

**EXPLANATORY MEMORANDUM TO**  
**THE CAT AND DOG FUR (CONTROL OF IMPORT, EXPORT AND**  
**PLACING ON THE MARKET) AMENDMENT REGULATIONS**

**2009 No. 1056**

1. This explanatory memorandum has been prepared by the Departments for Business, Enterprise and Regulatory Reform (BERR) and the Department for the Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 These regulations amend the Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008 (SI 2008/2795), which introduced a criminal sanction for breach of the EC Regulation 1523/2007 banning the commercial import, export and sale of cat and dog fur.

3. **Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]**

- 3.1 None

4. **Legislative Context**

- 4.1 EC Regulation 1523/2007 was published in the Official Journal on 11 December 2007 and the prohibition officially came into force 20 days thereafter. However, Member States were given until 31 December 2008 to provide an effective, persuasive and proportionate penalty for breach of this directly applicable prohibition. Following consultation, SI 2008/2795 was laid before Parliament on 28 October 2008. It created a new criminal offence for breach of EC Regulation 1523/2007 and came into force on 31 December 2008.

- 4.2 Although BERR and Defra had sought the input of the Scottish Executive on the drafting of the SI, it has come to our attention that SI 2008/2795 regrettably contains some incorrect terminology in Regulation 4, which contains a power of the Court to order forfeiture of any goods suspected to breach the EU Regulation, in that the references to the “Magistrates’ Court” and “Enforcement Authority” are not sufficient to cover a Scottish court of summary jurisdiction, or to reflect the fact that proceedings in Scotland can only be brought by the Procurator Fiscal.

4.3 However, there are existing provisions in the Proceeds of Crime (Scotland) Act 1995 which allow for seizure of goods and forfeiture following a conviction. This instrument therefore amends Regulation 4 of SI 2008/2795 to make clear that it applies only in England, Wales and Northern Ireland and that the applicable provisions in Scotland are those set out in the Proceeds of Crime (Scotland) Act 1995.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

5.2 Each of the Devolved Administrations has confirmed their agreement that the matter is reserved. The Scottish Executive have agreed that the new terminology is appropriate and the Northern Ireland Office have agreed that no amendments are needed in relation to Northern Ireland.

## **6. European Convention on Human Rights**

The BERR Minister Gareth Thomas MP has made the following statement regarding Human Rights:

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

7.1 The policy background to the creation of the new criminal offence is set out in the Explanatory Memorandum accompanying SI 2008/2795, submitted jointly by BERR and Defra. This new instrument merely seeks to correct SI 2008/2795 in order better to implement the intended policy.

- Consolidation

7.2 This Regulation makes only minor amendments to a prior instrument and therefore consolidation is not considered necessary in this instance.

## **8. Consultation outcome**

8.1 As set out in the Explanatory Memorandum accompanying SI 2008/2795, a range of concerned NGOs, industry were consulted on the EU-wide ban. This was a joint Defra and BERR policy. The Devolved Administrations, HMRC and Trading Standards bodies were consulted on the content and drafting of the instrument. The Ministry of Justice was consulted on the proposed sentence and the Home Office on the powers of entry.

8.2 No further consultation has been carried out in relation to this amending SI as it seeks merely to correct SI 2008/2795 to give effect to the intended policy. The Scottish Executive has, however, commented on this SI.

## **9. Guidance**

9.1 No guidance is anticipated to accompany this SI, although, as set out in the Explanatory Memorandum accompanying SI 2008/2795, the Government has contacted the Trade Associations that may be affected by the ban so that they can inform their membership (British Fur Trade Association, British Apparel & Textiles Confederation, British Toy and Hobby Association, British Footwear Association). Defra provided advice to the British Fur Trade Association membership on the rules for destroying any cat and dog fur held by their members before the introduction of the ban on 31 December 2008. No other publicity is currently planned.

## **10. Impact**

10.1 The Impact Assessment on the EU-wide ban was attached to the memorandum accompanying SI 2008/27895. We see no reason for a new Impact Assessment for this amending SI which is not expected to have any further impact on business or the voluntary sector.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation applies to small business. This amending SI is not expected to have any impact on small business.

## **12. Monitoring & review**

12.1 Each Member State has to provide a report annually to the European Commission on its implementation and enforcement of this prohibition. The European Commission will use this information to decide whether a review of the enforcement and implementation of this prohibition is necessary.

## **13. Contact**

Grant Mosedale at the Department for Business, Enterprise and Regulatory Reform Tel: 0207 215 5044 or e-mail: [grant.mosedale@berr.gsi.gov.uk](mailto:grant.mosedale@berr.gsi.gov.uk) can answer any queries regarding the instrument.