



Ein cyf/Our ref: MA/LG/2452/22

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee

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21 October 2022

Dear Huw,

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

I wish to inform the Committee I am giving consent to the Secretary of State for Environment, Food and Rural Affairs to lay The Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022 (“the draft Regulations”) on 20 October 2022.

The draft Regulations will be made under the European Union (Withdrawal) Act 2018 and address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The retained EU law concerns the importation of animals and related animal products, or the transit of animals and animal products through Great Britain.

The draft Regulations modify European Union Directives, transfer functions of EU bodies within those EU Directives to the appropriate authority and amend the Trade in Animals and Related Products Regulations 2011 and the Trade in Animals and Related Products (Scotland) Regulations 2011 to update the legislative regime and implement the modifications and transfer of functions.

The Welsh Ministers will shortly be making equivalent regulations, which will create a number of regulation-making powers for the Welsh Ministers and amend the Trade in Animals and Related Products (Wales) Regulations 2011. However, I would like to draw to your attention to regulation 4(3) and 8(2) of the draft Regulations, which provide that if the Welsh Ministers give consent, the Secretary of State may exercise regulation making powers, as appropriate authority in relation to Wales.

Legislation made under the European Union (Withdrawal) Act 2018 is covered by a 'carve out' within the Government of Wales Act 2006 (Amendment) Order 2021, as such the creation of these 'concurrent-plus' functions would not impinge on the Senedd's ability to legislate in this area in future, if it so wished.

Similar functions in the sphere of Animal Health and Welfare have previously been approved on the basis there is a mutual interest for all administrations in the application of coherent disease prevention and the functions in the draft Regulations need to work for the whole of Great Britain. Furthermore, they are exercised in the context of a functioning Common UK Animal Health and Welfare Framework with clearly defined governance processes for cross-government engagement. Any policy changes or use of the powers will be discussed at the Animal Disease Policy Group, which is the governance body of this Common Framework, and where policy decisions are made by consensus.

It is important to note that the Secretary of State's ability to exercise this function depends upon the Welsh Ministers' consent. We envisage this would only happen in exceptional circumstances. This function is therefore appropriate and mirrors what already happens in other legislation and administrative processes in this policy area.

I would like to reassure this committee it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. However, in certain circumstances there are benefits in working collaboratively with the UK Government where there is a clear rationale for doing so. On this occasion, therefore, I am giving my consent to these Regulations for reasons of efficiency and expediency in future policy change and adherence to international obligations, and cross-government coordination and consistency.

The regulations will be laid in draft before the UK Parliament on 20 October 2022 to come into force the day following a debate which will take place between 11 November and 01 December.

I have written in similar terms to the Chair of the Economy, Trade, and Rural Affairs Committee.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

Lesley Griffiths AS/MS

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd