POLICY NOTE

The Agriculture Market Measures (EU Exit) (Scotland) (Amendment) Amendment Regulations 2019

SSI 2019/89

The above instrument was made in exercise of the powers conferred by paragraph section 2(2) of the European Communities Act 1972. The instrument is subject to negative procedure.

Although the instrument is being made to prepare for EU Exit it is not being made under the European Union (Withdrawal) Act 2018. Therefore, the SSI protocol does not apply and the SSI is not subject to the requirement for sifting by committee to determine the appropriate procedure.

The appropriate procedure is set out in paragraph 2 of Schedule 2 of the European Communities Act 1972, under which the instrument is made, nor are the written statements made under the terms of EUWA or the protocol between Scottish Ministers and the Scottish Parliament considered appropriate.

Purpose of the Instrument
To rectify an error in the Agriculture Market Measures (EU Exit) (Scotland)(Amendment) Regulations 2019 (S.S.I. 2019/73).

The error is in relation to the Beef and Veal Labelling (Scotland) Regulations 2010 (S.S.I. 2010/402), and rectification will ensure that those regulations comply with EU law as it will be immediately before exit day.

Policy Objectives

The Scottish Ministers intend to update EU derived domestic law in Scotland to ensure that it property implements EU law before exit day, and to amend that law on exit day in order to ensure that there are no deficiencies in the operation of domestic law as regards Scotland from that date.

Regulation 5 of the Agriculture Market Measures (EU Exit) (Scotland) (Amendment) Regulations 2019 (the "2019 Regulations") prospectively amends the Beef and Veal Labelling (Scotland) Regulations 2010 (the "2010 Regulations"), with the purpose of updating cross-references to EU regulations in regulation 4 of the 2010 Regulations.

The Delegated Powers and Law Reform Committee of the Scottish Parliament noted in its meeting papers of 12 March 2019 that there is an error in regulation 5 of the 2019 Regulations.

If not corrected by 27 March 2019 that error will have the unintended effect of revoking on 28 March 2019 the provision in regulation 4 of the 2010 Regulations that makes it an offence to fail to comply with Article 15a of Regulation (EC) No 1760/2000 establishing a system for

the identification and registration of bovine animals and regarding the labelling of beef and beef products.

Article 15a enables additional information to be added to beef or veal labels, subject to conditions which must be complied with.

The Scottish Ministers therefore undertook to correct that error before it has effect, which is done by this instrument. It is necessary to breach the 28 day rule for that purpose.

The instrument does not reflect a change in policy.

Consultation

The instrument has no effect other than to take out a provision made in error that would, unless corrected, repeal the new offence created on 28 February 2018 by S.S.I. 2018/391 (the 2018 Regulations). The 2018 Regulations were the subject of a food consultation, and the provision made in the 2018 Regulations remains current policy. This correction maintains current policy, in line with the consultation which has already been carried out. Therefore no purpose is served by carrying out a consultation exercise on the correction.

Impact Assessments

Full impact assessment have not been prepared for this instrument because it is a correction only aimed at preserving the effect of existing regulatory regimes. The impact on stakeholders is expected to be negligible.

Financial Effects

Mr Ewing Cabinet Secretary for the Rural Economy confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Risks

This SSI is considered low risk. Amendments do not amount to policy change.

Directorate for International Trade and Investment
Scottish Government

March 2019