

2010 No. 2690

EUROPEAN UNION

The European Communities (Designation) (No. 5) Order 2010

Made - - - - *10th November 2010*

Laid before Parliament *17th November 2010*

Coming into force - - *8th December 2010*

At the Court at Buckingham Palace, the 10th day of November 2010

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and section 59(1) of the Government of Wales Act 2006(b), is pleased by and with the advice of her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the European Communities (Designation) (No. 5) Order 2010 and comes into force on 8th December 2010.

(2) In this Order—

“designated” means designated for the purposes of section 2(2), and similar expressions are to be construed accordingly;

“section 2(2)” means section 2(2) of the European Communities Act 1972;

“subordinate legislation” means orders, rules, regulations or schemes made under section 2(2).

Designation in relation to mediation

2.—(1) Each of the following is designated in relation to mediation—

- (a) the Secretary of State,
- (b) any Northern Ireland department, and
- (c) the Welsh Ministers.

Designation in relation to the common agricultural policy

3.—(1) The Welsh Ministers are designated in relation to the common agricultural policy of the European Union.

(a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(b) 2006 c.32.

(2) Paragraph (1) does not designate the Welsh Ministers to make provision in respect of feed that contains medicinal products or medicinal products destined for use in feed, except provision concerning—

- (a) substances that favourably affect the environment,
- (b) digestibility enhancers, or
- (c) gut flora stabilisers.

(3) In paragraph (2)—

“digestibility enhancers” means substances which, when fed to animals, increase the digestibility of the diet, through action on target feed materials;

“gut flora stabilisers” means micro-organisms or other substances, which, when fed to animals, have a positive effect on gut flora;

“medicinal products” includes growth regulators.

(4) Except in the case of subordinate legislation made jointly with the Secretary of State, paragraph (1) does not designate the Welsh Ministers to make subordinate legislation that includes provision in respect of—

- (a) the placing on the market or use of plant protection products, or
- (b) maximum levels for pesticide residues in or on—
 - (i) cereals,
 - (ii) food stuffs of animal origin, or
 - (iii) products of plant origin, including fruit and vegetables.

Designation in relation to private international law

4. Any Northern Ireland department is designated in relation to private international law.

Territorial restrictions

5.—(1) This Order does not designate Northern Ireland departments to make subordinate legislation that forms part of any system of law other than the law of Northern Ireland.

(2) Subject to paragraph (3), this Order does not designate the Welsh Ministers to make subordinate legislation that applies otherwise than in relation to Wales.

(3) Paragraph (2) does not prevent the Welsh Ministers from making subordinate legislation pursuant to the designation in article 3 that—

- (a) applies in relation to the area of the Welsh zone beyond the seaward limit of the territorial sea or to part of that area; or
- (b) to the extent that it relates to—
 - (i) payments or entitlements to payments in respect of an agricultural activity, or
 - (ii) the entitlement to market the products of any such activity,applies in respect of such activity undertaken anywhere on a farm or group of farms which includes a parcel of land situated in Wales.

(4) In this article, “Wales” and “Welsh zone” have the meanings given by section 158(1) of the Government of Wales Act 2006(a).

(5) This article does not restrict the application of article 6(2).

(a) 2006 c. 32; the definition of “Welsh zone” in section 158(1) was inserted by section 43 of the Marine and Coastal Access Act 2009 (c. 23).

Relationship with other designations

6.—(1) The designations in this Order do not restrict the scope of any designation made by any other Order.

(2) Where—

- (a) a Minister or department is designated by this Order, and
- (b) any other Minister or department is designated in relation to the same matter by this or any other Order,

any of them may make subordinate legislation in relation to that matter jointly.

(3) In paragraph (2), “Minister or department” means—

- (a) a Minister of the Crown or government department, including a Northern Ireland department, or
- (b) the Welsh Ministers.

Revocation of earlier designation

7. Article 4 of and Schedule 3 to the European Communities (Designation) (No. 3) Order 2005^(a) and article 6 of the European Communities (Designation) (Amendment) Order 2006^(b) are revoked.

Judith Simpson
Clerk of the Privy Council

(a) S.I. 2005/2766.

(b) S.I. 2006/3329.

EXPLANATORY NOTE

(This note is not part of the Order)

In England, Wales and Northern Ireland, only “designated” Ministers and departments can exercise the powers in section 2(2) of the European Communities Act 1972 (c. 68) to make orders, rules, regulations and schemes. This is one of a series of Orders by which Ministers and departments are designated for the purposes of section 2(2) in relation to different subject areas.

Article 2 designates the Secretary of State, any Northern Ireland department and the Welsh Ministers in relation to mediation.

Article 3 designates the Welsh Ministers in relation to the common agricultural policy of the European Union subject to certain restrictions related to animal feed containing medicinal products (or medicinal products that are to be included in animal feed) and pesticides and other plant protection products. Read with article 5, it replaces the Welsh Ministers’ common agricultural policy designation in the European Communities (Designation) (No.3) Order 2005 (S.I. 2005/2766) to take into account the new Welsh zone – an area of sea whose boundaries are set out in the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760). The designation now enables legislation to be made in relation to Wales, the Welsh zone or any part of Wales or the Welsh zone.

Article 4 designates any Northern Ireland department in relation to private international law.

Article 5 provides for territorial restrictions for the Northern Ireland departments’ and Welsh Ministers’ designations.

Article 6 provides that the new designations do not restrict the scope of designations in other Orders and allows Ministers and departments designated in relation to the same matters to legislate jointly as well as individually.

Article 7 revokes those parts of the European Communities (Designation) (No.3) Order 2005 and the European Communities (Designation) (Amendment) Order 2006 (S.I. 2006/3329) which relate to the Welsh Ministers’ common agricultural policy designation that is superseded by this Order.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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