RURAL ECONOMY AND CONNECTIVITY COMMITTEE

AGENDA

32nd Meeting, 2018 (Session 5)

Wednesday 5 December 2018

The Committee will meet at 9.00 am in the Mary Fairfax Somerville Room (CR2).

1. Decision on taking business in private: The Committee will decide whether to take item 5 in private.

2. Aberdeen Western Peripheral Route: The Committee will take evidence from—
   
   Stephen Tarr, Managing Director, Major Projects Division, Balfour Beatty;
   
   Bill Hocking, Chief Executive Officer, Construction and Investments, Galliford Try;
   
   Brian Love, Director, Aberdeen Roads Ltd.

3. Transport update: The Committee will take evidence from—
   
   Michael Matheson, Cabinet Secretary for Transport, Infrastructure and Connectivity, Bill Reeve, Director of Rail, Frances Pacitti, Director of Aviation, Maritime, Freights and Canals, and Michelle Rennie, Director of Major Transport Infrastructure Projects, Scottish Government.

4. European Union (Withdrawal) Act 2018: The Committee will consider proposals by the Scottish Government to consent to the UK Government legislating using the powers under the Act in relation to the following UK statutory instrument proposals-
   
   Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2018
   
   The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018
   
   The Common Provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) Regulations 2018
Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018

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

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

Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019

5. **Review of evidence:** The Committee will review the evidence heard during the meeting.

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Clerk to the Rural Economy and Connectivity Committee
Room T3.40
The Scottish Parliament
Edinburgh
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The papers for this meeting are as follows—

**Agenda Item 2**

Cover note  
PRIVATE PAPER  
REC/S5/18/32/1

**Agenda Item 3**

Cover note  
PRIVATE PAPER  
REC/S5/18/32/2  
(P)

**Agenda Item 4**

Cover note  
PRIVATE PAPER  
REC/S5/18/32/4  
(P)

**REC/S5/18/32/5  
(P)**
Aberdeen Western Peripheral Route

Background

The Cabinet Secretary for Transport, Infrastructure and Connectivity on 1 November 2018 announced to Parliament that the opening of the Aberdeen Western Peripheral Route (AWPR), expected in autumn 2018, would be delayed.

The AWPR contract was awarded in December 2014 to Aberdeen Roads Ltd; a joint venture between Balfour Beatty, Carillion and Galliford Try.

On 5 December 2018, the Committee will take evidence on the delay in project delivery from the principal contractors, Balfour Beatty and Galliford Try and the joint venture Aberdeen Roads Ltd.

Written evidence will be provided by the principal contractors (as a late Committee paper in advance of the Committee meeting).

The Committee will also have an opportunity to discuss the AWPR project with the Cabinet Secretary for Transport, Infrastructure and Connectivity on 5 December as part of a wider transport update.

Clerking Team
Rural Economy and Connectivity Committee
29 November 2018
Transport update from the Cabinet Secretary for Transport, Infrastructure and Connectivity

Background

The Committee will take evidence from the Cabinet Secretary for Transport, Infrastructure and Connectivity on transport issues such as major transport infrastructure projects, rail services, ferries and active travel. This forms part of a series of regular updates the Committee receives to allow it to monitor transport developments and transport policy.

The Committee last received a general transport update from the former Minister for Transport and the Islands on 16 May 2018. At that meeting, the Committee raised topics such as the rail Edinburgh Glasgow Improvement Programme, community transport, CalMac ferries and changes planned by Highlands and Islands Airport Ltd.

The Committee also had a specific evidence session on Rail Services in Scotland with the Scotrail Alliance on 14 November 2018.

The Committee will discuss key policy, improvements and developments in the transport sector with the Cabinet Secretary.

The Cabinet Secretary will send correspondence relevant to this session (which will be a late Committee paper to be sent early next week).

Clerking Team
Rural Economy and Connectivity Committee
29 November 2018
Introduction

1. This paper supports the Committee’s consideration of consent notifications sent by the Scottish Government relating to the following UK statutory instruments (SIs)—

   **Genetically Modified Organisms (GMOs)**
   - Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2018;

   **Common Agricultural Policy**
   - The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018;
   - The Common Provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) Regulations 2018;

   **Animal health**
   - The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018;
   - The Agriculture (Zootechnics) (UK) (EU Exit) (Miscellaneous Amendments);
   - The Veterinary Medicines and Animals and Animal Products (Examination of Residues and Maximum Residue Limits) (Amendment etc.) (EU Exit) Regulations 2018; and
   - The Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019.

2. These regulations are being laid in relation to the European Union (Withdrawal) Act 2018 (‘the Act’). In order to assist in the consideration of such instruments, a new protocol has been put in place between the Scottish Government and Scottish Parliament. Further detail on this protocol is available in a letter from the Cabinet Secretary for Government Business and Constitutional Relations as well as in the annexe to this paper.

Reporting

3. Under the protocol referred to above, the Committee has the following two options following its consideration of the UK SIs—
a. Write to the Scottish Government to confirm it is content for consent for a
UK SI to be given.
b. Consider the matter further, take evidence if appropriate and make a
report to parliament.

4. If it chooses to report it may make one of the following three recommendations—

a. it is content for consent to be given for a UK SI to be made in the UK
Parliament only.
b. it is not content with the Scottish Government granting its consent and that
the proposals should be made by an SSI; or
c. it is not content with the Scottish Government granting its consent and that
the proposals should be included as a UK SI in both parliaments made
under the joint procedure.

5. The Committee’s role in the protocol is to decide whether it agrees to the Scottish
Government offering its consent to the UK Government to make regulations on its
behalf. However, there are broader policy issues which may arise in future, not as a
direct consequence of the notification, but due to Brexit itself. The Committee may
wish to note these issues in its response to the Scottish Government and request that
it be kept up to date on any developments on these matters. These broader policy
issues have been identified in relation to each instrument where appropriate.

INSTRUMENTS

6. This table is intended to give a brief overview only. The notification letters and
documentation for the instruments are included in annexes to this paper.

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Category</th>
<th>Issues to note?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2018</td>
<td>A</td>
<td>Additional clarification requested from Scottish Government. Letter included in annexe.</td>
</tr>
<tr>
<td>CAP/CFP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018</td>
<td>A (Possible B)</td>
<td>Wider Brexit policy issues.</td>
</tr>
</tbody>
</table>
Animal health

- The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018;
  A
  - Wider Brexit policy issues.
  - Follow up instruments have been highlighted in the notification.

- The Agriculture (Zootechnics) (UK) (EU Exit) (Miscellaneous Amendments);
  A
  Wider Brexit policy issues.

- The Veterinary Medicines and Animals and Animal Products (Examination of Residues and Maximum Residue Limits) (Amendment etc.) (EU Exit) Regulations 2018; and
  A
  None

- The Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019.
  A
  None

GENETICALLY MODIFIED ORGANISMS

- Date notification received: 13 November 2018
- Deadline for consideration: 10 December 2018
- Categorisation: A
- Detailed content: Contained in annexe A

7. These EU Exit Regs amend retained EU law and UK legislation establishing the regime that controls the release and marketing of Genetically Modified Organisms (GMOs). More specifically, they:

- update out of date references to legislation contained in a UK SI restricting the import and acquisition of GMOs;

- amend three directly applicable European Regulations on: (a) the traceability and labelling of authorised GM products placed on the market, (b) the export of GMOs from the EU to third non-EU countries (implementing international law requirements the UK is bound by), and (c) the establishment of a system of unique identifier codes for the marketing of individual GMOs;

- fix deficiencies arising in seven EU Decisions. Notably, one of those decisions prohibits the cultivation of MON810 maize in Member States, or parts of Member States, that chose to opt-out of its cultivation.
Scotland, Northern Ireland and Wales chose to opt out, but the rest of the UK (i.e. England) did not.

8. **Scottish Parliament officials requested a number of points of clarification from the Scottish Government to assist the Committee in their consideration of the notification. The Scottish Government response addressing these points has been included in Annexe A.**

**COMMON AGRICULTURAL POLICY/ COMMON FISHERIES POLICY**

- Date notification received: 14 November 2018
- Deadline for consideration: 11 December 2018
- Categorisation: A (possible B)
- Detailed content: Contained in annexe B

9. The Scottish Government considers that in general, the proposed SIs fall within Category A. However, that they could be considered Category B to the extent that the transition from an EU to a UK framework would be a major and significant development.”

10. The corrections introduced by the proposed instruments will help ensure that CAP scheme recipients continue to be paid following EU-Exit.

11. In addition to these CAP instruments, the UK Government is also planning to introduce other statutory instruments (subject to later notifications) as part of the EU-exit process that will interact with the legislation amended by these instruments. It is anticipated they will be laid between late-November 2018 and February 2019 and cover the following CAP-related areas:

   - the “Horizontal” (cross-cutting) financing, management and monitoring of framework;
   - the market intervention measures under the Common Organisation of Agricultural Markets (“CMO”);
   - the transfer of CAP/CMO functions previously vested in the EU Commission to the Scottish Ministers and the other UK administrations; and
   - state aid.

12. In terms of the CFP, the consent notification states that the principal European Maritime and Fisheries Fund regulation will be amended by the Common Fisheries Policy (Amendment) (EU Exit) Regulations 2018 (the Committee received the notification for this SI on 21 November and will consider at a future meeting) and the principal Common Provisions regulations will also be amended by another exit SI, which will be notified separately.

**Wider policy issues**
13. Much scrutiny and compliance of CAP payments already takes place at a Scottish level. The Committee may wish to note in its response to the Scottish Government that it would find it useful to have further information on how the audit, scrutiny and compliance landscape relating to the CAP will be change once the UK leaves the EU.

ANIMAL HEALTH

- Date notification received: 15 November 2018
- Deadline for consideration: 12 December 2018
- Categorisation: A (possible B)
- Detailed content: Contained in annexe C, D, E & F

The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018 (Annexe C)

14. The instrument corrects deficiencies in what will become retained EU law that protects human health against zoonotic disease (and, in particular, salmonella). Zoonotic diseases are those that may transfer from animals to humans.

15. It amends the EEA Agreement, four European Commission decisions, and six European Regulations. Those sources of EU law make provision about matters such as certification requirements regarding salmonella on consignments of breeding poultry and day old chicks to Finland and Sweden, targets for the reduction of certain types of salmonella, testing requirements, requirements for the use of specific control methods (e.g., vaccinations) and requirements for the monitoring and reporting of antimicrobial resistance.

16. The instrument will amend EU references and remove obligations the UK currently has to the European Commission, such as reporting or the provision of information. It will also make provision for administrative functions to be exercised, in relation to Scotland, by the Scottish Ministers or the UK Secretary of State with the consent of the Scottish Ministers. Such administrative functions conferred on the Scottish Ministers include approving control programmes and designating reference laboratories. The function of ensuring that the results of pre-dispatch testing of animals or hatching eggs for import from third countries fulfil the same criteria as those laid down under the UK’s national programme will be exercised by the Secretary of State with the consent of the Scottish Ministers.

17. The Committee will note that the function of receiving third country programmes detailing that country’s inspection and controls for zoonoses and zoonotic agents (which must, at least, be equivalent to controls set out in an EU Regulation), is conferred solely on the Secretary of State. The SI notification indicates that the final approvals process that follows receipt of such programmes will be amended in a separate instrument and that the Scottish Government continues to work to ensure that any amendments to the approvals process fully respects the devolution settlement.
The Agriculture (Zootechnics) (UK) (EU Exit) (Miscellaneous Amendments) (Annexe D)

18. The instrument corrects deficiencies in what will become retained EU law relating to zootechnical (animal breeding) regulation. It amends four European Regulations – one main regulation making provision for zootechnical and genealogical conditions for the breeding, trade in and entry into the EU of purebred breeding animals and the germinal products thereof and three others making provision for forms and certificates for the operability of the main regulation.

19. The instrument will amend EU references and removes obligations that the UK currently has to the European Commission. The notification states that it will not change existing policy and that the UK processes will mirror those of the EU Member States under the main regulation. The notification further states that administrative functions exercised under the main regulation will be exercised in relation to Scotland by Scottish Ministers.

20. The instrument is not transferring legislative functions currently exercised under the main regulation. That transfer will be contained in a separate instrument which DEFRA is preparing and the notification states that the Scottish Government remains in discussion with DEFRA about that instrument.

21. The ECCLR Committee may also have an interest in elements of this notification. The points discussed refer to REC Committee interests only.

Wider policy issues

22. The Committee may wish to note in its response to the Scottish Government that it would find it useful to have further information on whether the UK farm animal health and welfare regime will be accepted by the EU following Brexit and how this may impact on trade. The Committee may also wish to refer to the increased need for vets in the UK post Brexit and ask how this need can be met.

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

23. The instrument corrects deficiencies in what will become retained EU law relating to the regulation of veterinary medicines, the maximum residue levels for veterinary medicines in animals and produce from treated animals and associated monitoring.

24. The instrument amends reserved and devolved law. The amendments to devolved law, which are relevant for the purposes of giving consent to this notification, are to the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (England and Scotland) Regulations 2015. The 2015 Regulations cover a mix of reserved matters (veterinary medicines) and devolved matters (protection of public health and food safety). The notification indicates that the instrument also amends the Veterinary Medicines Regulations 2013 and a number of EU instruments making provision in relation to the production, distribution, possession,
dispensing and administration of veterinary medicines – however, these are reserved and so are not relevant.

25. The 2015 Regulations prohibit the use of certain substances as growth promoters and provide for a surveillance programme for residues of veterinary medicines. The notification indicates that the amendments it makes to the 2015 Regulations make technical modifications, such as changing definitions and removing or updating references to EU instruments.

The Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019 (Annexe F)

26. The instrument corrects deficiencies in what will become retained EU law relating to the regulation of the farriery profession, the protection of the welfare of horses, animal health generally. It amends two UK statutes, the Farriers (Registration) Act 1975 and the Animal Health Act 1981.

27. The instrument will amend provisions in the 1975 Act relating to the mutual recognition of farrier qualifications in the EU, EEA and Switzerland. Currently, farriers with qualifications from those countries are eligible to be registered on the UK farriers register but they will no longer be automatically eligible due to the proposed withdrawal of mutual recognition of EU qualifications.

28. The Committee may wish to note that the instrument amending the 2015 regulations/withdrawing the mutual recognition of EU qualifications does not seem to have been notified to the Scottish Parliament yet. Farriers from EU and EEA countries and Switzerland will still be able to apply to be registered and work in the UK on the same basis as farriers from third countries.

29. The ECCLR Committee may also have an interest in elements of this notification. The points discussed refer to REC Committee interests only.

DECISION

30. The Committee is asked to consider the consent notifications referred to in this paper and determine whether to:

   a. write to the Scottish Government to confirm it is content for consent for the UK SIs referred to in the notifications to be given;

   b. to note and request a response from the Scottish Government on the wider policy matters identified which may require to be addressed in future;

   or

   c. consider the matter further, take evidence if appropriate and make a report to parliament.
Committee clerks
December 2018
ANNEXE A

Consent notification – The Genetically Modified Organisms (Amendment) (EU) (Exit) Regulations 2018

Name of the instrument and summary of proposal
The Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2018 (the “EU Exit SI”) is proposed to be made under section 8(1) of the European Union (Withdrawal) Act 2018, and also section 2(2) of the European Communities Act 1972, to amend some domestic law relating to genetically modified organisms and some associated retained EU law. This instrument is to ensure that EU and UK legislation establishing the regime that controls the release and marketing of genetically modified organisms (GMOs) will continue to be operable when the UK leaves the European Union (EU).

Explanation of law that the proposals amend
Food and feed generally originates from plants and animals grown and bred by humans for several thousand years. Over time, those plants and animals with the most desirable characteristics were chosen for breeding the next generations of food and feed. In the last 30 or so decades, it has become possible to modify the genetic make-up of living cells and organisms using modern biotechnology. The genetic material is modified artificially to give it a new property (e.g. a plant's resistance to a disease, insect or drought, a plant's tolerance to a herbicide, improving a food's quality or nutritional value, increased yield). Such organisms are called "genetically modified organisms" (GMOs). Food and feed which contain or consist of such GMOs, or are produced from GMOs, are called "genetically modified (GM) food or feed".

Domestic law on GMOs is mostly derived EU GMO legislation which aims to:
• Protect human and animal health and the environment by introducing a safety assessment of the highest possible standards at EU level before any GMO is placed on the market.
• Put in place harmonised procedures for risk assessment and authorisation of GMOs that are efficient, time-limited and transparent.
• Ensure clear labelling of GMOs placed on the market in order to enable consumers as well as professionals (e.g. farmers, and food feed chain operators) to make an informed choice.
• Ensure the traceability of GMOs placed on the market.

Summary of the proposals
This notification covers proposals to fix deficiencies arising from EU Exit in the following GMO legislation which extends to, and applies in, Scotland:

• The Genetically Modified Organisms (Risk Assessment) (Records and Exemptions) Regulations 1996
These domestic Regulations supplement provision in Part VI (genetically modified organisms) of the Environmental Protection Act 1990, which restricts the import and acquisition of GMOs. Amendments to these regulations are proposed to update out-of-date references to legislation that has been superseded. No changes are being made to policy.

- **Regulation (EC) 1830/2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms.**
  
  This EU Regulation is directly applicable in Scotland. It requires authorised GM products to be traced and labelled at all stages of their being placed on the market. The Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004 make further provision for enforcement.

  Amendments to these regulations are proposed to remove and/or replace references to EU institutions, other member states etc that will be no longer applicable after EU exit and, where relevant, replace these with suitable UK/devolved authority references. In addition, it is proposed to amend/update references to other legislation where that has since been superseded and for references to Community legislation, substitute “retained EU law”.

- **Regulation (EC) 1946/2003 on transboundary movements of GMOs.**
  
  This EU Regulation is directly applicable in Scotland. It regulates the export of GMOs from the EU to third (non-EU) countries. The key requirement is for the planned first export of a GMO intended for environmental release to be notified to the receiving country to obtain its approval before shipment. The Regulation implements the requirements of the Cartagena Biosafety Protocol to the United Nations Convention on Biological Diversity (to which the UK is a Party). The Genetically Modified Organisms (Transboundary Movement) (Scotland) Regulations 2005 make further provision for enforcement.

  Amendments to these regulations are proposed to remove and/or replace references to EU institutions, other member states etc that will be no longer applicable after EU exit and, where relevant, replace these with suitable UK/devolved authority references. In addition, it is proposed to amend/update references to other legislation where that has since been superseded and, for references to Community legislation, substitute “retained EU law”.

- **Regulation (EC) No 65/2004 establishing a system for the development and assignment of unique identifiers for GMOs.**
  
  This EU Regulation is directly applicable in Scotland. It requires applicants for GMO marketing approval under Directive 2001/18 and Regulation 1829/2003 (relating to GMOs in food and feed) to specify a unique identifier code for the GMO in question, and sets a specified format and method for assigning each code. Regulations 1830/2003 and 1946/2003 also require unique identifiers.

  Amendments to these regulations are proposed to remove and/or replace references to EU institutions, other member states etc that will be no longer applicable after EU exit and, where relevant, replace these with suitable
UK/devolved authority references. In addition, it is proposed to amend/update references to other legislation where that has since been superseded.

The notification also covers proposals to fix deficiencies arising from EU Exit in the following related EU Decisions which extend to, and apply in, Scotland:

- **Decision 94/730/EC** which sets out simplified procedures that may apply for applications for consent to undertake GM plant trials.

- **Decision 2002/812/EC** specifies a standard format for summarising applications for consent to market GMOs.

- **Decision 2002/813/EC** specifies a standard format for summarising applications for consent to undertake GMO trials.

- **Decision 2003/701/EC** specifies a standard format for consent holders to report on the monitoring and/or outcome of authorised GMO trials.

- **Decision 2004/204/EC** specifies the information that must be included in applications to market genetically modified organisms under Directive 2001/18, and which the Commission makes publicly available.

- **Decision 2009/770/EC** specifies the format of the post-marketing monitoring report that holders of GMO marketing consents are required to complete.

- **Decision 2016/321** prohibits the cultivation of MON810 maize in Member States, or parts of Member States, that chose to opt-out of its cultivation.

Technical amendments are proposed to all of the above to ensure these Decisions will still apply after EU Exit e.g. we propose to remove and/or replace references to EU institutions, other member states etc that will be no longer applicable after EU exit and, where relevant, replace these with suitable UK/devolved authority references. In addition, it is proposed to amend/update references to other legislation where that has since been superseded and, for references to Community legislation, substitute “retained EU law”.

**Why is the change necessary?**
The changes are necessary to ensure that retained EU legislation and the domestic EU legislation enforcing it continues to operate effectively. This includes amending references to the EU, EU institutions and EU administrative processes to UK equivalents; updating legal references to refer to relevant UK legislation; and retaining the requirement for the government to report.

We are continuing to liaise with Defra and the DAs over the final version of the SI and there may yet be some minor technical changes made to the it.
Scottish Government categorisation of significance of proposals
Category A. The provisions are making minor technical changes to preserve
the functioning of the regulations.

Scottish Ministers agree that the changes constitute a pragmatic approach to
addressing deficiencies in the GMO regulatory regimes arising from EU Exit,
and ensure continued effective operation of those regimes, including continued
high levels of protection for human health and the environment.

Where the UK SIs make provision for exercise of functions – including functions
of making regulations - they do so in a manner consistent with the devolution
settlement as discussed below, in particular conferring functions either on the
Secretary of State acting with the consent of the Scottish Ministers or on the
Scottish Ministers directly.

Impact on devolved areas
There is expected to be no significant impact on business, charities or voluntary
bodies as the SI simply rolls over the EU legislative regime. There is likely to
be no significant impact on the public sector.

Stakeholder engagement/consultation
We are in regular contact with all our stakeholders regarding the move towards
leaving the EU. However, these measures are aimed solely at preserving the
functioning of the regulations as they are at present and we have not
undertaken any focussed engagement on this basis. We have not undertaken
any formal consultation.

Have Scottish Ministers had regard to the guiding principles on animal
welfare and the environment?
The directly applicable legislation which will be rolled over post-exit and the
related implementation/enforcement legislation have already been made with
the guiding principles on animal welfare and the environment in mind. The
proposed fixes in the EU Exit SI adhere to the spirit of the underlying EU regime
– no significant policy changes are proposed.

Any other impact assessments?
An Impact Assessment has not been prepared for this instrument because
there is expected to be minimal impact on business as the SI relates to the
maintenance of existing regulatory standards – and does not infer any policy
changes. We have discussed with the UK Government and on this basis, they
have assessed there is not a requirement to undertake an impact assessment
on this SI.

Future Governance
We currently have a Memorandum of Understanding with Defra which may
require to be amended/updated in light of Brexit and which we plan to review in
due course.

More generally, later this year, Scottish Ministers will consult on the governance
gaps that will be created once the UK leaves the EU, with a view to bringing
proposals back to the Scottish Parliament on medium and long-term governance arrangements once the future relationship is clear. This will include proposals for future monitoring and enforcement.

Summary of reasons for Scottish Ministers’ proposing to consent to UK Ministers legislation
The Scottish Ministers propose to consent to UK SI to fix deficiencies in the GMO related domestic and EU legislation listed above. The approach set out in the UK SIs is realistic, achievable and minimises immediate disruption. It ensures continuity of current arrangements for stakeholders, Governments and regulators and ensures continued protection of human health and the environment.

The Scottish Ministers believe that the changes proposed in the regulations are necessary insofar as falling within devolved competence to secure continuation of effective regulatory regimes. The approach respects the devolution settlement and in the current circumstances where there are UK SIs and/or retained EU law in relation to GMOs which extends to or applies in Scotland and there is a need to prepare for a ‘no deal’ exit from the EU, the Scottish Ministers consider that it is appropriate for the EU Exit SI to also fix this legislation for devolved purposes.

Intended laying date
15 November 2018

Does the Scottish Parliament have 28 days to scrutinise Scottish Minister’s proposal to consent?
Yes

Information about any time dependency associated with the proposal
As the provisions are making small, minor technical changes to preserve the functioning of the regulations, there is no time dependency associated with the proposals.

Any significant financial implications
As the provisions are making small, minor technical changes to preserve the functioning of the regulations, there are no significant financial implications associated with the proposals.
**Annexe B**


**Name of the SIs**

The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018

The Common Provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) Regulations 2018

**A brief explanation of law that the proposals amend**

*Common agricultural policy*

These instruments are part of a set of statutory instruments that propose to make corrections to the EU Common Agriculture Policy ("CAP") regulatory regime becoming retained EU law so that it can continue to operate effectively in the UK in the event of a 'no deal' UK exit from the EU on 29 March 2019.

Pillar 2 of the CAP, which is currently funded by the European Agricultural Fund for Rural Development ("EAFRD"), is part of the EU Structural and Investment Funds ("ESIF"). ESIF is governed by the 'Common Provisions' regulations. Therefore, corrections to the Common Provisions regulations are proposed, alongside corrections to the CAP regulations, to allow Pillar 2 of the CAP to continue to operate in the event of a 'no deal' UK exit.

In addition to these instruments, the UK Government is also planning to introduce other statutory instruments (that will be the subject of separate later notifications) as part of the EU-Exit process that will interact with the legislation amended by these instruments. These other instruments will be laid between late-November 2018 and February 2019 and cover the following CAP-related areas: the “Horizontal” (cross-cutting) financing, management and monitoring of framework, the market intervention measures under the Common Organisation of Agricultural Markets ("CMO"), the transfer of CAP/CMO functions previously vested in the EU Commission to the Scottish Ministers and the other UK administrations, and state aid.

With reference again to the transfer of functions statutory instrument, 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 statutory instrument in due course.

These proposed linked instruments are interconnected with those instruments above being notified and the horizontal regulations provide for
the management and monitoring of the CAP/CMO schemes. UK and Scottish Government officials are now finalising the terms of these linked instruments to ensure they respect the devolved competence of the Scottish Ministers but these discussions do not affect the rationale or justification for this notification.

These proposed linked instruments will also make amendments to retained EU legislation to ensure these function effectively after the UK has left the EU.

Common Fisheries Policy
The Common Provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) Regulations 2018 amend directly applicable EU legislation that provides greater detail regarding the provision of aid from EU programmes. More specifically, the legislation provides greater detail about the application of certain provisions of the Common Provisions Regulation (Regulation (EU) No 1379/2013).

In relation to fisheries and marine matters, the relevant fund is the European Maritime and Fisheries Fund (“EMFF”). These Regulations correct deficiencies in the EU legislation, which will become part of domestic law after the UK exits the EU, to ensure that it remains operable after exit day. The amendments made in relation to EMFF are minor and technical in nature, for example to replace references to “Member States” to “relevant authority” (more on which is below) and to change references from “EMFF” to “support under Regulation 508/2014”.

The principal EMFF Regulation is being amended by another exit SI, the Common Fisheries Policy (Amendment) (EU Exit) Regulations 2018, which will be notified separately.

The principal Common Provisions Regulations will also be amended by another exit SI, which will be notified separately.

The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018

The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018 propose to amend seven pieces of existing domestic legislation, some of which have a UK-wide application and some of which apply to England and Wales only.

The following instruments have UK-wide application.

The Agriculture and Horticulture Development Board Order 2008 establishes the Agriculture and Horticulture Development Board (“AHDB”), which has functions and duties relating to the red meat (for England only), cereals and oilseeds, horticulture, milk and potato industries. The Order contains provisions for the constitution and proceedings of the Board, together with levy-making powers.
The Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014 include provision for: control and enforcement arrangements for Direct Payments to farmers and land managers and Rural Development Programme payments; cross-compliance requirements; scrutiny arrangements for ensuring that CAP payments meet EU requirements; provisions for the recovery of undue payments; and the right of farmers to appeal against decisions.

The Common Agricultural Policy (Competent Authority and Coordinating Body) Regulations 2014 provide for the administration of the CAP by defining and implementing the EU concepts of a “competent authority” and a “coordinating body” for certain purposes, to support the effective financing, management and monitoring of CAP schemes.

The Common Provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) Regulations 2018

This instrument will apply throughout the UK.

The Common provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) regulations 2018 propose to amend retained EU legislation to allow programmes currently funded by the EAFRD and EMFF to continue to receive funding for the 2014-2020 programme in the event of a no-deal EU exit. To achieve this the instrument proposes to revoke or amend Regulations 184/2014, 480/2014, 215/2014, 240/2014, 821/2014, 964/2014, 1011/2014, 2015/1076, 2015/1516 and Commission Decision 2014/660. The EU Regulations and Decision amended by the instrument set out additional rules applicable to the European Regional Development Fund (“ERDF”), the European Social Fund (“ESF”), the Cohesion Fund, the EAFRD and the EMFF and, in particular, concern financial instruments, financing arrangements, the calculation of milestones, partnerships, publicity requirements and data handling.

These EU regulations provide greater detail on the application of the Common Provisions Regulation (Regulation (EU) No. 1303/2013), which is being amended by a different exit SI, and will be notified separately.

Summary of the proposals and how these correct deficiencies

In 2016, UK agriculture received €3,927m through the EU CAP regime, with €3,035m of that being allocated as Direct Payments to farmers and land managers, and €806m via Rural Development schemes, including the Scottish Rural Development Programme schemes, and €85m as market support measures. Many farmers and land managers are reliant on this income to support their businesses, while wider rural development support provides environmental and socio-economic benefits to Scotland. The corrections introduced by the proposed instruments will help ensure that CAP scheme recipients continue to be paid following EU-Exit.
At the point of EU-Exit, European legislation relating to the CAP will be converted into UK law and corrected so that it can continue to operate in a UK setting. It is also important that existing domestic legislation which supports implementation of the CAP in the UK is similarly corrected to ensure that it can continue to operate effectively. It is therefore proposed that these instruments will make such corrections to both EU and domestic CAP-related legislation to help deliver a smooth EU-Exit transition and provide clarity and certainty to farmers, land managers, rural business and communities, and the public sector.

Both of these instruments being notified propose to use powers in the European Union (Withdrawal) Act 2018 to make predominantly technical changes to the above legislation to achieve the abovementioned aims.

These changes are necessary to create a UK rather than an EU regulatory regime. However, subject to this proviso, the drafting approach for the proposed amending instruments is to avoid policy changes and to maintain the status quo in so far as possible.

We have extensive experience of working collaboratively with the UK Government and other devolved administrations in these areas. Maintaining this UK wide approach is beneficial for stakeholders and for all 4 UK administrations to help provide clarity for the future.

**The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018**

It should be noted that the amendments proposed by this instrument are predominantly minor and technical in nature.

**The Agriculture and Horticulture Development Board Order 2008**

The instrument proposes to make a technical amendment to address the reference to “another member State” reflecting that, after EU-Exit, the UK will no longer be a “member State”. This amendment will ensure the AHDB Order remains operable and will provide post-Exit continuity of the current regulatory regime concerning accountants that are eligible to certify horticulture returns to AHDB.

**The Common Agricultural Policy (Control and Enforcement, Cross Compliance, Scrutiny of Transactions and Appeals) Regulations 2014**

The instrument proposes to make some technical changes: amending references to European funds which the UK will not be able to access after EU-Exit; removing the rights of representatives of the European Commission to enter premises and

removing inappropriate EU references, for example references to “EU” debts and “EU” requirements, which will be unenforceable following EU-Exit.
The Common Agricultural Policy (Competent Authority and Coordinating Body) Regulations 2014

The instrument proposes to revoke these regulations as they contain deficiencies that would make them inoperable post EU exit. It is proposed that the best way to ensure the continued effect of those provisions pertaining to functions of the Competent Authority, which will still be required going forward, is through amendments to the horizontal regulations referred to above that will be made separately. The UK Government have confirmed to us that the horizontal regulations amendments proposed shall ensure that the role and definition of the Coordinating Body and Competent Authority are maintained. This will include the concept of the Competent Authority and Coordinating Body as the relevant agriculture Ministers in each part of the UK acting jointly being retained, and ensure that they will continue to work in the same way as they do now and use the same mechanisms for joint working in relation to the administration of paying agency functions.

The Common Provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) Regulations 2018

This instrument does not propose to make any significant policy changes and ensures that the retained EU instruments will continue to function in the event of a no-deal situation on EU exit applying to programmes currently funded by the EAFRD and the EMFF. This would be done to enable existing programmes in the UK currently funded by the EAFRD and the EMFF to continue to receive funding for the remainder of the 2014-2020 programme.

This instrument proposes to omit the following provisions which will be deficient following EU exit:

- The requirements for the data exchange system used to transfer information from Member States to the Commission;
- Additional requirements for the partnership agreement, an agreement between a Member State and the Commission which encompasses all of the European Structural and Investment Funds;
- Provisions for the model of funding agreement for the contribution of the European Regional Development Fund and the European Agricultural Fund for Rural Development to joint uncapped guarantee and securitisation financial instruments in favour of small and medium-sized enterprises;
- Additional requirements for financial instruments which are implemented by the European Investment Bank;
- Provisions for the criteria for determining the level of financial correction to be applied under the performance framework;
- Articles establishing milestones and targets for the performance framework and determining the level of financial corrections the Commission may apply under the performance framework and
- EU references generally which will no longer be appropriate post-exit.
Other amendments propose to transfer requirements or obligations that were previously for the Commission, or in some cases Member States, to the relevant authority or constituent territories. The relevant authority is the Secretary of State in England, the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, the Scottish Ministers in Scotland and Welsh Ministers in Wales.

The relevant authority for the purposes of EMFF, as a UK wide scheme will continue to be the Secretary of State, however the responsibilities of Scottish Ministers (and other devolved administrations) will be respected in references to their role as certifying and intermediate bodies in relation to devolved interests. The relevant definitions are not part of these Regulations, but in a different SI and will be notified separately.

These requirements and obligations referred to in the above paragraph are:

- Identifying partners and ensuring that those selected are representative of stakeholders;
- Consulting and involving partners when preparing programmes and the procedure for doing this;
- Promoting equality between men and women and non-discrimination when formulating the rules of membership for the monitoring committee and
- Ensuring that partners are aware of their obligations relating to data protection, confidentiality and conflict of interest.

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

The proposed changes are considered to be necessary to ensure that legislation remains effective and ensures (a) an operable CAP regulatory regime after EU exit and (b) the programmes currently funded by the EAFRD and the EMFF remain operable post-exit and are able to continue making payments to beneficiaries. Failure to implement the proposed changes will likely result in inability of these regimes to operate.

**Scottish Government categorisation of significance of proposals**

The Scottish Government considers that in general the proposed SIs fall within Category A, as the changes are minor and technical in nature and notwithstanding the changes, policy change is being avoided to preserve in so far as possible the current status quo. However, they could be considered Category B to the extent that the transition from an EU to a UK framework would be a major and significant development.

**Impact on devolved areas**

The Scottish Government agree that the changes in the proposed statutory instruments constitute a pragmatic approach to addressing deficiencies in CAP and funding legislative provisions, arising as a result of EU Exit, and are the best option in the circumstances to ensure continued effective operation.
of these provisions to minimise the risk in the short term of disruption to devolved territories.

The proposed Regulations respect the current devolution settlement by ensuring that Scottish Ministers are treated as the relevant authorities in line with existing devolved interests, noting the UK Government’s written confirmation to reflect this in their further draft UK statutory instruments as noted in more detail above in section 3.

*The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018*

This SI proposes to make only technical or minor changes to preserve the status quo and the role of the Coordinating Body and Competent Authority are to be maintained. As such the Scottish Government do not believe this SI will have any significant impact on devolved areas.

*The Common Provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) Regulations 2018*

No significant impact on business, charities or voluntary bodies is anticipated. Beneficiaries will continue to receive funding similarly to before EU exit. The UK’s involvement in the European Investment Bank would be inoperable as a result of EU exit however domestic finance mechanisms should still be accessible to those seeking funding.

No significant impact on the public sector is anticipated. There may be a negligible increase in administration cost as notification roles pass to responsible bodies within the UK rather than European institutions.

**Summary of stakeholder engagement/consultation**

As these instruments are being proposed to avoid deficiencies arising as a result of the UK’s withdrawal from the EU and are aimed at preserving the functioning of the CAP regulations and the programmes currently funded by the EAFRD and EMFF as at present, we have not undertaken any formal public consultation.

The UK Government have published a series of technical notices which provide details on how UK businesses and individuals should prepare in the event of a no deal Brexit scenario, including the following:

A technical notice titled “Guidance: Receiving rural development funding if there’s no Brexit deal” was published on 23 August 2018—

A technical notice titled “Guidance: Farm payments if there is no Brexit deal” was published on 23 August 2018—
A technical notice titled “Guidance: Commercial fishing if there’s no Brexit deal” was published on 12 October 2018—

In June 2018 the Scottish Government published a consultation “Stability and simplicity”—

This consultation invited comments on Scottish Government proposals for dealing with the implications associated with coming out for the Common Agricultural Policy (CAP) which explained that the first stage would be retained EU law in domestic legislation.

The consultation was titled Stability and Simplicity and closed 15 Aug 2018 with 137 responses received. Overall, respondents were broadly content for support to continue in its current form to ensure a period of stability for the rural economy.

An external stakeholder panel the “Simplification Task Force” is being established to look more closely at the responses to and opportunities for simplification of the retained EU law.

The Scottish Government has been and continues to be in regular contact with stakeholders in Scotland regarding the implications of leaving the EU. The effect of the statutory instruments described in this notification is consistent with the proposals set out in the consultation.

A note of other impact assessments, (if available)

An impact assessment has not been carried out in relation to these regulations as they are aimed at preserving the effect of the current regulatory regimes.
Summary of reasons for Scottish Ministers’ proposing to consent to UK Ministers legislation

Common agricultural policy
If these deficiencies are not corrected in the scenario of a no-deal EU exit, the Scottish Ministers believe that we would no longer have an effectively functioning legal framework for continuing to provide for payments and the administration of the applicable payment schemes. This would likely cause problems for our stakeholders who need as much certainty and continuity as possible to help plan and operate their businesses. This could also pose risks for agriculture and the rural economy in Scotland.

The Scottish Ministers propose to consent to these UK SI’s detailed above to fix deficiencies in the related domestic and EU legislation. The approach set out in the UK SI’s is realistic, achievable and minimises the risk of immediate disruption. The Scottish Ministers believe that, in the circumstances, consenting to the UK SI’s would be the most effective way to help ensure continuity of current arrangements for stakeholders to assist them to continue to run their businesses, and ensure the existing regulatory regime can continue to function with scheme payments continuing to be administered and paid.

The Scottish Ministers believe that the changes proposed by this SI and the other CAP-related SI’s referred to above are necessary to secure continuation of effective regulatory regimes. The approach of these CAP SI’s respect the devolution settlement and provide for a transition from an EU to UK regulatory framework with devolved options for Scotland.

The Scottish Government has worked constructively with the UK Government and the other Devolved Administrations and, in light of that, we are satisfied that the proposed amendments to the applicable legislation will ensure that it continues to operate effectively as retained EU law whilst respecting Scottish Government’s devolved competence and implementation of CAP in Scotland.

Given there is a need 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 provides an effective achievable solution in current circumstances of limited resources and significant resource intensive legislative work needing to be completed in extremely tight time constraints. It also reduces the risk of conflicting provisions being produced by UK administrations that could result in confusion.

The Scottish Ministers believe stakeholders need clarity and continuity in the immediate future in so far as possible to continue to operate their businesses during this period of transition and consenting to the UK SI’s is the most likely way of achieving that aim at this time.
EU Funding

If deficiencies relating to existing EU funds are not corrected these schemes would not be operable. The amendments made by the Common Provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) Regulations 2018 in relation to EMFF align with the policy agreement between the Scottish Government and the UK Government regarding the operation of funding under the EMFF Regulation after exit day. The amendments in this instrument are technical in nature and ensure that the funding programme will continue to operate after exit day.

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

The Common Agricultural Policy and Agriculture and Horticulture Development Board (Amendment etc.) (EU Exit) Regulations 2018 and the Common provisions (Implementing and Delegated Acts) (Amendment) (EU Exit) regulations 2018 are both subject to negative procedure and will both be laid for sifting at Westminster on 21 November 2018. We are working with Defra on the basis no EU Exit statutory instruments will proceed to be made, until after they have been through the consent process agreed with the Scottish Parliament.

Does the Scottish Parliament have 28 days to scrutinise?

Yes.

Information about any time dependency associated with the proposal

It is essential that the Regulations are in force on the day we exit the EU in the event of a no deal scenario to ensure that legislation is operable to enable the Scottish Government to continue to administer and regulate our schemes and make payments to our stakeholders.

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

Following finalisation of the draft statutory instruments, the Scottish Government will work with UK Government and other devolved administrations to put in place sound governance arrangements to ensure transparency and accountability for decision making. This work will be designed within the context of the principles, agreed by the UK Government, the Scottish Government and the Welsh Government on 16 October 2017, to apply to common frameworks.

Any significant financial implications?

These Regulations are not expected to have any significant financial implications for stakeholders in Scotland.
ANNEXE C

Consent notification – The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018

Name of the SI(s) (if known) or a title describing the policy area

The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018.

A brief explanation of law that the proposals amend

The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018 (“the proposed SI”) is being made using powers under the European Union (Withdrawal) Act 2018 in order to correct deficiencies in what will become retained EU law that protects human health against zoonotic disease (in particular, salmonella). The proposed SI amendments will ensure that national controls on salmonella continue to be operable in Scotland after the UK leaves the EU.

The legislation that will be amended by the Proposed SI is:

i. The EEA Agreement;
ii. Commission Decision 2003/644/EC establishing additional guarantees regarding salmonella for consignments to Finland and Sweden of breeding poultry and day-old chicks for introduction into flocks of breeding poultry or flocks of productive poultry. This Commission Decision establishes additional guarantees regarding salmonella on consignments of breeding poultry and day-old chicks to Finland and Sweden that are equivalent to those already implemented in those countries under their approved operational programmes. The additional guarantees are based on a microbiological examination of the flock of origin and this legislation lays down the rules on sampling and testing. It further specifies the certification requirements for each consignment and provides model certificates;
iii. Regulation (EC) No 2160/2003 on the control of salmonella and other specified food-borne zoonotic agents. This is the overarching Zoonoses Regulation, which specifies the salmonella types for which targets must be established. It further specifies the animal populations to which targets relate, the timescales for introducing those targets and commencing testing under established control programmes, and the stages in the production cycles at which samples must be collected;
iv. Commission Decision 2004/235/EC. This Commission Decision establishes guarantees regarding salmonella on consignments of laying hens to Finland and Sweden, equivalent to those already implemented in those countries under their approved operational programmes. The additional guarantees are based on a microbiological examination of the flock of origin and this legislation lays down the rules on sampling and testing. It further specifies the certification requirements for each consignment and provides model certificates;
v. Commission Decision 2004/665/EC concerning a baseline study on the prevalence of salmonella in laying flocks of *Gallus gallus*. This Commission Decision provides a framework to carry out a baseline study, estimating the prevalence of salmonella in populations of laying hens across the EU. Results of the study will be used to set Community targets for reducing levels of salmonella and for the development of community veterinary legislation. The legislation sets out the criteria and technical specifications for sampling, laboratory testing, collection of data and reporting results. It also sets out the scope and conditions to be met in order to qualify for EU financial assistance;

vi. Commission Regulation (EC) No 1177/2006 as regards requirements for the use of specific control methods (antimicrobials and vaccinations) in the framework of the national control programmes for salmonella in poultry. This Regulation implements Regulation (EC) No 2160/2003 and lays down certain rules and conditions on the use of antimicrobials and vaccines in the framework of the national control programme for salmonella including details on exceptional circumstances and derogations;

vii. Commission Regulation (EU) No 200/2010 as regards a Union target for the reduction of the prevalence of *Salmonella* serotypes in adult breeding flocks of *Gallus gallus*. This Regulation implements Regulation (EC) No 2160/2003 and specifies the Union target for the prevalence of salmonella in breeding flocks of *Gallus gallus* which is to be achieved. It also provides a detailed framework for the testing scheme to be followed in order to ascertain progress in achieving the target set. The target is to be reviewed by the Commission taking account of the information collected by the testing scheme;

viii. Commission Regulation (EU) No 517/2011 as regards a Union target for the reduction of the prevalence of certain *Salmonella* serotypes in laying hens of *Gallus gallus*. This Regulation implements Regulation (EC) No 2160/2003 and specifies the Union target for the prevalence of certain types of salmonella in laying hens of *Gallus gallus* which is to be achieved annually. It also provides a detailed framework for the testing scheme to be followed in order to ascertain progress in achieving the target set. The target is to be reviewed by the Commission taking account of the information collected by the testing scheme;

ix. Commission Regulation (EU) No 200/2012 concerning a Union target for the reduction of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of broilers. This Regulation implements Regulation (EC) No 2160/2003 and specifies the Union target for the reduction of the prevalence of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of broilers which is to be achieved annually. It also provides a detailed framework for the testing scheme to be followed in order to ascertain progress in achieving the target set. The target is to be reviewed by the Commission taking account of the information collected by the testing scheme;

x. Commission Regulation (EU) No 1190/2012 concerning a Union target for the reduction of *Salmonella Enteritidis* and *Salmonella Typhimurium* in flocks of turkeys. This Regulation implements Regulation (EC) No 2160/2003 and specifies the Union target for the reduction of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of turkeys which is to be achieved annually. It also provides a detailed framework for the
testing scheme to be followed in order to ascertain progress in achieving the target set. The target is to be reviewed by the Commission taking account of the information collected by the testing scheme; and

xi. Commission Implementing Decision 2013/652/EU on the monitoring and reporting of antimicrobial resistance in zoonotic and commensal bacteria. This Implementing Decision lays down detailed rules and technical requirements for the monitoring and reporting of antimicrobial resistance to be carried out in relation to specified bacteria. It also provides a framework for sampling, the collection of isolates and further specifies requirements for analysis, testing and reporting.

Summary of the proposals and how these correct deficiencies

The amendments contained in the proposed SI will not change existing policy, but will be necessary, in the event of a ‘no deal’ exit from the EU on 29 March 2019, to generally maintain in the UK the current controls on food-borne zoonotic agents, including salmonella in particular.

As the UK will no longer be a Member State of the EU, the proposed SI will amend EU references. For example, it will remove references to “the Union” and “community”, and change references to “the Commission” to “the appropriate Minister” and references to “Member State” to the “competent authority”, “United Kingdom” or “constituent nation” as appropriate.

The proposed SI will make provision for administrative functions (i.e. functions that do not involve making legislation) to be exercised, in relation to Scotland, by the Scottish Ministers and / or the Secretary of State with the consent of the Scottish Ministers (with similar provisions for the other devolved administrations). For example:

- The function of approving control programmes from EU Member States that is currently exercised by the Commission will post-exit be exercised by “the appropriate Minister” (the Scottish Ministers in relation to Scotland).
- The function of designating reference laboratories for the analysis and testing of zoonotic agents will also transfer from the Member State to the “appropriate Minister”, which means the Scottish Ministers in relation to Scotland.
- The function of requiring that the results of pre-dispatch testing (for certain zoonoses and zoonotic agents) of animals or hatching eggs for import from third countries fulfil the same criteria as those laid down under the UK’s national programme will be exercised by the Secretary of State with the consent of the Scottish Ministers.

One exception to the above occurs in relation to the function of receiving third country programmes detailing that country’s inspection and controls for zoonoses and zoonotic agents which must, at least, be equivalent to the controls required by 2160/2003. The proposed SI will transfer that function to Secretary of State alone. However, the final approvals process that follows receipt of such programmes will be amended in a separate, forthcoming
transfer of functions UK SI that will be brought forward by DEFRA (see below). The Scottish Government continues to work with DEFRA to ensure that any amendments to the approvals process fully respect the devolution settlement.

The proposed SI will also remove obligations that the UK currently has to the Commission, such as reporting or the provision of other information.

It should also be noted that Regulation (EC) No 2160/2003 contains provision relating to legislative functions (i.e. functions that involve making legislation). Such provision will be amended in the separate transfer of functions UK SI referred to above. 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 existing EU legislation sets out well-established controls that aim to protect public health from zoonotic disease, salmonella in particular. The Scottish Government wishes to retain those controls, and the changes that will be made by the Proposed SI are necessary to ensure that they can continue to operate effectively once the UK leaves the EU.

It is also hoped that maintaining in the UK a system that is based on EU-wide rules will help to facilitate and maintain trade between the UK and the EU.

Scottish Government 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 significant policy changes. The Scottish Government agrees with DEFRA on the appropriate approach. So far as the proposed SI will make provision for the exercise of administrative functions, it will do so in a manner consistent with the devolution settlement, as outlined above.

Impact on devolved areas

The subject matter of the Proposed SI is a devolved area. It is intended that the proposed changes will respect and protect the Scottish Ministers’ powers under the devolution settlement, with provision made for administrative functions to be exercisable by the “appropriate Minister” (and so the Scottish Ministers in relation to Scotland) or the Secretary of State with the consent of the devolved administrations, as outlined above.

As noted above, some of the legislation amended by the Proposed SI (EU Regulation 2160/2003) contains legislative functions (specifically, provisions conferring legislative powers on the Commission to set targets for the reduction of the prevalence of zoonotic agents). Those provisions will be amended by a separate UK Transfer of Functions SI that will be notified to the Scottish Parliament at a later date.
Summary of stakeholder engagement/consultation

There has been no formal stakeholder engagement or consultation in relation to the Proposed SI as there will be no change to policy and no operational or financial impact is anticipated.

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 regime.

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

It is the view of the Scottish Government that the amendments in the Proposed SI are needed to ensure that Scottish Ministers can continue to deliver national salmonella controls in the same way after the UK’s EU exit as they can now.

- In the current circumstances, where there is existing directly applicable EU law having effect throughout the UK that requires to be amended to prepare for a no-deal exit from the EU, the Scottish Ministers consider that it is appropriate for fixing legislation to be made on a UK-wide basis by the UK Government. This is particularly the case in circumstances where the Proposed SI will protect Scottish Ministers’ interests under the devolution settlement as outlined above. Doing so will also avoid unnecessary duplication of effort and resource, and ensure that existing controls will continue to apply UK-wide thereby providing clarity and certainty to stakeholders and delivery partners.

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

The Proposed SI’s amendments do not change existing policy, but are necessary to ensure that existing controls on food-borne zoonotic agents can continue to be implemented in the UK should we leave the EU under a ‘no deal’ scenario. The EU legislation in question which has been made with the guiding principles on animal welfare and the environment in mind, requires for example the collection and sampling of faecal and dust samples at predetermined intervals in the production cycle, in order that they can be tested in laboratories for the presence of salmonella serotypes. It has no direct impact on the welfare of farmed stock. The amendments that will be introduced by the Proposed SI will make modifications needed to generally preserve the application of existing EU arrangements and will as such continue to give sufficient regard to the guiding principles on animal welfare (in particular that regard must be given to the welfare requirements of animals as sentient beings).

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

The proposed SI 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 no EU Exit SIs will proceed to be made 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 Minister’s proposal to consent, why not?

The Scottish Parliament does have 28 days to consider and respond to this notification.

Information about any time dependency associated with the proposal

N/A.

Any significant financial implications?

These 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 will simply make a number of necessary amendments to ensure the continued operation of established public health controls in the UK.
ANNEXE D

Consent notification – Agriculture (Zootechnics) (UK) (EU Exit) (Miscellaneous Amendments)

A brief explanation of law that the proposals amend

The proposed 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.
Annexe E

Consent notification – 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 22 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.
Annexe F

Consent notification – The Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019

Name of the SI(s) (if known) or a title describing the policy area

The Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019

A brief explanation of law that the proposals amend

The proposed 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 animal welfare and animal health.

The proposed SI amends the following UK legislative instruments:

- The Farriers (Registration) Act 1975
- The Animal Health Act 1981
- Three Orders made under the Veterinary Surgeons Act 1966 (“the 1966 Act”)

The provision to be made in the proposed SI amending the three Orders under the 1966 Act the Veterinary Surgery (Rectal Ultrasound Scanning of Bovines) Order 2010; the Veterinary Surgery (Epidural Anaesthesia of Bovines) Order 2010; and the Veterinary Surgery (Artificial Insemination) Order 2010) does not fall within devolved competence. In terms of section G2 of Part 2 of schedule 5 of the Scotland Act 1998 the regulation of the health professions – which includes, in particular, the veterinary surgeon profession regulated by the 1966 Act - is a reserved matter. Section 19 (restriction of practice of veterinary surgery by unqualified persons) of the 1966 Act provides that no individual shall practise, or hold himself out as practising or as being prepared to practise, veterinary surgery (defined in section 27 of the 1966 Act) unless registered in accordance with the Act. Section 19(4)(e) provides that this prohibition does not apply to the carrying out or performance of any minor treatment, test or operation specified by Order so long as any conditions so specified are complied with. These Orders (UK SIs) were made under section 19(4)(e) of the 1966 Act. They are not covered further in this notification.

Those parts of the proposed SI amending legislation in areas of devolved competence triggering this notification to the Scottish Parliament relate to amendments in relation to the mutual recognition of professional qualifications for farriers in the Farriers (Registration) Act 1975 and amendments to section 64A of the Animal Health Act 1981.

The Farriers (Registration) Act 1975 is an Act of the UK Parliament that is GB-wide in extent. It makes provision to regulate the farriery profession and protects the welfare of horses by ensuring that farriers may only conduct their business if they are appropriately trained and registered. It establishes the
Register of Farriers (“the Register”) in which persons must be registered in order to carry out farriery, and the profession’s regulatory body; the Farriers Registration Council (“the Council”).

The Animal Health Act 1981 is also an Act of the UK Parliament that is in general GB wide in extent and forms the main domestic source of powers for legislation on preventing and eradicating animal disease in GB. It covers a wide range of factors involved in the control of disease, including cleansing and disinfectant, animal movements/transport (including imports and exports), preventative treatment, and action required in a disease outbreak.

Summary of the proposals and how these correct deficiencies

The UK Government intends to bring forward the proposed SI under section 8 the European Union (Withdrawal) Act 2018. The purpose of the proposed SI is to address deficiencies in retained EU law to ensure that it operates effectively: the proposed SI will ensure that certain provisions regulating farriers in the Farriers (Registration) Act 1975 and certain retained EU law provision in the Animal Health Act 1981 will continue to be operable in the UK in the event of a ‘no deal’ UK exit from the EU on 29 March 2019.

The Farriers (Registration) Act 1975

This Act currently contains provisions that relate to the European Recognition of Professional Qualifications Regulations 2015 (“the 2015 Regulations”), which establish rules for the recognition of professional qualifications to enable persons from the EU, EEA and Switzerland to access the professions in which they are qualified under the same conditions as professionals in the UK. The Act provides that those entitled to be recognised as a farrier under the 2015 Regulations, are automatically entitled to entry in the Register. This gave EEA and Swiss nationals more favourable access to the Register than those from the rest of the world, whose qualifications have to be assessed by the Council to ensure that they comply with their required standards – and failing that pass an examination.

On EU exit, the 2015 Regulations will no longer make provision for mutual recognition of farriers’ qualifications. In line with this, the proposed SI amends these provisions to remove automatic mutual recognition of EU, EEA and Swiss Farrier qualifications and the right of holders of those qualifications to provide temporary and occasional farriery services in the UK. Farriers from these countries will continue to be able to apply to register and work in the UK on the same basis as farriers from third countries if they have a qualification comparable to that of those recognised by the Council.

The proposed changes do not affect holders of EU, EEA or Swiss qualifications who are already on the Register or who have applied to the Register in advance of exit day.
The Animal Health Act 1981

Section 64A of the Animal Health Act 1981 currently makes provision providing powers of entry and inspection for inspectors for the purpose of ascertaining whether the provisions of any order made under the Act in implementation of any EU obligation have been or are being complied with. Where SIs have been made under the Animal Health Act 1981 “in implementation of an EU obligation”, section 64A means an inspector has the power to enter certain premises in order to check compliance with that SI. The proposed changes to the Animal Health Act 1981 will ensure that Inspectors will continue to have the right to exercise their powers as they do now. In future section 64A will provide for powers of entry and inspection for the purposes of ensuring compliance with any order under the Animal Health Act 1981 which is retained EU law.

To note for completeness that the proposed SI will also amend provision in paragraph 2A of schedule 3 of the Animal Health Act 1981 being a provision which does not extend to Scotland and so is not relevant for the purposes of this notification.

An explanation of why the change is considered necessary

The Farriers (Registration) Act 1975

The amendments to the Farriers (Registration) Act 1975 in the proposed SI are required to ensure operability of provisions for qualification for entry into the register and therefore business continuity and the continued protection of animal welfare. In particular, the UK is one of the few countries in the EU to place significant importance on farriers being properly qualified, and the amendment will help uphold standards within the UK, while continuing to allow suitably qualified and experienced farriers from elsewhere to practice in the UK.

Animal Health Act 1981

The amendments to the Animal Health Act 1981 are necessary to ensure that powers of entry and inspection currently available to inspectors by virtue of section 64A of that Act remain valid post exit.

Scottish Government categorisation of significance of proposals

This instrument has been categorised as category A. The instrument covers technical fixes to animal health and welfare provisions. It does not significantly change current rules. The changes are principally minor and technical in nature to ensure continuity of law.

The withdrawal of mutual recognition of EU qualifications will have minimal impact on farriers. The Council have advised Defra that only 17-20 farriers out of 2900 in the UK are affected by the mutual recognition provisions and in any event registrations that have already been granted and applications in progress will not be affected by the changes. Going forward, farriers from the EU may apply to be registered through the same route as those from non-EU countries.
Impact on devolved areas

Regulation of the farriery profession/ Animal Welfare
These are devolved matters. The Act falls within these areas of devolved competence. No transfer of functions or powers are required; the Governing body for the farrier industry across GB remains the Council.

Animal Health
Animal Health is also a devolved matter. The proposed changes to the Animal Health Act 1981 relate to ensuring powers available to inspectors are retained post exit.

Summary of stakeholder engagement/consultation

We are in regular contact with stakeholders, however, there has been no focussed engagement on this proposed SI as the amendments proposed do not make changes to existing policy; they are mostly of a technical nature to ensure operability of legislation post-EU exit.

We understand that Defra have been consulting the Council throughout the development of this SI.

A note of other impact assessments, (if available)

Defra has not produced an impact assessment for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. The Scottish Government agrees with this assessment and has not completed any impact assessments.

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

The Scottish Ministers propose to consent to UK SIs to fix deficiencies in the related domestic legislation. The changes proposed in this SI amending the Farriers (Registration) Act 1975 and section 64A of the Animal Health Act 1981 fall within devolved competence and are necessary to make appropriate arrangements for registration of farriers in the UK, to continue to secure the protection of horse welfare, and to preserve existing powers of entry and inspection of inspectors under section 64A of the Animal Health Act 1981 to aid in the control of animal disease. The provisions to be amended in the Farriers (Registration) Act 1975 and in section 64A of the Animal Health Act 1981 are provisions in Acts of the UK Parliament extending to England, Wales and Scotland and there is agreement on the appropriate fix.

The Scottish Ministers consider that it is appropriate for the fixing legislation be made on a UK-wide basis by the UK Government as the changes required are technical in nature and they will ensure consistency and certainty in law.
Where relevant – Detail how Scottish Ministers have had regard to the guiding principles on animal welfare and the environment

The amendments made by the proposed SI to the Farriers (Registration) Act 1975 relate only to the removal of mutual recognition provisions and do not otherwise change existing policy. The Farriers (Registration) Act 1975 is concerned with safe-guarding the welfare of horses being tended to by farriers, by ensuring adequate regulation of that profession.

The amendments made by the proposed SI to section 64A of the Animal Health Act 1981 will not significantly change existing policy and will make modifications needed to generally preserve powers of entry and inspection for the purposes of ensuring compliance with any order under the Animal Health Act 1981 which is retained EU law instead of, as currently provided, for the purpose of ensuring compliance with any EU obligation.

In these circumstances it is considered that the Farriers (Registration) Act 1975 as amended, and section 64A of the Animal Health Act 1981 as amended, 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 proposed SI amends a power to legislate (by removing a redundant reference prohibiting the prescription of fees for applicants applying under the mutual recognition route) and is therefore subject to the affirmative procedure. It is proposed that the SI will be laid before the Sifting Committee on 12th December 2018 and is expected to be laid before the UK Parliament in February 2019. However, 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 Minister’s proposal to consent, why not?

It is expected that the Scottish Parliament will have 28 days to scrutinise the SI.

Information about any time dependency associated with the proposal

None

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

No

Any significant financial implications?

No.
31. The Scottish Parliament has power to legislate for matters within devolved competence (as defined in paragraphs 8 and 17 of Schedule 2 of the Act). However, where appropriate Scottish Ministers may consent to the UK exercising this power on Scotland’s behalf using a Statutory Instrument (SI).

32. Both the Scottish Parliament and the Scottish Government recognise that, as a matter of principle, the Scottish Parliament should have the opportunity to consider in advance whether it is content for the matter to be taken forward by a UK Statutory Instrument (SI) rather than a Scottish Statutory Instrument (SSI). This protocol is an agreement between the Scottish Parliament and the Scottish Government as the Act makes no provision for scrutiny by the Scottish Parliament.

**Timing**

33. The Scottish Parliament will normally have 28 days to consider the notification (not including any time in which the Parliament is dissolved or in recess for more than 14 days). The Scottish Government will seek to ensure that the UK Government is aware of Scottish Parliament recess periods and take them into account in its own legislative programming.

**Categorisation**

34. The protocol contains proposals for how to categorise the instruments. A, being minor or technical amendments and B being more significant policy decisions. C, covers matters which should be subject to the joint procedure (an SI laid in both the UK and Scottish Parliaments). Category C is included in the protocol for reference as it is an existing procedure which the Committee can choose to recommend while reporting. Further detail on what may constitute a category A or B instrument is contained in a letter from the Cabinet Secretary for Government Business and Constitutional Relations outlining this protocol.

**Reporting**

35. The Committee has two options.

   d. Write to the Scottish Government to confirm it is content for consent for a UK SI to be given.
   e. Consider the matter further, take evidence if appropriate and make a report to parliament.

36. If it chooses to report it may make one of three recommendations:
f. That it is content for consent to be given for a UK SI to be made in the UK Parliament only.
g. That it’s not content with the Scottish Government granting its consent and that the proposals should be made by an SSI.
h. That it’s not content with the Scottish Government granting its consent and that the proposals should be included as a UK SI made under the joint procedure.

37. The Scottish Government will have 7 days to respond to a Committee report. If the Scottish Government does not agree with the recommendation of the Committee then a Parliamentary Bureau motion will be laid in the Chamber. The debate on the motion should take place within 14 days of the expiry of the 28 day period. If the motion is agreed to it is anticipated that the Scottish Government should normally follow the Committee’s recommendations.

38. Finally, if a consent notification is agreed to, the Scottish Government will track the relevant UK SI and advise the Scottish Parliament:

I. that the SI is consistent with the consent granted;
II. that the SI varies from the original proposals but not to the extent of needing additional parliamentary consent; or
III. that the SI varies significantly from the original proposals and that it is withdrawing consent (if such cases the Scottish Government will either use an SSI or the joint procedure).