

T: 0300 244 4000
E: scottish.ministers@gov.scot

Finlay Carson MSP
Convener
Rural Affairs, Islands and Natural Environment
Committee
Scottish Parliament
Edinburgh
EH99 1SP

Copied to UKSIs@parliament.scot

20 April 2022

Dear Finlay,

THE ANIMAL WELFARE (MISCELLANEOUS AMENDMENTS) REGULATIONS 2022 EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI.

This instrument amends retained EU law governing the protection and welfare of animals during transport and official controls of imports to Great Britain of animals, animal products, plants and plant products, including food and other imports relevant to the agri-food chain.

It corrects deficiencies arising from the withdrawal of the United Kingdom from the European Union to ensure that the legislation operates effectively in a domestic context.

The instrument also rectifies errors introduced by prior instruments amending retained EU law.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



INVESTORS
IN PEOPLE

Accredited
Until 2020



I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you.

Yours sincerely,



MAIRI GOUGEON

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



INVESTORS
IN PEOPLE

Accredited
Until 2020



NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

The Animal Welfare (Miscellaneous Amendments) Regulations 2022

Is the notification Type 1 or Type 2

Type 1

A brief overview of the SI

The SI is to be made under section 8(1) of, and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018. It amends retained EU law governing the protection and welfare of animals during transport and official controls of imports to Great Britain of animals, animal products, plants and plant products, including food and other imports relevant to the agri-food chain. It corrects deficiencies arising from the withdrawal of the United Kingdom from the European Union to ensure that the legislation operates effectively in a domestic context. The instrument also rectifies errors introduced by prior instruments amending retained EU law.

This SI is subject to affirmative procedure and will be laid in the UK Parliament on 19 May 2022. If approved by the UK Parliament, it will come into force on 20 May 2022.

The Animal Welfare (Miscellaneous Amendments) Regulations 2022;



The Animal Welfare
(Miscellaneous Amen,
,

Details of the provisions that Scottish Ministers are being asked to consent to.

Specifically, this instrument amends and modifies Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations (“EUR 1/2005”) and amends (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (“EUR 2017/625”).

Articles 14, 15, 16, 21, 22(2), 23, 24 and 26 of EUR 1/2005 (“the saved provisions”) were deleted before IP completion day by paragraph 1 of Article 154 of EUR 2017/625, but were then saved, and continue to apply by virtue of paragraph 2 of Article 154 of EUR 2017/625. The saved provisions were amended by UK SI 2019/802, which was in turn amended by UK SI 2020/1590. However, UK SI 2020/1481 removed most of the amendments to the saved provisions, with the exception of those made to Article 21, and the deletion of Article 24 of EUR 1/2005. The amendments to EUR 2017/625 made by this instrument remove

Article 24 of EUR 1/2005 from the list of saved provisions above, as this article had already been repealed in full.

This instrument amends EUR 1/2005, by amending the phrases “ a competent authority” and “competent authorities” to “the competent authority”. It removes the provisions relating to penalties for non-compliance with EUR 1/2005, as provision is made for these under domestic legislation (in Scotland, by the Welfare of Animals (Transport) (Scotland) Regulations 2006). The obligation to submit an annual report to the Commission is also removed, as this is otiose following the UK’s withdrawal from the EU.

This instrument also modifies the saved provisions of EUR 1/2005 referred to above. These modifications replace the phrases “Member States” and “veterinary Community” with “Great Britain” and “retained EU veterinary”. It modifies Article 23 of EUR 1/2005, to the effect that the obligation upon the competent authority to recover costs incurred by the taking of any actions necessary to safeguard animal welfare in the event of non-compliance with the Regulation by transporters is replaced by a discretionary power to do so.

Additionally, minor drafting corrections are made to EUR 1/2005 and EUR 2017/625.

Summary of the proposals

This instrument amends retained EU law governing the protection and welfare of animals during transport and official controls of imports to Great Britain of animals, animal products, plants and plant products, including food and other imports relevant to the agri-food chain.

It corrects deficiencies arising from the withdrawal of the United Kingdom from the European Union to ensure that the legislation operates effectively in a domestic context.

The instrument also rectifies errors introduced by prior instruments amending retained EU law, and replaces a previous obligation upon the competent authority to recover costs associated with actions taken to safeguard animal welfare in the event of non-compliance with EUR 1/2005 with a discretionary power to do so.

Does the SI relate to a common framework or other scheme?

Not applicable

Summary of stakeholder engagement/consultation

No consultation has been undertaken by Defra. Consultation was not considered necessary, as the instrument is making a number of minor, technical changes to address failures of retained EU law to operate effectively or other deficiencies arising from the UK’s withdrawal from the European Union. The instrument does not deliver policy changes.

A note of other impact assessments, (if available)

N/A.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The Scottish Government has agreed in principle that where possible legislation related to the welfare and health of farmed animals should be carried out on a GB basis. The amendments made by this instrument ensure that retained EU legislation operates effectively in a domestic context. This provides certainty for agriculturalists across Great Britain

The modification of Article 23 of EUR 1/2005 offers the Scottish Ministers discretion whether to recover costs incurred from taking action to safeguard animal welfare in the event of non-compliance with the Regulation by transporters. This will allow the Scottish Ministers not to attempt such recovery in situations where it would not be practical or cost-effective to do so.

Intended laying date (if known) of instruments likely to arise

19th May 2022

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

Easter Recess

Information about any time dependency associated with the proposal

N/A

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

N/A

Any significant financial implications?

No

SI NOTIFICATION: SUMMARY

Title of Instrument; The Animal Welfare (Miscellaneous Amendments) Regulations 2022
Proposed laying date at Westminster; 19 th May 2022
Date by which Committee has been asked to respond
Power(s) under which SI is to be made Section 8(1)of, and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018
Categorisation under SI Protocol; Type 1
Purpose; This instrument amends retained EU law governing the protection and welfare of animals during transport and official controls of imports to Great Britain of animals, animal products, plants and plant products, including food and other imports relevant to the agri-food chain. It corrects deficiencies arising from the withdrawal of the United Kingdom from the European Union to ensure that the legislation operates effectively in a domestic context. The instrument also rectifies errors introduced by prior instruments amending retained EU law
Other information
SG Policy contact: Stewart Forsyth