NOTIFICATION TO THE SCOTTISH PARLIAMENT

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

The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018.

A brief explanation of law that the proposals amend

The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018 ("the Proposed SI") is being made using powers under the European Union (Withdrawal) Act 2018 in order to correct deficiencies in what will become retained EU law that protects human health against zoonotic disease (in particular, salmonella). The Proposed SI's amendments will ensure that national controls on salmonella continue to be operable in Scotland after the UK leaves the EU.

The legislation that will be amended by the Proposed SI is:

i. The EEA Agreement;
ii. Commission Decision 2003/644/EC establishing additional guarantees regarding salmonella for consignments to Finland and Sweden of breeding poultry and day-old chicks for introduction into flocks of breeding poultry or flocks of productive poultry. This Commission Decision establishes additional guarantees regarding salmonella on consignments of breeding poultry and day old chicks to Finland and Sweden that are equivalent to those already implemented in those countries under their approved operational programmes. The additional guarantees are based on a microbiological examination of the flock of origin and this legislation lays down the rules on sampling and testing. It further specifies the certification requirements for each consignment and provides model certificates;
iii. Regulation (EC) No 2160/2003 on the control of salmonella and other specified food-borne zoonotic agents. This is the overarching Zoonoses Regulation, which specifies the salmonella types for which targets must be established. It further specifies the animal populations to which targets relate, the timescales for introducing those targets and commencing testing under established control programmes, and the stages in the production cycles at which samples must be collected;
iv. Commission Decision 2004/235/EC. This Commission Decision establishes guarantees regarding salmonella on consignments of laying hens to Finland and Sweden, equivalent to those already implemented in those countries under their approved operational programmes. The additional guarantees are based on a microbiological examination of the flock of origin and this legislation lays down the rules on sampling and testing. It further specifies the certification requirements for each consignment and provides model certificates;

v. Commission Decision 2004/665/EC concerning a baseline study on the prevalence of salmonella in laying flocks of *Gallus gallus*. This Commission Decision provides a framework to carry out a baseline study, estimating the prevalence of salmonella in populations of laying hens across the EU. Results of the study will be used to set Community targets for reducing levels of salmonella and for the development of community veterinary legislation. The legislation sets out the criteria and technical specifications for sampling, laboratory testing, collection of data and reporting results. It also sets out the scope and conditions to be met in order to qualify for EU financial assistance;

vi. Commission Regulation (EC) No 1177/2006 as regards requirements for the use of specific control methods (antimicrobials and vaccinations) in the framework of the national control programmes for salmonella in poultry. This Regulation implements Regulation (EC) No 2160/2003 and lays down certain rules and conditions on the use of antimicrobials and vaccines in the framework of the national control programme for salmonella including details on exceptional circumstances and derogations;

vii. Commission Regulation (EU) No 200/2010 as regards a Union target for the reduction of the prevalence of *Salmonella* serotypes in adult breeding flocks of *Gallus gallus*. This Regulation implements Regulation (EC) No 2160/2003 and specifies the Union target for the prevalence of salmonella in breeding flocks of *Gallus gallus* which is to be achieved. It also provides a detailed framework for the testing scheme to be followed in order to ascertain progress in achieving the target set. The target is to be reviewed by the Commission taking account of the information collected by the testing scheme;

viii. Commission Regulation (EU) No 517/2011 as regards a Union target for the reduction of the prevalence of certain *Salmonella* serotypes in laying hens of *Gallus gallus*. This Regulation implements Regulation (EC) No 2160/2003 and specifies the Union target for the prevalence of certain types of salmonella in laying hens of *Gallus gallus* which is to be achieved annually. It also provides a detailed framework for the testing scheme to be followed in order to ascertain progress in achieving the target set. The target is to be reviewed by the Commission taking account of the information collected by the testing scheme;

ix. Commission Regulation (EU) No 200/2012 concerning a Union target for the reduction of the prevalence of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of broilers. This Regulation implements Regulation (EC) No 2160/2003 and specifies the Union target for the reduction of the prevalence of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of broilers which is to be achieved annually. It also provides a detailed framework for the testing scheme to be followed in order to ascertain progress in achieving the target set. The target is to be reviewed by the

Commission taking account of the information collected by the testing scheme;

x. Commission Regulation (EU) No 1190/2012 concerning a Union target for the reduction of the prevalence of *Salmonella Enteritidis* and *Salmonella Typhimurium* in flocks of turkeys. This Regulation implements Regulation (EC) No 2160/2003 and specifies the Union target for the reduction of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of turkeys which is to be achieved annually. It also provides a detailed framework for the testing scheme to be followed in order to ascertain progress in achieving the target set. The target is to be reviewed by the Commission taking account of the information collected by the testing scheme; and

xi. Commission Implementing Decision 2013/652/EU on the monitoring and reporting of antimicrobial resistance in zoonotic and commensal bacteria. This Implementing Decision lays down detailed rules and technical requirements for the monitoring and reporting of antimicrobial resistance to be carried out in relation to specified bacteria. It also provides a framework for sampling, the collection of isolates and further specifies requirements for analysis, testing and reporting.

Summary of the proposals and how these correct deficiencies

The amendments contained in the Proposed SI will not change existing policy, but will be necessary, in the event of a 'no deal' exit from the EU on 29 March 2019, to generally maintain in the UK the current controls on food-borne zoonotic agents, including salmonella in particular.

As the UK will no longer be a Member State of the EU, the Proposed SI will amend EU references. For example, it will remove references to "the Union" and "community", and change references to "the Commission" to "the appropriate Minister" and references to "Member State" to the "competent authority", "United Kingdom" or "constituent nation" as appropriate.

The Proposed SI will make provision for administrative functions (i.e. functions that do not involve making legislation) to be exercised, in relation to Scotland, by the Scottish Ministers and / or the Secretary of State with the consent of the Scottish Ministers (with similar provisions for the other devolved administrations). For example:

- The function of approving control programmes from EU Member States that is currently exercised by the Commission will post-exit be exercised by "the appropriate Minister" (the Scottish Ministers in relation to Scotland).
- The function of designating reference laboratories for the analysis and testing of zoonotic agents will also transfer from the Member State to the "appropriate Minister", which means the Scottish Ministers in relation to Scotland.
- The function of requiring that the results of pre-dispatch testing (for certain zoonoses and zoonotic agents) of animals or hatching eggs for import from third countries fulfil the same criteria as those laid down under the UK's national

programme will be exercised by the Secretary of State with the consent of the Scottish Ministers.

One exception to the above occurs in relation to the function of receiving third country programmes detailing that country's inspection and controls for zoonoses and zoonotic agents which must, at least, be equivalent to the controls required by 2160/2003. The Proposed SI will transfer that function to Secretary of State alone. However, the final approvals process that follows receipt of such programmes will be amended in a separate, forthcoming transfer of functions UK SI that will be brought forward by DEFRA (see below). The Scottish Government continues to work with DEFRA to ensure that any amendments to the approvals process fully respect the devolution settlement.

The Proposed SI will also remove obligations that the UK currently has to the Commission, such as reporting or the provision of other information.

It should also be noted that Regulation (EC) No 2160/2003 contains provision relating to legislative functions (i.e. functions that involve making legislation). Such provision will be amended in the separate transfer of functions UK SI referred to above. The Scottish Government remains in discussions with DEFRA and the other devolved administrations about this. The Scottish Parliament will be separately notified in relation to the transfer of functions SI in due course.

An explanation of why the change is considered necessary

The existing EU legislation sets out well-established controls that aim to protect public health from zoonotic disease, salmonella in particular. The Scottish Government wishes to retain those controls, and the changes that will be made by the Proposed SI are necessary to ensure that they can continue to operate effectively once the UK leaves the EU.

It is also hoped that maintaining in the UK a system that is based on EU-wide rules will help to facilitate and maintain trade between the UK and the EU.

Scottish Government categorisation of significance of proposals

Category A. The deficiencies that will be corrected in the Proposed SI are of a technical nature and do not include significant policy changes. The Scottish Government agrees with DEFRA on the appropriate approach. So far as the Proposed SI will make provision for the exercise of administrative functions it will do so in a manner consistent with the devolution settlement, as outlined above.

Impact on devolved areas

The subject matter of the Proposed SI is a devolved area. It is intended that the proposed changes will respect and protect the Scottish Ministers' powers under the devolution settlement, with provision made for administrative functions to be exercisable by the "appropriate Minister" (and so the Scottish Ministers in relation to

Scotland) or the Secretary of State with the consent of the devolved administrations, as outlined above.

As noted above, some of the legislation amended by the Proposed SI (EU Regulation 2160/2003) contains legislative functions (specifically, provisions conferring legislative powers on the Commission to set targets for the reduction of the prevalence of zoonotic agents). Those provisions will be amended by a separate UK Transfer of Functions SI that will be notified to the Scottish Parliament at a later date.

Summary of stakeholder engagement/consultation

There has been no formal stakeholder engagement or consultation in relation to the Proposed SI as there will be no change to policy and no operational or financial impact is anticipated.

A note of other impact assessments, (if available)

An impact assessment has not been carried out in relation to the Proposed SI as it is aimed at generally preserving the effect of the current regime.

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

It is the view of the Scottish Government that the amendments in the Proposed SI are needed to ensure that Scottish Ministers can continue to deliver national salmonella controls in the same way after the UK's EU exit as they can now.

In the current circumstances, where there is existing directly applicable EU law having effect throughout the UK that requires to be amended to prepare for a no-deal exit from the EU, the Scottish Ministers consider that it is appropriate for fixing legislation to be made on a UK-wide basis by the UK Government. This is particularly the case in circumstances where the Proposed SI will protect Scottish Ministers' interests under the devolution settlement as outlined above. Doing so will also avoid unnecessary duplication of effort and resource, and ensure that existing controls will continue to apply UK-wide thereby providing clarity and certainty to stakeholders and delivery partners.

Where relevant – detail how Scottish Ministers have had regard to the guiding principles on animal welfare and the environment

The Proposed SI's amendments do not change existing policy, but are necessary to ensure that existing controls on food-borne zoonotic agents can continue to be implemented in the UK should we leave the EU under a 'no deal' scenario. The EU legislation in question which has been made with the guiding principles on animal welfare and the environment in mind, requires for example the collection and sampling of faecal and dust samples at predetermined intervals in the production cycle, in order that they can be tested in laboratories for the presence of salmonella serotypes. It has no direct impact on the welfare of farmed stock. The amendments that will be

introduced by the Proposed SI will make modifications needed to generally preserve the application of existing EU arrangements and will as such continue to give sufficient regard to the guiding principles on animal welfare (in particular that regard must be given to the welfare requirements of animals as sentient beings).

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

The proposed SI is subject to the negative procedure and will be laid for sifting at Westminster on 20th November. We are working with Defra on the basis no EU Exit SIs will proceed to be made until after they have been through the consent process agreed with the Scottish Parliament.

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

The Scottish Parliament does have 28 days to consider and respond to this notification.

Information about any time dependency associated with the proposal

N/A.

Any significant financial implications?

These proposed SI is not expected to have any financial implications, including for stakeholders in Scotland.

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

There are no anticipated broader governance issues anticipated with the Proposed SI and the SG will continue its good working relationships with UK Government and the other Devolved Administrations. The Proposed SI will simply make a number of necessary amendments to ensure the continued operation of established public health controls in the UK.

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