

UK MINISTERS ACTING IN DEVOLVED AREAS

122 - The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2019

Laid in the UK Parliament: 14 February 2019

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	N/A
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 64
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

Commentary

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018.

These Regulations amend retained EU law which protects human health against zoonotic disease (in particular, salmonella) so that it will continue to be operable after the UK leaves the EU. Zoonotic diseases are those that may transfer from animals to humans.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 19 February 2019 regarding the effect of these Regulations:

1. This written statement has been re-issued due to the Regulations being laid by the UK Government to the sifting committee on 20 November 2018, cleared by the sifting committee on 7 December 2018,

withdrawn, and re-laid on 11 February 2019. This was due to additional provisions which were added post laying as a result of the devolved administrations expressing preference for the provisions to be drafted to transfer legislative functions from the European Commission to the UK so that these functions would rest with each administration, rather than with the Secretary of State.

2. The statement states the following:

*“In terms of the impact on the Assembly’s legislative competence, functions transferred to the Secretary of State exercised concurrently with the consent of the Welsh Ministers may constitute functions of a Minister of the Crown for the purposes Schedule 7B [sic] to the Government of Wales Act 2006. **This therefore may be a relevant consideration in the context of the Assembly’s competence to legislate in the future in these areas.** [emphasis added]*

*Functions transferred to the Secretary of State but which are only exercisable with the consent of the Welsh Ministers constitute functions of a Minister of the Crown for the purposes of Schedule 7B to Government [sic] of Wales Act 2006. **A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UK Government.**” [emphasis added]*

3. Standing Order 30C.3(ii) requires the written statement to “specify the impact the statutory instrument may have on the Assembly’s legislative competence and/or the Welsh Ministers’ executive competence”. This statement (and in particular the sentences highlighted above) suggests rather than specifies.

4. Clarification was sought by the Committee on a similar point in relation to the Nutrition (Amendment etc.) (EU Exit) Regulations 2019. In her response of 7 February 2019 to the Committee’s letter of 31 January 2019, the Minister referred to her response to queries raised in relation to the Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2018. Here, the Minister states:

“Welsh Government officials are in contact with the Wales Office about the unintended restrictions on the Assembly’s competence created by powers conferred in EU Exit SIs and other legislation, which engages paragraphs 8, 10 and 11 of Schedule 7B of the Government of Wales Act. Officials are examining the issue in detail and considering how it can best be resolved. The Welsh Government will keep the National Assembly, including the Constitutional and Legislative Affairs Committee, informed about the progress of these discussions.”

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.