. The notification does not indicate that TARP is to be amended.

This proposed SI amends the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974 (SI 1974/2211). The draft SI cross-refers to the Trade in Animals and Related Products (Scotland) Regulations 2012 (SSI 2012/177). This SI amends the equivalent English legislation.

• Are there proposals to amend SSI 2012/177, in tandem with these amendments to the 1974 Rabies Order?

Part 3 also relates to the Bovine Semen (England) Regulations 2007.

• Do the *Bovine Semen (Scotland) Regulations 2007* carry out the same functions as the English Regulations? What will be done with them?