

## **POLICY NOTE**

### **THE ENVIRONMENT, FOOD AND RURAL AFFAIRS (MISCELLANEOUS AMENDMENTS AND REVOCATIONS) (SCOTLAND) REGULATIONS 2018**

#### **SSI 2018/391**

The above instrument was made in exercise of the powers conferred by section 2(2) and paragraph 1A of schedule 2 of the European Communities Act 1972, and all other powers enabling them to do so. The instrument is subject to negative procedure.

#### **Policy Objectives**

1. The instrument makes miscellaneous amendments to a number of pieces of secondary legislation relating to the environment, food and rural affairs.
2. The amendments primarily update out of date references in domestic legislation to EU instruments referred to in the domestic legislation. A number of further minor amendments are made to rectify omissions or errors in domestic legislation.
3. In the Trade Effluent (Asbestos) (Scotland) Regulations 1993 and the Urban Waste Water Treatment (Scotland) Regulations 1994, references to local authorities are amended to Scottish Water. The Sewerage (Scotland) Act 1968, as amended, provides that the provision of public sewerage is a function of Scottish Water and not Local Authorities. The changes ensure consistency between the 1968 Act and the Regulations.
4. In the Seed Potatoes (Scotland) Regulations 2015, an administrative error on the tolerance level of certain potato viruses permitted in Pre Basic seed is corrected from 0.1% to Nil.
5. In the Marketing of Horticultural Produce (Scotland) Regulations 2009, the definition of “Council Regulation 2013” is corrected and a reference to “operator” is corrected to “person on whom the notice is served”.
6. In Part 1 of Schedule 5 to the Foot-and-Mouth Disease (Scotland) Order 2006, paragraph 2 is corrected to insert a missing reference to “of Annex I”.
7. In the Avian Influenza (Slaughter and Vaccination) (Scotland) Regulations 2006, regulation 2(1) is amended to add definitions for “Regulation (EC) No 852/2004” and “Regulation (EC) No 853/2004” which were previously missing.
8. In the Milk and Dairies (Scotland) Regulations 1990, a reference to “Regulation (EU) No 1308/2013” is amended to accurately complete the reference.
9. In the Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Scotland) Regulations 2004 (the 2004 Regulations), a reference to “Commission Delegated Regulation (EU) No 2016/1238” (the EU Regulation) is inserted into the Schedule to apply the 2004 Regulations to decisions made under the EU Regulation.

10. In the Crofting Counties Agricultural Grants (Scotland) Scheme 2006, the definition of “Commission Delegated Regulation 640/2014” is omitted as it was erroneously retained when an earlier amendment removed references to that definition.

11. The instrument also makes a number of consequential repeals and revocations of primary and secondary legislation relating to food and drink due to updates in EU law.

12. Certain provisions in the Agricultural Act 1986, the Agricultural Holdings (Scotland) Act 1991 and the Agricultural Holdings (Scotland) Act 2003 have been repealed and the whole of the Milk (Cessation of Production) Act 1985 has been repealed.

13. There are also a number of pieces of legislation that have been revoked as they are no longer operative or have been superseded. This includes legislation relating to dairy produce, poultry, beef and veal, horticulture, sea fish, preserved sardines, organic aid, bovine hides and agricultural and processing marketing grants.

14. The purpose of all amendments in the instrument is to ensure a functioning statute book, enabling the reader to understand what the law is.

### **Consultation**

15. The amendments within the instrument serve primarily to update out of date references. Consultation on the majority of the content was, therefore, not considered necessary.

16. There is a statutory requirement to consult in relation to legislation concerning food in Article 9 of Regulation (EC) No 178/2002. A targeted consultation took place from 15 November 2018 to the 13 December 2018 on the amendments relating to food. Due to the technical content of the consultation, it was sent directly to appropriate and relevant representative bodies.

17. The Scottish Government received one response from the consultation and no concerns were raised with the technical changes. A reply was issued to the organisation by the Scottish Government.

### **Impact Assessments**

18. Full impact assessments have not been prepared for this instrument because the changes are primarily to update out of date references.

19. The amendments are considered likely to have a generally positive impact as the changes provide clarity on the relevant law. The amendments do not alter Scottish Government’s current environmental policies and priorities and, therefore, do not have a significant impact on the environment. The impact on business, charities or voluntary bodies is expected to be minimal.

### **Financial Effects**

20. The Cabinet Secretary for Environment, Climate Change and Land Reform confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government  
Environment and Forestry Directorate

19 December 2018