

## POLICY NOTE

### THE AGRICULTURE MARKET MEASURES (EU EXIT) (SCOTLAND) (AMENDMENT) REGULATIONS 2019

#### SSI 2019/73

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

#### **Purpose of the Instrument**

To amend the Reporting of Prices of Milk Products (Scotland) Regulations 2005, the Quality Meat Scotland Order 2008, the Beef and Pig Carcase Classification (Scotland) Regulations 2010 and the Beef and Veal Labelling (Scotland) Regulations 2010 to ensure that they continue to operate effectively following the UK’s exit from the EU in a no deal scenario.

#### **Policy Objectives**

Where practical and appropriate, European legislation is being retained in UK law on the UK’s exit from the EU.

The potential deficiencies in directly applicable EU legislation, which will become retained EU law after exit, are being corrected by statutory instruments prepared by DEFRA. The Scottish Parliament requires to agree proposed changes so far as devolved.

The Scottish Ministers are correcting any deficiencies in EU derived domestic legislation, including adjusting cross-references to EU instruments as necessary in order to take account of the DEFRA changes.

It is as part of that process sometimes necessary to update Scottish legislation in advance of exit day in order to ensure that references to EU instruments are to the most recent versions of those instruments. This instrument will therefore update references in the Reporting of Prices of Milk Products (Scotland) Regulations 2005

In the fields of red meat the Scottish Government plans to retain the current standards set out in EU legislation and EU-derived domestic legislation to ensure, following a ‘no deal’ United Kingdom exit from the European Union, the continued and proper regulation under – in the case of this instrument – the following legislation:

- Beef and Pig Carcase Classification (Scotland) Regulations 2010, and
- Beef and Veal Labeling (Scotland) Regulations 2010.

In the field of the matters regulated by Quality Meat Scotland, we need to ensure that the Quality Meat Scotland Order 2008 secures equality of treatment in respect of levies on imports of meat from EU and non EU countries.

The instrument is required to protect human health and the environment, and provide continuity for businesses and consumers. Upon exit day a number of technical corrections are required for each of these pieces of legislation, ensuring their appropriate operability within Scotland's red meat and Dairy sector.

The instrument does not reflect a change in policy.

The UK Statutory instruments and this instrument have been brought forward in exercise of powers in the 2018 Act in order to address failures of retained EU law to operate effectively after the UK's exit from the EU. This instrument also corrects out-of-date references to an EU instrument.

### **Amendment of the Reporting of Prices of Milk Products (Scotland) Regulations 2005)**

The Reporting of Prices of Milk Products (Scotland) Regulations 2005 implements EU regulations regarding the notification of prices of milk products to the Scottish Ministers, and regarding communications between the current Member states and the Commission in the milk and milk product sector.

The 2005 Regulations refer to Commission Regulation 479/2010, which provided rules for implementation of Regulation 1234/2007 (the former Common Market Organisation Regulation) as regards notifications to the Commission in the milk and milk product sectors.

Commission Regulation 479/2010 has been repealed, and is now replaced by Commission Regulation (EU) No 2017/1185.

This instrument updates the replaces the references to the repealed Regulation with references to Regulation 2017/1185, and makes consequential amendments as needed in that respect to ensure that cross-references are to the correct Articles of the new Regulation.

### **Amendment of the Quality Meat Scotland Order 2008**

The Quality Meat Scotland Order 2008 contains provisions for the constitution and proceedings of the QMS Board (Article 4 and Schedule 2). QMS has functions and duties relating to the beef, sheepmeat and pork industries, and operates for these industries in Scotland.

The Board must raise levies relating to meat produced by each industry, subject to exemptions and reductions of levies in certain circumstances.

This instrument makes amendments to ensure the correct functioning of the 2008 order by updating an exemption from a levy so that it will apply to all animals imported into the UK whether from the EU or elsewhere.

### **Amendment of the Beef and Pig Carcase Classification (Scotland) Regulations 2010**

The Beef and Pig Carcase Classification (Scotland) Regulations 2010 implement EU regulations regarding the functions and protocols of carcass classification, using an Union scale.

The regulations also include provision for authorisation of grading methods, provision for offences and penalties, and for price reporting. The 2010 Regulations confer powers on inspectors to ensure compliance with EU law and the Regulations.

The instrument makes amendments to ensure the correct functioning of the 2010 Regulations on a 'no deal' exit by:

- Amending regulations 2(1), 5(3) 19, 20,28 and Schedule 1 and 2 with the effect that a reference to an European provisions becomes a reference to a retained EU provision,
- Amending regulation 6(c) (competent authority etc.: bovine carcasses) to remove an unnecessary cross-reference by substituting “Article” for “Articles 13 and” .
- Amending regulation 17(2) (powers of entry) to omit “, including any representative of the European Commission”.
- Amending schedule 1 in the fourth row of the table, which relates to classification scales, so that “United Kingdom” will be substituted for “Union ”.
- Amending schedule 2 in the third row of the table, “methods authorised by the Commission” will be substituted for “authorised methods”.

### **Amendment of the Beef and Veal Labelling (Scotland) Regulations 2010**

The Beef and Veal Labelling (Scotland) Regulations 2010 implement the rules of the EU beef labelling system, providing clear and reliable information about beef (including veal).

The main purpose of the system is to allow people to trace beef back to where it came from. This includes all fresh or frozen beef (including veal) which must be labelled with certain compulsory information. The rules apply to everyone selling fresh or frozen beef or veal, for example, slaughterhouses, cutting plants, repackaging centers, shops, market stalls, supermarkets, butchers and farm shops.

The instrument makes amendments to ensure the correct functioning of the 2010 Regulations on a 'no deal' exit by:

- Amending regulation 3 (enforcement authorities) with the effect that paragraph (1)(d) is omitted, as it is redundant as a result of deficiency changes to the EU instrument.
- Amending regulation 4 (offences) to omit paragraph (1)(a)(vii) and (viii) and (b)(viii), which are redundant following changes to the EU instruments.
- Amending regulation 7(2) (powers of entry) to omit “including any representative of the European Commission”.

### **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 Cabinet Secretary for the Rural Economy, Fergus Ewing, has made the following statement “In my view the Agriculture Market Measures (EU Exit) (Scotland) (Amendment) Regulations 2019 does no more than is appropriate. This is the case because the amendments are being made only to ensure, following a 'no deal' United Kingdom exit from the European

Union, continued and effective functioning of the legislation being amended and do not introduce policy change.”.

**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 Cabinet Secretary for the Rural Economy, Fergus Ewing, 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 and effective regulation of agriculture market measures within Scotland in order to protect human health and the environment and provide continuity for businesses and consumers. The amendments made by the instrument are technical in nature to ensure legislative operability only.”.

**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 Cabinet Secretary for the Rural Economy, Fergus Ewing, has made the following statement “In my view the Agriculture Market Measures (Scotland) (Amendment) Regulation 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 Cabinet Secretary for the Rural Economy, Fergus Ewing, has made the following statement “In my view the Agriculture Market Measure (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 Cabinet Secretary for the Rural Economy, Fergus Ewing, has made the following statement “In my view the Agriculture Market Measures (EU Exit) (Scotland) Amendment Regulations 2019 have had due regard to the need 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 Cabinet Secretary for the Rural Economy, Fergus Ewing has made the following statement “In my view the Agriculture Market Measures (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 and effective regulation of agriculture market measures within Scotland in order to protect human health and the environment and provide continuity for businesses and consumers. The amendments made by the instrument are technical in nature to ensure legislative operability only.”.

### **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.

### **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 any transitional provisions which fall within paragraph 1 (2) of schedule 7 of the European Union (Withdrawal) Act 2018.

Directorate for International Trade and Investment  
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