

POLICY NOTE

THE TRADE IN ANIMALS AND RELATED PRODUCTS (EU EXIT) (SCOTLAND) (AMENDMENT) REGULATIONS 2021

SSI 2021/138

The above instrument is made in exercise of the powers conferred by paragraphs 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018.

The instrument is subject to affirmative procedure.

Purpose of the instrument.

To create a power which will allow the Scottish Ministers by regulation to impose special import conditions in respect of imports from third countries of products of animal origin intended for human consumption.

Policy Objectives

Under Article 8(4) of Council Directive 2002/99/EC, the Commission had the power to make tertiary EU legislation establishing special import conditions for the import of products of animal origin intended for human consumption from third countries. It is considered appropriate that function be retained, and exercisable by Scottish Ministers, to allow special import conditions to be established and in order to be able to amend retained direct minor EU legislation previously made by the Commission under that power. These Regulations provide for that function to be exercisable by the Scottish Ministers by regulations subject to negative procedure.

Explanation of the law being amended by the regulations

The Regulations amend schedule 2 of the Trade in Animals and Related Products (Scotland) Regulations 2012 (“the 2012 Regulations”) which makes additional provision in specific cases relating to imports of animals and related products from third countries.

Reasons for and effect of the proposed change or changes on retained EU law

The instrument makes changes to the 2012 Regulations which will create a power for the Scottish Ministers by regulation to impose special import conditions in respect of imports from third countries of products of animal origin intended for human consumption, having regard to the animal health situation of the third country or countries concerned. This retains the legislative function of the Commission under Article 8 (4) of Council Directive 2002/99/EC to impose such conditions, and will allow Ministers to amend, modify or revoke any retained direct minor EU legislation made by the Commission under that power.

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 has made the following statement “In my view The Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2021 do no more than is appropriate. This is the case because the Regulations address necessary changes arising from leaving the EU”.

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 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 necessary to facilitate trade, protect food supply and ensure effective disease prevention, eradication and control as well as for the continued protection of public health.

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 has made the following statement “In my view The Trade in Animals and Related Products (EU Exit)(Scotland) (Amendment) Regulations 2021 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 has made the following statement “In my view The Trade in Animals and Related Products (EU Exit)(Scotland) (Amendment) Regulations 2021 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 made the following statement “In my view The Trade in Animals and Related Products (EU Exit)(Scotland) (Amendment) Regulations 2021 have 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 has made the following statement, “In my view the Trade in Animals and Related Products (EU Exit)(Scotland) (Amendment) Regulations 2021 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

High – The instrument creates a power to legislate, transferring EU legislative powers to Scottish Ministers

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

This SSI is subject to mandatory affirmative procedure under paragraph 1(6) of Schedule 7 of the European Union (Withdrawal) Act 2018. Therefore, the sifting procedure in the SSI protocol is not relevant to this SSI.

Further information

Consultation

Scottish Government officials are in discussions with UK Government and Welsh Government on the long term position regarding all Prohibited & Restricted goods for imports, as well as those which apply to export.

Impact Assessments

Full impact assessments have not been prepared for this instrument because the amendments do not alter Scottish Government’s current environmental policies and priorities and, therefore, do not have a significant impact on the environment. There is expected to be no impact on business, charities or voluntary bodies.

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

9 February 2021