RURAL ECONOMY AND CONNECTIVITY COMMITTEE

AGENDA

28th Meeting, 2019 (Session 5)

Wednesday 9 October 2019

The Committee will meet at 10.30 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. **European Union (Withdrawal) Act 2018:** The Committee will consider whether the following instruments have been laid under the appropriate procedure-

   - Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019


3. **Subordinate legislation:** The Committee will consider the following negative instruments—

   - Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019


4. **Implication of Brexit for the fisheries sector in Scotland:** The Committee will take evidence from—

   - Elspeth Macdonald, Chief Executive Officer, Scottish Fishermen’s Federation;

   - Alistair Sinclair, National Coordinator, Scottish Creel Fishermen’s Federation;
Professor James Harrison, Professor of Environmental Law, the University of Edinburgh;

Calum Duncan, Head of Conservation Scotland, Marine Conservation Society;

Jimmy Buchan, Chief Executive Officer, Scottish Seafood Association;

Elaine Whyte, Executive Secretary, Clyde Fisherman’s Association;

Mike Park, Chief Executive Officer, Scottish White Fish Producers Association;

Ivan Bartolo, Regulatory Affairs Advisor, Seafish;

Alastair McNeill, Chair, West Coast Regional Inshore Fisheries Group.

5. **Proposed National Islands Plan:** The Committee will consider its approach to its consideration of the Proposed National Islands Plan.
The papers for this meeting are as follows—

**Agenda Item 2**

SIFT cover note  
PRIVATE PAPER  
REC/S5/19/28/1

**Agenda Item 3**

SSI Cover note  
REC/S5/19/28/3

**Agenda Item 4**

Cover note  
PRIVATE PAPER  
REC/S5/19/28/4

**Agenda Item 5**

PRIVATE PAPER  
REC/S5/19/28/5 (P)

PRIVATE PAPER  
REC/S5/19/28/6 (P)
Introduction

1. This paper provides background information on the following EU exit-related Scottish statutory instruments:
   - Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019

2. The Committee is invited to—
   - consider whether it is content that the parliamentary procedure given to the instruments by the Scottish Government is appropriate; and, if so,
   - to agree to consider the instruments in the next agenda item in the usual way.

Background

3. In anticipation of the UK leaving the EU, changes are required to devolved legislation by way of statutory instruments. Under the European Union (Withdrawal) Act 2018, and where the Scottish Government considered a UK-wide approach to the legislative changes would be appropriate, these have been made by UK statutory instruments (SIs) laid by the UK Government with Scottish Ministers’ consent. The Scottish Parliament has considered these legislative changes – notified to them by the Scottish Government – in advance of the Scottish Government giving consent.

4. Other legislative changes are being made through Scottish statutory instruments (SSIs).

5. SSIs related to EU exit will be considered in the same way that ‘domestic’ SSIs are considered except that the lead committee has the opportunity, in advance of its policy consideration, to recommend to the Scottish Government that the parliamentary procedure allocated to the instrument should be changed. This process is known as the sift.

6. A protocol has been agreed between the Scottish Government and Scottish Parliament on the process for considering SSIs laid under the 2018 Act. The protocol sets out further information about the sifting process.

7. This paper supports the Committee’s consideration of the sift.
8. The protocol also sets out an approach which categorises SSIs – high, medium or low – to assist committees’ prioritisation in terms of scrutiny and gives the Delegated Powers and Law Reform Committee (DPLRC) a role in highlighting to a lead committee those SSIs where it disagrees with the Scottish Government about the categorisation.

Consideration of the parliamentary procedure – the sift

9. Scottish Ministers have discretion about whether instruments made under Schedule 2 of the 2018 Act should be subject to the affirmative or negative procedure, unless the instrument makes provision falling within one of the categories which requires the mandatory affirmative procedure to be used.

10. As set out above, the lead committee has the opportunity, in advance of its consideration, to recommend to the Scottish Government that the parliamentary procedure allocated to the instruments should be changed. Thus, the lead committee can recommend that an instrument laid under the negative procedure should be revoked and laid as an affirmative instrument and vice versa. The protocol states this “enables committees to recommend a change where they consider that the matter is of such significance that it requires active Parliamentary approval (or conversely is not so significant that it requires Parliamentary time to be allocated to its approval)”.

11. The DPLRC also consider the parliamentary procedure allocated to an instrument and make a recommendation to the lead committee where it agrees the procedure should be changed. The DPLRC has made no recommendation of procedural change for any of the above instruments.

No recommendation to change the parliamentary procedure

12. Where a lead committee agrees with the parliamentary procedure, the instrument is thereafter considered and disposed of in the same way as a ‘domestic’ SSI.

Recommendation to change the parliamentary procedure

13. Where a lead committee recommends the parliamentary procedure should be changed, it must report to the Parliament. The Scottish Government is expected to meet that recommendation as soon as possible.

14. A change of procedure does not, however, affect the timetable for Parliamentary consideration and the SSI should be considered under the procedure recommended by the lead committee.

For decision

15. The instruments have been categorised under negative procedure.

16. The Committee is invited to consider whether it is content that the parliamentary procedure allocated to the instruments by the Scottish Government is appropriate.

Rural Economy and Connectivity Committee Clerks, October 2019
Rural Economy and Connectivity Committee

28th Meeting, 2018 (Session 5), Wednesday 9 October 2019

Subordinate Legislation

1. The Committee will consider the following instruments:

Negative procedure

- Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 (see Annexe A).

- Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 (see Annexe B).

2. The Annexes contain for each instrument - the clerk’s note, the instrument and the Scottish Government’s policy note.

Rural Economy and Connectivity Committee Clerks
October 2019
Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019

**Type of Instrument:** Negative

**Laid Date:** 12 September 2019

**Coming into force:** EU exit day

**Minister to attend the meeting:** No

**Procedure**

1. Under the negative procedure, an instrument comes into force on the date specified on it (the “coming into force date”) unless a motion to annul is agreed to by the Parliament within the 40-day period. Lead committees are not obliged to report to the Parliament on negative instruments, except where a motion recommending annulment has been lodged.

2. SSIs related to EU exit such as this one will be considered in the same way that ‘domestic’ SSIs are considered except that the lead committee has the opportunity, in advance of its policy consideration, to recommend to the Scottish Government that the parliamentary procedure allocated to the instrument should be changed. This process is known as the sift.

**Policy Objectives and Background**

3. These Regulations are intended to address deficiencies in EU-derived domestic legislation in Scotland arising from the withdrawal of the UK from the European Union in the policy areas of seeds, propagating material and the Common Agricultural Policy (CAP). Further detail is available in the Policy Note.

4. The instrument and Policy Note are attached, as well as being available online at the link above.

**Consideration by the Delegated Powers and Law Reform Committee**

5. At its meeting on 1 October 2019, the Delegated Powers and Law Reform (DPLR) Committee considered the instrument and no points were raised.

**Recommendation**

6. The Committee is invited to consider any issues that it wishes to raise in relation to this instrument.

Rural Economy and Connectivity Committee Clerks
October 2019
The Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019

Made - - - - 10th September 2019
Laid before the Scottish Parliament 12th September 2019
Coming into force in accordance with regulation 1

The Scottish Ministers make these Regulations in the exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018(b) and all other powers enabling them to do so.

In accordance with paragraph 4 of schedule 2 of the European Union (Withdrawal) Act 2018, they have consulted with the Secretary of State.

(a) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”)). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(1) and (3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The European Communities Act 1972 is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) from exit day (see section 20 of that Act). The powers in section 2(2) are exercised in relation to Part 2 of these Regulations.

(b) 2018 c.16 (“the 2018 Act”).
PART 1
INTRODUCTION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 and come into force as follows—
   (a) as regards this Part and Part 2, on 31 October 2019,
   (b) as regards Part 4, immediately before exit day,
   (c) as regards Part 3, on exit day.

(2) These Regulations extend to Scotland only.

PART 2
AMENDMENTS MADE UNDER SECTION 2(2) OF THE EUROPEAN COMMUNITIES ACT 1972

The Marketing of Vegetable Plant Material Regulations 1995

2. In the Marketing of Vegetable Plant Material Regulations 1995, after regulation 4 (small producers) insert—

   “Plant Material from outside the European Union: authorisation
    4A.—(1) The Scottish Ministers may, until 31 December 2022, authorise the marketing of plant material from any country outside the European Union if satisfied that the plant material has been produced under conditions equivalent to the requirements in these Regulations from plant material.
    (2) An authorisation given under this regulation—
        (a) must be in writing,
        (b) may be subject to conditions, and
        (c) may be amended, suspended or revoked by notice.”.

PART 3
AMENDMENTS OF SECONDARY LEGISLATION RELATING TO WITHDRAWAL FROM THE EUROPEAN UNION

The Marketing of Vegetable Plant Material Regulations 1995

3. In the Marketing of Vegetable Plant Material Regulations 1995, in regulation 4A (plant material from outside the European Union: authorisation)—
   (a) in the heading, for “European Union” substitute “United Kingdom”,
   (b) in paragraph (1), for “European Union” substitute “United Kingdom”.

(a) S.I. 1995/2652, to which there are amendments not relevant to these Regulations.
4. In the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017(a), in regulation 5(2) (general requirements for marketing of plant material), for “European Union” substitute “United Kingdom”.

PART 4
REVOCATIONS

The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019

5. Regulations 9(2)(a)(ix) (the Vegetable Seeds Regulations 1993), 13(5)(c) and (d) (the Cereal Seed (Scotland) Regulations 2005) and 16(7)(a) (the Seed Potatoes (Scotland) Regulations 2015) of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019(b) are revoked.

The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019

6. Regulation 7(4) (the Rural Development (Scotland) Regulations 2015) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019(c) is revoked.

The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019

7. Regulation 3(13) (amendment of the Marketing of Horticultural Produce (Scotland) Regulations 2009) of the Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019(d) is revoked.

The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019

8. Regulation 6 (revocation) of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019(e) is revoked.

The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019

9. Part 4 (revocation) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019(f) is revoked.

MAIRI GOUGEON
Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
10th September 2019

(b) S.S.I. 2019/59.
(c) S.S.I. 2019/60.
(d) S.S.I. 2019/169.
(e) S.S.I. 2019/190.
(f) S.S.I. 2019/209.
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are principally made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 (c.16) in order to address deficiencies in EU-derived domestic legislation in Scotland arising from the withdrawal of the UK from the European Union.


Part 3 (regulations 3 and 4) makes amendments to fix deficiencies in secondary legislation concerning the marketing of vegetable plant material and fruit plant and propagating material consequential on the United Kingdom’s withdrawal from the European Union.

Part 4 (regulations 5 to 9) makes revocations. Regulation 5 revokes regulations 9(2)(a)(ix), 13(5)(c) and (d) and 16(7)(a) of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 in consequence of regulations 3 to 5 of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 which correct drafting errors identified in amendments made by the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019, in fulfilment of a commitment to the Scottish Parliament to do so. Regulation 6 revokes regulation 7(4) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 in consequence of the amendment to regulation 16(1)(d) of the Rural Development (Scotland) Regulations 2015 made by regulation 4 of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019. Regulation 7 revokes regulation 3(13) of the Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019 in consequence of the amendment to the Marketing of Horticultural Produce (Scotland) Regulations 2009 made by regulation 3 of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019. Regulations 8 and 9 revoke respectively regulation 6 of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 and Part 4 (regulations 5 and 6) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 and are made in consequence of regulations 5, 6 and 7 of this instrument which make provision in place of those regulations.

No Business and Regulatory Impact Assessment has been produced for this instrument as no, or no significant impact upon business, charities or voluntary bodies is foreseen.
POLICY NOTE

The Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019

SSI 2019/289

1. The above instrument is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (“ECA”) and paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 (“EUWA”). The instrument is subject to negative procedure.

Purpose of the Instrument

2. To amend the following regulations:

- The Marketing of Vegetable Plant Material Regulations 1995
- The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017
- The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019
- The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019
- The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019
- The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019
- The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019

2.1 The amendments ensure that relevant domestic legislation continues to operate effectively following the UK’s Exit from the EU in a no-deal scenario.

2.2 In addition, the Marketing of Vegetable Plant Material Regulations 1995 is amended to implement a derogation available to Members States in Council Directive 2008/72/EC (as amended by Commission Implementing Decision 2013/166) relating to plant material from third countries.

Policy Objectives

3. Where practical and appropriate, in the event of a no-deal exit from the EU, European Union legislation is being retained in UK law. The Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 (“the 2019 Regulations”), so far as made in exercise of powers in EUWA, are necessary in order to correct deficiencies in retained EU law and thereby protect the interests of and provide continuity for producers, businesses and consumers.
4. Schedule 2, paragraph 4(a) of EUWA provides for Scottish Ministers to consult the Secretary of State before making regulations under Part 1 of schedule 2 which come into force before exit day. There was an oversight in relation to this consultation requirement in relation to provision in two SSIs made under Part 1 which revoked provision in earlier SSIs also made under that Part. The two SSIs are:

- The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019, which were made on 28 May 2019 and laid on 30 May 2019; and

- The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019, which were made on 12 June 2019 and laid on 14 June 2019.

5. The 2019 Regulations, which are made after having consulted the Secretary of State, therefore include amendments which revoke and re-introduce relevant provision in these two SSIs, the relevant provisions to come into force immediately before exit day. More specifically to the 2019 Regulations:

i. revoke and reintroduce an amendment made by the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 to the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 with a view to ensuring the continued operability of legislation in relation to marketing of seeds and plant propagating material following EU Exit. These provisions fulfil a commitment made by the Scottish Ministers to the Scottish Parliament to correct drafting errors in the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019.

ii. revoke and reintroduce an amendment made by the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019, to ensure that appropriate transitional provision is made in relation to fresh horticultural produce placed on the market after EU Exit. This transitional provision will tie in with similar provision being made to equivalent Regulations elsewhere in the UK and aims to maintain the efficient trade in horticultural produce and to allow conversion of EU produce to third country status.

iii. revoke and reintroduce a revocation made by the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019, to ensure that the amendment under regulation 4(2) of those 2019 Regulations takes effect on exit day instead of regulation 7(4) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019. This is to ensure that as of exit day, determinations made under regulation 16(1)(d) of the Rural Development (Scotland) Regulations 2015 take into account monies whether their source is domestic or European Union funds.

6. Additionally, in exercise of powers in ECA, the 2019 Regulations implement Article 16 of Council Directive 2008/72/EC, providing a derogation that allows vegetable plant growers / breeders in Scotland to import vegetable plants from 3rd countries producing high quality plants and extends the period to which this derogation applies. (A transposition note showing how this Directive is transposed by the 2019 Regulations has been published.)
Explanation of the law being amended by the regulations

7. The Marketing of Vegetable Plant Material Regulations 1995

The marketing of vegetable plant material is regulated at European Union level by Council Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed. The provisions from the Directive are enforced domestically by the Marketing of Vegetable Plant Material Regulations 1995 (SI 1995/2652, “the 1995 Regulations”). The 1995 Regulations also implement Commission Directive 93/61/EEC and set quality standards for the marketing of plant material. They require suppliers to retain records on the buying, selling or delivery of plant material and confer powers to inspectors to enter the premises of a supplier to ensure compliance in accordance with required standards and to issue compliance notices or prevent the marketing or movement of unsatisfactory plant material.

8. The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017

The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017 (SSI 2017/177, “the 2017 Regulations”) enforce provisions of Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production. The 2017 Regulations contain requirements for the marketing of fruit plant material. This includes requirements for certification and registration of fruit plant material, provisions for packaging, sealing and labelling and regulations surrounding suppliers. The 2017 Regulations also sets out inspectors’ powers, including a power to service notices and a power to prohibit movement of plant material.

9. The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 and the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019

9.1 The Seeds and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 amends provisions in -

- The Vegetable Seed Regulations 1993
- The Cereal Seed (Scotland) Regulations 2005
- The Fodder Plant Seed (Scotland) Regulations 2005
- The Oil and Fibre Plant Seed (Scotland) Regulations 2004
- The Beet Seed (Scotland) (No 2) Regulations 2010
- The Seed (Licensing and Enforcement) (Scotland) Regulations 2006
- The Marketing of Vegetable Plant Material Amendment (Scotland) Regulations 2007
- The Seed Potatoes (Scotland) Regulations 2015
- Marketing of Vegetable Plant Material Amendment (Scotland) Regulations 2014
- The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017
- The Marketing of Ornamental Plant Propagating Material Amendment (Scotland) Regulations 2018 (“the relevant regulations”)

which are inappropriate or redundant as a result of a no-deal withdrawal of the UK from the EU. The changes were minor and of a technical nature, and made to ensure that the law functions correctly after exit day. The Regulations also contain amendments to update
provisions in some of the relevant regulations before they all become retained EU law on exit
day.

9.2. The Seeds and Propagating Material (EU Exit) (Scotland) (Amendment) (No 2)
Regulations 2019 amends drafting errors in the Seed and Propagating Material (EU Exit)
(Scotland) (Amendment) Regulations 2019 and fulfil a commitment made by the Scottish
Ministers to the Scottish Parliament to correct these errors. The Regulations also provide for
the implementation of Commission Implementing Decision (EU) 2019/120, which amends
Article 12(2) of Council Directive 2008/90/EC, extending the date in a derogation for the
marketing of fruit plants and propagating material to third countries for a further four year
period (until 31 December 2022).

10. The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019
and the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations
2019 (the “CAP Regulations”)

10.1 The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019
amends provisions in –

- The Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015
- The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014
- The Crofting Counties Agricultural Grants (Scotland) Scheme 2006
- The Less Favoured Area Support Scheme (Scotland) Regulations 2010
- The Rural Development (Scotland) Regulations 2015
- The Rural Payments (Appeals) (Scotland) Regulations 2015

10.2 The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations
2019 amends provisions in –

- The Marketing of Horticultural Produce (Scotland) Regulations 2009
- The Rural Development (Scotland) Regulations 2015
- The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations
2019
- The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland)
(Amendment) Regulations 2019

10.3 The CAP Regulations amend the instruments listed above to update out of date references
and to correct deficiencies arising as a result of the withdrawal of the UK from the EU. The
changes are minor and of a technical nature and ensure that the law will function correctly after
exit day.

10.4 The Rural Development (Scotland) Regulations 2015 referred to above make provision
to implement Regulation (EU) No 1303/2013 (the Common Provisions Regulation) and
Regulation (EU) No 1305/2013 (the Rural Development Regulation). Those EU instruments
make provision for EU-funded support for measures in Member States through the framework
of rural development programmes, being the Scottish Rural Development Programme in
Scotland. These 2015 Regulations also make provision in relation to: applications,
undertakings, claims and payments; LEADER grants; enforcement, offences and recovery of
grant; and other miscellaneous provisions.
11. The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019

11.1 The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019 amends the Marketing of Horticultural Produce (Scotland) Regulations 2009 and the Marketing of Bananas (Scotland) Regulations 2012 to ensure that they continue to operate effectively following the UK’s Exit from the EU in a no-deal scenario.

11.2 The Marketing of Horticultural Produce (Scotland) Regulations 2009 as they stand make provision for enforcement of Commission Implementing Regulation (EU) No 543/2011. They designate Scottish Ministers as the inspection body for Scotland and create offences and penalties for non-compliance with EU marketing standards. They confer powers to Scottish Government inspectors to issue compliance notices and stop notices to control the movement of horticultural produce that does not comply. They also give powers to inspectors to enter, inspect buildings, equipment and records and to obtain samples of horticultural produce.

**Reasons for and effect of the proposed change**

12. The Marketing of Vegetable Plant Material Regulations 1995

12.1 This instrument transposes a derogation in Council Directive 2008/72/EC to authorise the marketing of plant material from any country outside the European Union under certain conditions. It was not considered necessary previously to implement the derogation as all vegetable plant material currently comes from Europe. The purpose of the instrument is two-fold, firstly to implement the derogation to allow plant material from outside the European Union, and then, in the event of a no-deal exit, deficiency fix the derogation to allow plant material to enter Scotland from outside the United Kingdom.

12.2 Implementation of the derogation ensures Scotland’s vegetable breeders will be able to import new varieties of a high quality, to be used in their own breeding programmes.

13. The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017

The 2019 Regulations makes a minor amendment to the marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017. It removes a reference to “European Union” and replaces it with “United Kingdom”. This is an exercise of powers in the EUWA in order to address failures of retained EU law to operate effectively after the withdrawal of the United Kingdom from the European Union.

14. The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 and the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019

The instrument also revokes and reintroduces revocations made by the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 to the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019. The revocations were necessary in consequence of other amendments made by the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019.
15. The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 and the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019

The instrument also revokes and reintroduces a revocation made by the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 to the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019. This ensures that the amendment under regulation 4(2) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 takes effect on exit day instead of regulation 7(4) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019. This is to ensure that as of exit day, determinations made under regulation 16(1)(d) of the Rural Development (Scotland) Regulations 2015 take into account monies whether their source is domestic or European Union funds.

16. The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019

The instrument also revokes and reintroduces revocations made by the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 to the Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019. This ensures that the amendment made by regulation 6 of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 takes effect on exit day instead of regulation 3(13) of the Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019. This is to make transitional provision in relation to produce placed on the market for a period of 21 months beginning with exit day. The aim of the provision is to maintain the efficient trade in horticultural produce in a no-deal EU exit and allow the measured and organised conversion of EU produce to third country status.
17. Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement “In my view the Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 do no more than is appropriate. This is the case because the amendments are being made to ensure, following a no-deal United Kingdom exit from the European Union, continued and effective functioning of legislation in relation to regulation of seed, vegetable plant material and fruit plant and propagating material; legislation in relation to marketing standards of fresh horticultural produce; and legislation in relation to Common Agricultural Policy schemes within Scotland and do not introduce a policy change.”.

18. Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement “In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. These are to ensure, following a no-deal United Kingdom exit from the European Union, the continued regulation of seed, vegetable plant material, fruit plant and propagating material; continued operation of legislation relating to marketing standards of fresh horticultural produce and; continued administration of Common Agricultural Policy schemes within Scotland in order to protect and provide continuity for businesses and consumers. The amendments made by the instrument are technical in nature to ensure legislative operability only.”.

19. Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement “In my view the Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 do not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”.

20. Statement that Scottish Ministers have, in preparing the regulations, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement “In my view the Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”.
Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

21. Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement “In my view the Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 have had due regard to the need to follow the guiding principles on the environment and animal welfare as derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union.”.

22. Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon has made the following statement “In my view the Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 do not alter current policy on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence). The instrument is made to ensure, following a no-deal United Kingdom exit from the European Union, the continued effective regulation of the marketing of plant propagating material; continued operation of legislation relating to marketing standards of fresh horticultural produce and; continued administration of Common Agricultural Policy schemes within Scotland in order to protect and provide continuity for businesses and consumers. The amendments made by the instrument are technical in nature to ensure legislative operability only.”.

23. An indication of how the regulations should be categorised in relation to the significance of the change proposed.

Low – The amendments are technical in nature to allow continuity of law and do not amount to a change in policy.

24. Statement setting out the Scottish Ministers’ reasons for their choice of procedure

Negative procedure is considered appropriate as these minor and technical amendments do no more than is necessary to ensure that the legislation continues to operate effectively following the UK’s exit from the EU. The regulations do not include provisions which fall within paragraph 1(2) of schedule 7 of the European Union (Withdrawal) Act 2018.

25. Consultation

This instrument does not amount to a change in policy and is being made to avoid deficiencies arising as a result of the UK’s withdrawal from the EU. There has been no formal public consultation regarding this instrument.
The 2019 Regulations contain provision coming into force before exit day and therefore under schedule 2, paragraph 4(a) of EUWA the Scottish Ministers have consulted the Secretary of State before making the 2019 Regulations.

26. Impact Assessments

Full impact assessments have not been prepared for this instrument, as it is aimed at preserving the effect of the current regulatory regimes once the UK leaves the EU. The current amendments do not alter the Scottish Government’s current environmental policies and priorities and, therefore, do not have a significant impact of the environment. The impact on business, charities or voluntary bodies is expected to be minimal.

27. Financial Effects

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture and Rural Economy Directorate

September 2019
Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019

Type of Instrument: Negative

Laid Date: 12 September 2019

Coming into force: EU exit day

Minister to attend the meeting: No

Procedure

1. Under the negative procedure, an instrument comes into force on the date specified on it (the “coming into force date”) unless a motion to annul is agreed to by the Parliament within the 40-day period. Lead committees are not obliged to report to the Parliament on negative instruments, except where a motion recommending annulment has been lodged.

2. SSIs related to EU exit such as this one will be considered in the same way that ‘domestic’ SSIs are considered except that the lead committee has the opportunity, in advance of its policy consideration, to recommend to the Scottish Government that the parliamentary procedure allocated to the instrument should be changed. This process is known as the sift.

Policy Objectives and Background

3. These Regulations will make minor and technical changes to ensure that domestic legislation which implements EU official controls (for animals, feed and food), animal health and animal welfare legislation continues to function effectively in Scotland after the UK leaves the EU. Further detail is available in the Policy Note.

4. The instrument and Policy Note are attached, as well as being available online at the link above.

Consideration by the Delegated Powers and Law Reform Committee

5. At its meeting on 1 October 2019, the Delegated Powers and Law Reform (DPLR) Committee considered the instrument and no points were raised.

Recommendation

6. The Committee is invited to consider any issues that it wishes to raise in relation to this instrument.

Rural Economy and Connectivity Committee Clerks
October 2019
The Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019

Made - - - - 10th September 2019
Laid before the Scottish Parliament 12th September 2019
Coming into force in accordance with regulation 1

The Scottish Ministers make these Regulations in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972(a), paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018(b) and all other powers enabling them do so.

In accordance with paragraph 4 of schedule 2 of the European Union (Withdrawal) Act 2018, they have consulted with the Secretary of State.

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(a) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”)). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(1) and (3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The European Communities Act 1972 is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) from exit day (see section 20 of that Act).

(b) 2018 c.16.
PART 1
Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 and come into force as follows—

(a) as regards this Part and Part 2, on 31 October 2019,
(b) as regards regulation 7 in Part 3, immediately before exit day,
(c) as regards regulations 4 to 6 in Part 3, on exit day.

(2) These Regulations extend to Scotland only.

PART 2
Amendment of secondary legislation in exercise of powers under section 2(2) of the European Communities Act 1972

Amendment of the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007

2. In regulation 2 (interpretation) of the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007(a)—

(a) in paragraph (1), in the definition of “Regulation 882/2004”—

(i) in the text before sub-paragraph (a), after “welfare rules” insert “, as last amended by Commission Implementing Regulation (EU) 2018/1587(b),”;

(ii) in sub-paragraph (b), at the end insert “, as last amended by Commission Regulation (EU) 2017/1980(c),”;

(iii) in sub-paragraph (d), at the end insert “, as last amended by Regulation (EU) 2019/1243(d),”;

(b) in paragraph (2)(c), for the words from “Council Regulation” to the end, substitute “Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs(e),”;

(c) in paragraph (3), after “animal nutrition”, insert “, as last amended by Regulation (EU) 2019/1243(f),”.

Amendment of the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012

3. In the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012(g), for regulation 8(a) (conditions for a certificate) substitute—

“(a) submit a qualification certificate in respect of the operation, category of animal and, where appropriate, type of equipment for which a certificate is sought.”.

(a) S.S.I. 2007/91, to which there are amendments not relevant to these Regulations.
(g) S.S.I. 2012/321, to which there are amendments not relevant to these Regulations.
PART 3

Amendment of secondary legislation to address deficiencies arising from the withdrawal of the United Kingdom from the European Union

Amendment of the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007

4.—(1) The Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007(a) are amended as follows.

(2) In regulation 6 (exchange of information), omit “and other member States”.

(3) In Part 3, in the heading, omit “Community”.

(4) In regulation 10 (community controls)—

(a) in the heading, for “Community” substitute “Experts involved in”,

(b) in the words before paragraph (a), omit “to be carried out by Commission experts pursuant to Article 45”,

(c) in paragraph (a), omit “such”.

(5) Omit regulation 12 (facilitating assistance and co-operation under Title IV).

(6) In regulation 14(1)(d) (interpretation and application of Part 5), omit “and 12”.

(7) In regulation 17(1)(c) (offences and penalties), for “, 10 or 12” substitute “or 10”.

Amendment of the Trade in Animals and Related Products (Scotland) Regulations 2012

5.—(1) The Trade in Animals and Related Products (Scotland) Regulations 2012(b) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), after the definition of “official veterinarian” insert—

““the published nomenclature list” means the list of products published and amended from time to time by the Secretary of State, specifying products by reference to the relevant nomenclature for the purposes of determining the selection of consignments that must be submitted to veterinary checks at a border inspection post;”,

(b) omit the definition of “product”.

(3) In regulation 4 (international agreements), after “from” insert “the Faroe Islands, Greenland,”.

(4) In regulation 7(a) (scope of part 3), after “product” insert “specified in the published nomenclature list”.

(5) In regulation 10(2) (appointment of official veterinarians and official fish inspectors), for “the Table in Chapter 3 of Annex I to Commission Decision 2007/275/EC” substitute “Chapter 3 (fish and crustaceans, molluscs and other aquatic invertebrates) of the published nomenclature list”.

(6) In regulation 13 (procedure on importation)—

(a) in paragraph (1), in the words before sub-paragraph (a), for “documentation” to “Schedule 1” substitute “relevant health certificate published by the Scottish Ministers”,

(b) in paragraph 3(a), for “requirements relating to it in the relevant” substitute “conditions of trade relevant to it in any retained EU law or European Union”.

(7) In schedule 3 (cases to which part 3 does not apply), paragraph 5(1) (case 5: composite products), for “Annex II to Commission Decision 2007/275/EC” substitute “the list of composite

(a) S.S.I. 2007/91, to which there are amendments not relevant to these Regulations.

products and foodstuffs exempt from veterinary import checks published by the Secretary of State”.

**Amendment of the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012**

6. In the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012(a), in regulation 2(1) (interpretation), in the definition of “qualification certificate”, after paragraph (a) insert—

“(aa) a document attesting the passing of an independent final examination issued by—

(i) a body designated by the Republic of Ireland as responsible for delivering certificates in accordance with Article 21(1) of the EU Regulation as it has effect in EU law as amended from time to time, or

(ii) a body to whom the function of the final examination or the issuing of certificates has been delegated in the Republic of Ireland in accordance with Article 21(2) of the EU Regulation as it has effect in EU law as amended from time to time, or

(ab) a certificate issued in the Republic of Ireland in reliance on article 29(2) of the EU Regulation, or”.

**Revocation**

7. Regulation 19(2)(b) (the Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007) of the Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019(b) is revoked.

MAIRI GOUGEON
Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
10th September 2019

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(a) S.S.I. 2012/321, as relevantly amended by S.S.I. 2015/161.
(b) S.S.I. 2019/71.
EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations are mainly made in exercise of the powers in the European Union (Withdrawal) Act 2018 (c.16) to address deficiencies in EU-derived domestic legislation in the fields of animal health and welfare and official controls (relating to animals, feed and food) in Scotland arising from the withdrawal of the United Kingdom from the European Union. But Part 2 is made in exercise of powers conferred by section 2(2) of the European Communities Act 1972 (c.68).

Regulation 2 updates references to EU legislation in the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007. Regulation 3 amends the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 to make it clear that an applicant for a certificate of competence no longer has the option of demonstrating relevant professional experience, as this is no longer available under the EU law. These amendments come into force on 31 October 2019.

Regulations 4, 5 and 6 amend, respectively, the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007, the Trade in Animals and Related Products (Scotland) Regulations 2012, and the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012, so as to prevent, remedy or mitigate deficiencies arising from the withdrawal of the United Kingdom from the European Union. These amendments come into force on exit day.

Regulation 7 revokes regulation 19(2)(b) (the Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007) of the Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019. This comes into force immediately before exit day.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.
POLICY NOTE

The Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019

S.S.I. 2019/288

The above instrument (“the Instrument”) was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and paragraphs 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 (“the Withdrawal Act”). The Instrument is subject to negative procedure.

The Instrument will make minor and technical changes to ensure that domestic legislation which implements EU official controls (for animals, feed and food), animal health and animal welfare legislation continues to function effectively in Scotland after the UK leaves the EU.

Policy Objectives

The purpose of the Instrument is primarily to ensure that in the event of a ‘no deal’ exit from the European Union (“EU”) by the United Kingdom, secondary legislation in relation to official controls (for animals, feed and food) and animal health and welfare, having its basis currently in EU law, continues to function effectively. To achieve that aim European legislation is being retained in UK law where practical and appropriate.

In relation to the matters covered by the Instrument, the Scottish Government and other devolved administrations plan to retain the current standards set out in EU legislation and EU-derived domestic legislation. Most of the amendments required to address deficiencies in secondary legislation in relation to official controls, animal health and animal welfare will be made by other instruments. However, some further amendments are required and these are made by Part 3 of the Instrument as follows:

- minor amendments are made to the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007 (“the Official Controls Regulations”),

- minor amendments are made to the Trade in Animals and Related Products (Scotland) Regulations 2012 (“the TARP Regulations”) and a provision of the Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019 is revoked,

- an amendment is made to the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 (“the WATOK Regulations”).
In addition, Part 2 of the Instrument relies on powers in the European Communities Act 1972 to update, before exit day, some references in the Official Controls Regulations and to revoke an obsolete provision in the WATOK Regulations.

**Explanation of the law being amended**

The Official Controls Regulations, the TARP Regulations, and the WATOK Regulations are being amended. Regulation 19(2)(b) (amending the Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007) of the Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019 is also being revoked.

**Reasons for and effect of the proposed change**

The Official Controls Regulations provide, in relation to animal health and welfare legislation and some areas of feed and food law, for the application and enforcement of Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. As with the above, amendments being made are minor to ensure operability in a no deal scenario and do not reflect a change in policy.

The Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019 (“the Equivalent SI”) is a related UK Statutory Instrument. Amongst other provisions relating to Scotland, that instrument also makes amendments to the Trade in Animals and Related Products Regulations 2011 (for England) and the Trade in Animals and Related Products Regulations (Northern Ireland) 2011. Following discussions with Defra colleagues, our approaches to correcting deficiencies have been similar in this case. The Minister for Rural Affairs and the Natural Environment issued the notification relating to the Equivalent SI for committee review on 18 June 2019 and consent was given by the Rural Economy and Connectivity Committee and the Environment, Climate Change and Land Reform Committee on 3 and 4 September 2019 respectively. Neither the Equivalent SI nor the Instrument reflect a change in policy.

Regulation 4(8) of the Animal Welfare (Amendment) (EU Exit) Regulations 2019 addresses (in part) a deficiency arising from the withdrawal of the UK from the EU by removing an obligation on the UK (under Article 21(4) of Council Regulation (EC) No 1099/2009) to recognise slaughterer Certificates of Competence (“CoCs”) issued by EU member States. The reasons for this were set out in the notification to Parliament regarding this SI in November 2018. In combination with this, the Instrument amends the WATOK Regulations to allow for the passing of a relevant final examination in Republic of Ireland to be accepted as a route to obtaining a CoC in Scotland. It also allows for CoCs issued in the Republic of Ireland before December 2015 in reliance on article 29(2) of Council Regulation (EC) No 1099/2009 to be accepted in Scotland as equivalent to the passing of a final examination. The amendments to the WATOK
Regulations (and equivalent provision planned for the rest of the UK) will help to ensure that the UK meets its obligations under the Common Travel Area post EU exit.

**Statements required by European Union (Withdrawal) Act 2018**

**Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate**

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement, “In my view the Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 do no more than is appropriate. This is the case because the amendments are being made only to prevent, remedy or mitigate deficiencies in retained EU law, following a ‘no deal’ United Kingdom exit from the European Union”.

**Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action**

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement, “In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. These are to ensure, following a ‘no deal’ exit from the European Union by the United Kingdom, animal health and welfare and official controls legislation continues to function effectively in Scotland. This is essential to facilitate trade, to ensure effective disease prevention, eradication and control as well as for the continued protection of public health, and to protect animal welfare. The amendments made by the instrument are technical in nature and prevent, remedy or mitigate deficiencies in retained EU law”.

**Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation**

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement, “In my view the Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 do not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

**Statement that Scottish Ministers have, in preparing the regulations, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010**

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement, “In my view the Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 have had due regard to the need to eliminate discrimination, harassment,
victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement, “In my view, the Scottish Ministers have, in preparing the Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019, had due regard to the guiding principles on the environment and animal welfare as derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union”.

Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

The Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, has made the following statement, “In my view, the Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 do not alter current policy on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)”.

An indication of how the regulations should be categorised in relation to the significance of the change proposed.

Low – The amendments are technical in nature to allow continuity of law and do not involve any significant change in policy.

Statement setting out the Scottish Ministers’ reasons for their choice of procedure

Negative procedure is considered appropriate as these minor and technical amendments do no more than is appropriate to ensure that the legislation continues to operate effectively following the UK’s exit from the EU. The regulations do not include provisions which fall within paragraph 1(2) of schedule 7 of the European Union (Withdrawal) Act 2018.

Consultation

The Scottish Government has worked with Defra, as well as the Welsh and Northern Irish devolved administrations, on the content of the Instrument, and related UK
Statutory Instruments, as appropriate, to ensure legislative operability in Scotland on day one of the UK’s exit from the EU.

Given that the Instrument only makes minor and technical changes, consultation with industry or other stakeholders has not been undertaken. The Scottish Government continues to consult stakeholders regularly.

The Instrument contains provision coming into force before exit day. Therefore, in accordance with schedule 2, paragraph 4(a) of the Withdrawal Act, the Scottish Ministers have consulted the Secretary of State in relation to the making of the Instrument.

**Impact Assessments**

An Impact Assessment has not been prepared for the Instrument because it is aimed at preserving the effect of current official controls, animal health and animal welfare legislation in Scotland. The impact on stakeholders is expected to be minimal.

**Financial Effects**

The Minister for Rural Affairs and the Natural Environment confirms that no BRIA is necessary as the Instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture and Rural Economy Directorate
10 September 2019
Rural Economy and Connectivity Committee

28th Meeting, 2019 (Session 5) Wednesday 9 October 2019

Implication of Brexit for the fisheries sector in Scotland

Background

1. The Committee has agreed to hold regular evidence sessions on the implications of the UK’s departure from the EU for policy areas within its remit. This work is detailed on the Committee’s website.

2. At this meeting, the Committee will take evidence from stakeholders on Scottish developments relating to fishing issues.

3. The Committee last considered the impact of EU exit on fisheries specifically on 21 February 2018.

4. More recently, the Committee took evidence on the implications for Scotland of the UK’s departure from the EU from Michael Gove MP, the former Secretary of State for Environment, Food and Rural Affairs at its meeting on 15 May 2019.

Rural Economy and Connectivity Committee Clerks
October 2019