Cabinet Secretary for Rural Affairs and Islands
Mairi Gougeon MSP

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Finlay Carson MSP
Convener of the Rural Affairs, Islands and Natural Environment Committee
The Scottish Parliament
EDINBURGH
EH99 1SP

Copied to UKSIs@parliament.scot

26 September 2022

Dear Finlay,

DEFRA APH/024 - THE TRADE IN ANIMALS AND RELATED PRODUCTS (AMENDMENT AND LEGISLATIVE FUNCTIONS) REGULATIONS 2022

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 the Parliament, accompanied the letter from the 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. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

The UK Government plans to lay the instrument on 18 October 2022.

As matters stand, a response from the Committee is requested by 7 October 2022. Such a timescale would not allow the Scottish Parliament 28 days to scrutinise the instrument prior to the laying of the instrument in the UK Parliament. The intention had been to provide notification on Friday 9 September 2022 but this did not prove possible as a result of the national mourning period. We have since sought an agreement from UK Government officials that the instrument will not be debated at Westminster until after a period of 28 days (not including the period of

recess from 8 October to 23 October) has elapsed from the date of the notification or until such earlier date on which the Scottish Ministers have given their consent to the instrument. An update will be provided to you (including notification of the revised date by which a response is sought from the Committee) should such an agreement be reached.

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

Yours sincerely,

MAIRI GOUGEON

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022 ("the Instrument")

Is the notification Type 1 or Type 2
Type 1.

A brief overview of the SI (including reserved provision)

The instrument is to be made section 8(1) and paragraph 21 of schedule 7 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the EU. The retained EU law concerns the importation of animals and related animal products into Great Britain, or the transit of animals or related animal products through Great Britain.

The instrument modifies the way in which references to EU Directives within the Trade in Animals and Related Products (Scotland) Regulations 2012 ("TARP Scotland") and the Trade in Animals and Related Products Regulations 2011 ("TARP England") are to be read, and transfers functions that are conferred on EU bodies within relevant articles of those EU Directives to the appropriate authority in Scotland or England. Amendments to TARP Scotland and TARP England will be made in order to reflect these modifications and transfers of functions. The aspects of the instrument that relate to modifications of TARP Scotland, and prohibiting and regulating movement into and out of Scotland of animals and animal products for the purposes of protecting human and animal health, relate to devolved matters.

This SI is subject to draft affirmative procedure and will be laid in draft in the UK Parliament on 18 October 2022.

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

The Scottish Ministers are being asked to consent to the amendments set out below:

<u>Modification of the Trade in Animals and Related Products (Scotland) Regulations 2012</u>

Under regulations 13 and 16 of TARP Scotland, consignments of animals and animal products must comply with relevant requirements in any instrument listed in schedule 1 of TARP Scotland in order for the consignment to be issued with a Common Health Entry Document if entering Great Britain, or in order for the consignment to be permitted to leave a border control post in certain circumstances if transiting through Great Britain. Schedule 1 of TARP Scotland lists a number of Council Directives concerning trade in animals and animal products, as well as instruments which are retained direct EU legislation

Following the UK's exit from the EU, the requirements contained in the Council Directives listed in schedule 1 of TARP Scotland do not operate effectively and contain deficiencies related to the UK's exit from the EU. In particular requirements that refer to Member States or intra-community trade are no longer appropriate now that the UK is no longer a Member State and the fact that the EU is to be treated as a third country for the purposes of imports of animals and animal products. The Council Directives listed, as they were in force immediately before IP completion day, also contained functions of EU entities, including making instruments of a legislative character, regarding the requirements, which it is appropriate to retain.

TARP Scotland will be modified so that, for the purposes of the requirements referred to in regulation 13 and 16

- only the provisions of those Council Directives, as they had effect on IP completion day, which are relevant to import are referred to;
- those provisions of those Directives that continue to be referred to are to be read subject to modifications, in order to fix deficiencies arising as a result of the UK's withdrawal from the EU; and
- to confer on the appropriate authority in Scotland those functions of EU entities in those Directives in relation to those requirements which it is appropriate to retain

The retained direct EU legislation listed in schedule 1 of TARP Scotland has already been amended by previous deficiency-fixing instruments.

The same provision as Ministers are being asked to consent to in Scotland will be made in relation to TARP England in the instrument.

Summary of the proposals

The instrument will omit schedule 1 of TARP Scotland and replace it with a list contained in the instrument which will, for the purposes of regulations 13 and 16 of TARP Scotland:

- continue to reference the requirements in the same retained direct EU legislation as is currently listed in schedule 1 of TARP Scotland.
- replace the reference in schedule 1 of TARP Scotland to the requirements of Council Directive 2006/88/EC (on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain disease in aquatic animals) with a reference to the regulations which implemented that Directive domestically, the Aquatic Animal Health (Scotland) Regulations 2009
- reference the particular requirements contained in the other Council Directives currently listed in schedule 1 of TARP which are relevant to the import of animals and animal products.

Where reference will continue to be made to requirements contained in provisions of Council Directives as they had effect immediately before IP completion day, the Instrument will modify how those provisions are to be read for the purposes of regulations 13 and 16 of TARP Scotland, in order to fix deficiencies arising as a result of the UK's exit from the EU.

The instrument will also confer legislative functions of EU entities in those Council Directives on the appropriate authority in Scotland, where it is appropriate to retain the function. The functions of EU entities which will be retained, and conferred on the appropriate authority to make provision for by way of regulations, will be:

In Council Directive 64/432/EEC (on animal health problems affecting intra-Community trade in bovine animals and swine) functions in :

- Article 9 relating to national control programmes and additional guarantees which may be required
- Article 10 relating to additional required guarantees
- Article 16 of amending requirements in the Annexes to the Directive
- Annex A relating to recognition of a territory as officially tuberculosis-free, the approval of tests for brucellosis, and the recognition of a territory as officially brucellosis free,
- Annex D relating to recognition of a territory as officially enzootic-bovine-leukosis-free

In Council Directive 88/407/EEC (laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species) functions in:

- Article 8 relating to listing third countries from which import is authorised
- Article 9 on rules for authorising imports
- Article 10 regarding the adoption of animal health requirements for imports
- Article 17 of amending the conditions set out in the Annexes to the Directive

In Council Directive 89/556/EEC (on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species) functions in ;

- Article 7 relating to listing third countries from which import is authorised
- Article 8 on rules for authorising imports
- Article 9 regarding the adoption of animal health requirements for imports
- Article 16 of amending the conditions set out in the Annexes to the Directive
- Chapter 2 of Annex A relating to conditions for the collection, and processing of embryos

In Council Directive 90/429/EEC (laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species) functions in :

- Article 7 relating to listing third countries from which import is authorised
- Article 8 on rules for authorising imports
- Article 9 regarding the adoption of animal health requirements for imports

- Article 17 of amending the conditions set out in the Annexes to the Directive
- Chapter 2 of Annex A relating to conditions for marking at semen collection centres.

In Council Directive 91/68/EEC (on animal health conditions governing intra-Community trade in ovine and caprine animals);

- Article 6 regarding the recognitions of tests and of equivalent health guarantees.
- Article 7 relating to national control programmes and additional guarantees which may be required
- Article 8 relating to additional required guarantees
- Article 14 of amending requirements in Annexes to the Directive
- Annex A relating to the withdrawal of officially brucellosis free status, and recognition as an officially brucellosis free territory
- Annex C relating to the recognition of brucellosis tests.

In Council Directive 92/65/EEC (laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(1) to Directive 90/425/EEC) functions in ;

- Article 6 relating to the adoption of requirements regarding leukosis in the case of ruminants, and testing requirements for ungulates
- Article 7 of establishing methods for identifying psittacidae
- Article 8 regarding the requirements applied to bees
- Article 11 regarding determining additional guarantees for ova and embryos, rules relating to approval centres and animal health requirements applicable to semen, ova and embryos.
- Article 13 regarding rules for approved bodies, institutes and centres
- Article 14 relating to control or monitoring programmes and additional guarantees which may be required
- Article 15 relating to additional required guarantees
- Article 17 relating to listing third countries from which import is authorised and specific animal health requirements
- Article 18 of establishing detailed rules regarding quarantine
- Article 19 regarding specific animal health requirements for animals intended for zoos, circuses, amusement parks or experimental laboratories, and additional guarantees.
- Article 21 of determining health conditions to be met by certain animals
- Article 22 of amending requirements in Annexes to the Directive

- Article 23 of laying down special requirements for the movement of circus and fairground animals and for trade intended for zoos.

In Council Directive 92/118/EEC (laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (1) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC) functions in;

- Article 5 regarding assurances permitting the movement of certain products
- Article 6 of defining rules for trade in pathogenic agents
- Article 10 relating to listing third countries from which import is authorised and specific animal health requirements
- Article 11 relating to stipulating animal health requirements for products intended for experimental laboratories
- Article 15 of adopting new, and amending, requirements in Annexes to the Directive
- Chapter 7 of Annex 1 of adopting rules for trade and imports of fresh blood and blood products intended for human consumption.

In Council Directive 2002/99/EC (laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption) functions in;

- Article 4 regarding the adoption of rules, conditions for and granting of derogations from general health requirements
- Article 8 relating to listing third countries from which imports are permitted and special import conditions
- Article 9 regarding documents and rules and certification for transit.

In Council Directive 2004/68/EC (laying down animal health rules for the importation into and transit through the Community of certain live ungulate animals) functions in;

- Article 3 relating to listing third countries from which imports are authorised
- Article 6 regarding laying down specific animal health conditions
- Article 7 regarding the use of electronic documents
- Article 8 regarding making specific provisions to derogate from animal health conditions and guarantees in certain circumstances
- Article 9 regarding conditions for import from countries where certain diseases are present or vaccinations are carried out
- Article 10 regarding the resumption of imports or transit from countries after a suspension or prohibition
- Article 11 regarding the suspension or withdrawal of the use of a veterinary certificate

- Article 13 of establishing detailed rules, rules regarding origin, criteria for animal disease classification of countries, provisions for the use of documents, and amending requirements in the Annexes to the Directive.

In Council Directive 2009/156/EC (on animal health conditions governing the movement and importation from third countries of equidae) functions in

- Article 4 relating to the identification of equidae, and control programmes for diseases and additional required guarantees
- Article 5 regarding periods of the year during which equidae must be dispatched, and the recognition of monitoring methods for African horse sickness
- Article 12 relating to listing third countries from which imports are authorised, and the establishment of special import conditions and other rules
- Article 13 regarding the dis-application of certain requirements to only part of the territory of a third country
- Article 15 regarding the adoption of animal health requirements, and the recognition of tests for viral arteritis
- Article 17 regarding the adoption of special conditions for equidae for slaughter
- Article 19 regarding restricting imports to particular species or categories, special conditions for temporary entry, conditions for converting temporary entry into permanent entry and the designation of a reference laboratory.
- Article 20 of amending requirements in the Annexes to the Directive

In Council Directive 2009/158/EC (on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs) functions in:

- Article 15 regarding programmes for Newcastle disease non-vaccinating status and additional required guarantees
- Article 16 regarding disease control programmes and additional required guarantees
- Article 17 regarding disease free status and additional required guarantees
- Article 23 relating to listing third countries from which imports are authorised,
- Article 24 regarding the application of certain requirements to only part of the territory of a third country
- Article 25 regarding the adoption of animal health conditions, and derogations from them
- Article 28 regarding confining imports to particular species or categories, and imports to be kept quarantined or isolated.
- Article 29 regarding permitting the import of poultry and hatching eggs which do not conform to requirements

- Article 30 regarding the adoption of special conditions for poultry for slaughter
- Article 34 of amending the requirements in Annexes to the Directive.

The conferral of these legislative functions will allow requirements to be set for the importation of animals and animal products into Great Britain from third countries, including the EU. The appropriate authority for the exercise of functions in relation to Scotland will be the Scottish Ministers, or where consent is given by the Scottish Ministers, the Secretary of State. Legislative functions exercisable by the Scottish Ministers or the Secretary of State under this instrument will be subject to negative procedure.

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

None.

Summary of stakeholder engagement/consultation

As the amendments are technical in nature, and there has been no policy changes, a public consultation was not undertaken.

A note of other impact assessments, (if available)

There is no, or no significant, impact on the public sector.

A full impact assessment has not been produced for this instrument as Defra's assessment is that there is no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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

This instrument is being made using the power in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

The instrument makes the same changes and confers the same legislative functions in relation to both Scotland and England and will ensure official controls on imports of live animals and animal products continue to be effective. As such, given the reasons outlined above, Scottish Ministers consider that it is appropriate to consent to the instrument to give effect to these changes.

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

The Instrument will be laid in draft on 18 October 2022.

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

This notification has been delayed by the national mourning period. We have since sought an agreement from UK Government officials that the instrument will not be debated at Westminster until after a period of 28 days (which shall not include the period of recess from 8 October to 23 October) has elapsed from the date of this notification or until such earlier date on which the Scottish Ministers have given their consent to the instrument. An update will be provided to the Convenor of the Rural Affairs, Islands and Natural Environment Committee (including notification of the revised date by which a response is sought from the Committee) should such an agreement be reached.

Information about any time dependency associated with the proposal

Not applicable.

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

None.

Any significant financial implications?

None.

SI NOTIFICATION: SUMMARY

Title of Instrument

The Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022

Proposed laying date at Westminster

18 October 2022

Date by which Committee has been asked to respond

7 October 2022 (please see "other information" section below)

Power(s) under which SI is to be made

Section 8(1) and paragraph 21 of schedule 7 of the European Union (Withdrawal) Act 2018.

Categorisation under SI Protocol

Type 1

Purpose

The Instrument will address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the EU in retained EU law concerning the importation of animals and related animal products into Great Britain, or the transit of animals or related animal products through Great Britain.

The Instrument modifies the way in which references to EU Directives within the Trade in Animals and Related Products (Scotland) Regulations 2012 ("TARP Scotland") and the Trade in Animals and Related Products Regulations 2011 ("TARP England") are to be read, and transfers functions that are conferred on EU bodies within relevant articles of those EU Directives to the appropriate authority in Scotland or England. Amendments to TARP Scotland and TARP England will be made in order to reflect these modifications and transfers of functions.

Other information

The notification was delayed by the national mourning period. The date by which the Committee has been asked to respond, 7 October, is the last sitting day of the Scottish Parliament before the proposed date for laying the instrument at Westminster. Less than 28 days for scrutiny by the Scottish Parliament is therefore proposed.

We have since sought an agreement from UK Government officials that the instrument will not be debated at Westminster until after a period of 28 days (which shall not include the period of recess from 8 October to 23 October) has elapsed from the date of this notification or until such earlier date on which the Scottish Ministers have given their consent to the instrument. An update will be provided to the Convenor of the Rural Affairs, Islands and Natural Environment Committee (including notification of the revised date by which a response is sought from the Committee) should such an agreement be reached.

SG Policy contact:
Ian Cox
Agriculture and Rural Economy Directorate
Animal Health and Welfare Division: International Trade

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022 ("the Instrument")

Is the notification Type 1 or Type 2
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A brief overview of the SI (including reserved provision)

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The instrument modifies the way in which references to EU Directives within the Trade in Animals and Related Products (Scotland) Regulations 2012 ("TARP Scotland") and the Trade in Animals and Related Products Regulations 2011 ("TARP England") are to be read, and transfers functions that are conferred on EU bodies within relevant articles of those EU Directives to the appropriate authority in Scotland or England. Amendments to TARP Scotland and TARP England will be made in order to reflect these modifications and transfers of functions. The aspects of the instrument that relate to modifications of TARP Scotland, and prohibiting and regulating movement into and out of Scotland of animals and animal products for the purposes of protecting human and animal health, relate to devolved matters.

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

The Scottish Ministers are being asked to consent to the amendments set out below:

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Under regulations 13 and 16 of TARP Scotland, consignments of animals and animal products must comply with relevant requirements in any instrument listed in schedule 1 of TARP Scotland in order for the consignment to be issued with a Common Health Entry Document if entering Great Britain, or in order for the consignment to be permitted to leave a border control post in certain circumstances if transiting through Great Britain. Schedule 1 of TARP Scotland lists a number of Council Directives concerning trade in animals and animal products, as well as instruments which are retained direct EU legislation

Following the UK's exit from the EU, the requirements contained in the Council Directives listed in schedule 1 of TARP Scotland do not operate effectively and contain deficiencies related to the UK's exit from the EU. In particular requirements that refer to Member States or intra-community trade are no longer appropriate now that the UK is no longer a Member State and the fact that the EU is to be treated as a third country for the purposes of imports of animals and animal products. The Council Directives listed, as they were in force immediately before IP completion day, also contained functions of EU entities, including making instruments of a legislative character, regarding the requirements, which it is appropriate to retain.

TARP Scotland will be modified so that, for the purposes of the requirements referred to in regulation 13 and 16

- only the provisions of those Council Directives, as they had effect on IP completion day, which are relevant to import are referred to;
- those provisions of those Directives that continue to be referred to are to be read subject to modifications, in order to fix deficiencies arising as a result of the UK's withdrawal from the EU; and
- to confer on the appropriate authority in Scotland those functions of EU entities in those Directives in relation to those requirements which it is appropriate to retain

The retained direct EU legislation listed in schedule 1 of TARP Scotland has already been amended by previous deficiency-fixing instruments.

The same provision as Ministers are being asked to consent to in Scotland will be made in relation to TARP England in the instrument.

Summary of the proposals

The instrument will omit schedule 1 of TARP Scotland and replace it with a list contained in the instrument which will, for the purposes of regulations 13 and 16 of TARP Scotland:

- continue to reference the requirements in the same retained direct EU legislation as is currently listed in schedule 1 of TARP Scotland.
- replace the reference in schedule 1 of TARP Scotland to the requirements of Council Directive 2006/88/EC (on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain disease in aquatic animals) with a reference to the regulations which implemented that Directive domestically, the Aquatic Animal Health (Scotland) Regulations 2009
- reference the particular requirements contained in the other Council Directives currently listed in schedule 1 of TARP which are relevant to the import of animals and animal products.

Where reference will continue to be made to requirements contained in provisions of Council Directives as they had effect immediately before IP completion day, the Instrument will modify how those provisions are to be read for the purposes of regulations 13 and 16 of TARP Scotland, in order to fix deficiencies arising as a result of the UK's exit from the EU.

The instrument will also confer legislative functions of EU entities in those Council Directives on the appropriate authority in Scotland, where it is appropriate to retain the function. The functions of EU entities which will be retained, and conferred on the appropriate authority to make provision for by way of regulations, will be:

In Council Directive 64/432/EEC (on animal health problems affecting intra-Community trade in bovine animals and swine) functions in :

- Article 9 relating to national control programmes and additional guarantees which may be required
- Article 10 relating to additional required guarantees
- Article 16 of amending requirements in the Annexes to the Directive
- Annex A relating to recognition of a territory as officially tuberculosis-free, the approval of tests for brucellosis, and the recognition of a territory as officially brucellosis free,
- Annex D relating to recognition of a territory as officially enzootic-bovine-leukosis-free

In Council Directive 88/407/EEC (laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species) functions in:

- Article 8 relating to listing third countries from which import is authorised
- Article 9 on rules for authorising imports
- Article 10 regarding the adoption of animal health requirements for imports
- Article 17 of amending the conditions set out in the Annexes to the Directive

In Council Directive 89/556/EEC (on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species) functions in ;

- Article 7 relating to listing third countries from which import is authorised
- Article 8 on rules for authorising imports
- Article 9 regarding the adoption of animal health requirements for imports
- Article 16 of amending the conditions set out in the Annexes to the Directive
- Chapter 2 of Annex A relating to conditions for the collection, and processing of embryos

In Council Directive 90/429/EEC (laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species) functions in :

- Article 7 relating to listing third countries from which import is authorised
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- Chapter 2 of Annex A relating to conditions for marking at semen collection centres.

In Council Directive 91/68/EEC (on animal health conditions governing intra-Community trade in ovine and caprine animals);

- Article 6 regarding the recognitions of tests and of equivalent health guarantees.
- Article 7 relating to national control programmes and additional guarantees which may be required
- Article 8 relating to additional required guarantees
- Article 14 of amending requirements in Annexes to the Directive
- Annex A relating to the withdrawal of officially brucellosis free status, and recognition as an officially brucellosis free territory
- Annex C relating to the recognition of brucellosis tests.

In Council Directive 92/65/EEC (laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(1) to Directive 90/425/EEC) functions in ;

- Article 6 relating to the adoption of requirements regarding leukosis in the case of ruminants, and testing requirements for ungulates
- Article 7 of establishing methods for identifying psittacidae
- Article 8 regarding the requirements applied to bees
- Article 11 regarding determining additional guarantees for ova and embryos, rules relating to approval centres and animal health requirements applicable to semen, ova and embryos.
- Article 13 regarding rules for approved bodies, institutes and centres
- Article 14 relating to control or monitoring programmes and additional guarantees which may be required
- Article 15 relating to additional required guarantees
- Article 17 relating to listing third countries from which import is authorised and specific animal health requirements
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- Article 19 regarding specific animal health requirements for animals intended for zoos, circuses, amusement parks or experimental laboratories, and additional guarantees.
- Article 21 of determining health conditions to be met by certain animals
- Article 22 of amending requirements in Annexes to the Directive

- Article 23 of laying down special requirements for the movement of circus and fairground animals and for trade intended for zoos.

In Council Directive 92/118/EEC (laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (1) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC) functions in;

- Article 5 regarding assurances permitting the movement of certain products
- Article 6 of defining rules for trade in pathogenic agents
- Article 10 relating to listing third countries from which import is authorised and specific animal health requirements
- Article 11 relating to stipulating animal health requirements for products intended for experimental laboratories
- Article 15 of adopting new, and amending, requirements in Annexes to the Directive
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- Article 16 regarding disease control programmes and additional required guarantees
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Does the SI relate to a common framework or other scheme?

None.

Summary of stakeholder engagement/consultation

As the amendments are technical in nature, and there has been no policy changes, a public consultation was not undertaken.

A note of other impact assessments, (if available)

There is no, or no significant, impact on the public sector.

A full impact assessment has not been produced for this instrument as Defra's assessment is that there is no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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

This instrument is being made using the power in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

The instrument makes the same changes and confers the same legislative functions in relation to both Scotland and England and will ensure official controls on imports of live animals and animal products continue to be effective. As such, given the reasons outlined above, Scottish Ministers consider that it is appropriate to consent to the instrument to give effect to these changes.

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The Instrument will be laid in draft on 18 October 2022.

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

This notification has been delayed by the national mourning period. We have since sought an agreement from UK Government officials that the instrument will not be debated at Westminster until after a period of 28 days (which shall not include the period of recess from 8 October to 23 October) has elapsed from the date of this notification or until such earlier date on which the Scottish Ministers have given their consent to the instrument. An update will be provided to the Convenor of the Rural Affairs, Islands and Natural Environment Committee (including notification of the revised date by which a response is sought from the Committee) should such an agreement be reached.

Information about any time dependency associated with the proposal

Not applicable.

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

None.

Any significant financial implications?

None.

SI NOTIFICATION: SUMMARY

Title of Instrument

The Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022

Proposed laying date at Westminster

18 October 2022

Date by which Committee has been asked to respond

7 October 2022 (please see "other information" section below)

Power(s) under which SI is to be made

Section 8(1) and paragraph 21 of schedule 7 of the European Union (Withdrawal) Act 2018.

Categorisation under SI Protocol

Type 1

Purpose

The Instrument will address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the EU in retained EU law concerning the importation of animals and related animal products into Great Britain, or the transit of animals or related animal products through Great Britain.

The Instrument modifies the way in which references to EU Directives within the Trade in Animals and Related Products (Scotland) Regulations 2012 ("TARP Scotland") and the Trade in Animals and Related Products Regulations 2011 ("TARP England") are to be read, and transfers functions that are conferred on EU bodies within relevant articles of those EU Directives to the appropriate authority in Scotland or England. Amendments to TARP Scotland and TARP England will be made in order to reflect these modifications and transfers of functions.

Other information

The notification was delayed by the national mourning period. The date by which the Committee has been asked to respond, 7 October, is the last sitting day of the Scottish Parliament before the proposed date for laying the instrument at Westminster. Less than 28 days for scrutiny by the Scottish Parliament is therefore proposed.

We have since sought an agreement from UK Government officials that the instrument will not be debated at Westminster until after a period of 28 days (which shall not include the period of recess from 8 October to 23 October) has elapsed from the date of this notification or until such earlier date on which the Scottish Ministers have given their consent to the instrument. An update will be provided to the Convenor of the Rural Affairs, Islands and Natural Environment Committee (including notification of the revised date by which a response is sought from the Committee) should such an agreement be reached.

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