

**EXPLANATORY MEMORANDUM TO**  
**THE TRADE IN ANIMALS AND RELATED PRODUCTS (AMENDMENT) (EU**  
**EXIT) REGULATIONS 2018**

**2018 No. [XXXX]**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Act.
- 1.2 This memorandum contains information for the Committees on the UK's exit from the European Union.

**2. Purpose of the instrument**

- 2.1 The purpose of the instrument is to address failures of domestic legislation and other deficiencies arising from the withdrawal of the UK from the EU. The instrument is made under the EU (Withdrawal) Act 2018 (“the Withdrawal Act”) to amend EU-derived domestic legislation in England, Scotland and Wales in relation to trade in animal and animal related products. No policy changes are being introduced by these amendments.

***Explanations***

*What did any relevant EU law do before exit day?*

- 2.2 The domestic legislation amended by this instrument is related to imports of live animals, products of animal origin, germplasm (semen, ova, and embryos), and the non-commercial movement of pet animals and equines.

*Why is it being changed?*

- 2.3 This instrument uses powers conferred by the Withdrawal Act to make the necessary changes to ensure that the EU-derived domestic legislation will continue to operate effectively after the UK has left the EU. The amendments contained in this instrument also remove redundant references.

*What will it now do?*

- 2.4 The domestic legislation will be fully operable once the United Kingdom leaves the EU. Part 1 deals with amendment to legislation applicable in England, Scotland and Wales, whilst Part 2 deals with amendments to two England-only statutory instruments.

**3. Matters of special interest to Parliament**

***Matters of special interest to the Sifting Committees.***

- 3.1 The instrument is being laid in draft for sifting by the Sifting Committee and the Secondary Legislation Scrutiny Committee, as required by the (Withdrawal) Act. A statement regarding the use of legislative powers in that Act is contained in Part 2 of the Annex to this memorandum.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to a negative resolution procedure, there are no matters relevant to standing orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to public business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of Part 1 of this instrument is England and Wales; and Scotland. The territorial extent of Part 2 is England and Wales.
- 4.2 The territorial application of Part 1 of this instrument is England, Wales, and Scotland. The territorial application of Part 2 is England only.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to a negative resolution procedure and does not amend primary legislation no statement is required.

**6. Legislative Context**

- 6.1 This instrument amends seven EU-derived domestic statutory instruments related to imports of germplasm, animal products and live animals.
- 6.2 The instrument deals with deficiencies in retained EU law, and ensures that the UK's legal system continues to function properly after exit day.

**7. Policy background**

*What is being done and why?*

- 7.1 The instrument does not implement new policy. It amends redundant references to domestic laws and systems which will no longer be relevant once the UK leaves the EU.
- 7.2 This instrument will ensure continuity, remove barriers for trade following the UK's withdrawal from the EU. The instrument will ensure the movement of pet animals and equines to continue with minimum disruption, whilst maintaining high biosecurity and welfare standards.
- 7.3 The amendments are made in accordance with the Withdrawal Act to ensure no legislative hindrance to trade in these agricultural matters with the EU after exit.

**8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument is being made using the power in section 8 of the Withdrawal Act 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. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

**9. Consolidation**

- 9.1 None.

## **10. Consultation outcome**

10.1 The amendments in the legislation are technical in nature. There are no policy changes so no public consultation has been undertaken.

## **11. Guidance**

11.1 As no policy changes are included in the instrument no guidance specifically related to this instrument is required. However, guidance on the general aspects of future trade in this subject-matter after exit day will be considered in due course.

## **12. Impact**

12.1 There is no significant impact on business, charities or voluntary bodies.

12.2 There is no significant impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because the SI relates to maintenance of existing regulatory standards.

## **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 There is no additional impact on small businesses (employing up to 50 people) because this instrument maintains the status quo and does not introduce any policy change.

## **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is that monitoring the policy content of this legislation will take place in the course of normal departmental business.

14.2 As this instrument is made under the Withdrawal Act no review clause is required.

## **15. Contact**

15.1 Sam Beckett or Louise Hill at the Department for Food Environment and Rural Affairs Telephone: 02078955283 or email: [Samuel.Beckett@defra.gsi.gov.uk](mailto:Samuel.Beckett@defra.gsi.gov.uk) or [Louise.Hill@defra.gsi.gov.uk](mailto:Louise.Hill@defra.gsi.gov.uk)

15.2 Sarah Sheridan, Deputy Director at the Department for Food Environment and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

15.3 Lord Gardiner of Kimble, Parliamentary Under Secretary of State at the Department for Food Environment and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

# Annex 1

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/ESIC
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.  State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s.2 (2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s.2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

## **Part 2**

### **Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act**

#### **1. Sifting statement(s)**

1.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Trade in Animals and Related Products (Amendment) (EU Exit) Regulations 2018 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.

1.2 This is the case because it relates to maintenance of existing regulatory standards and addresses technical deficiencies in EU derived legislation that will arise from withdrawal.

#### **2. Appropriateness statement**

2.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Trade in Animals and Related Products (Amendment) (EU Exit) Regulations 2018 does no more than is appropriate”.

2.2 This is the case because: this instrument relates to maintenance of existing regulatory standards to ensure that domestic legislation remains operable immediately following EU exit and will not introduce any new policy.

#### **3. Good reasons**

3.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

3.2 These relate to maintenance of existing regulatory standards.

#### **4. Equalities**

4.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

4.2 The relevant Minister within the United Kingdom has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lord Gardiner of Kimble, being the relevant Minister, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

4.3 Little or no impact on equalities is expected.

## **5. Explanations**

5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.