

UK MINISTERS ACTING IN DEVOLVED AREAS

72 - The Plant Health (EU Exit) Regulations 2019

Laid in the UK Parliament: 20 December 2018

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	Not known
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 56
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 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

Council Directive 2000/29/EC (“the Plant Health Directive”) establishes a EU plant health regime which sets out controls for the import of plant material into the EU and provides for the trade and movement of plant material within and between EU Member States.

These Regulations set out the basis for the UK to operate an internal market for regulated plant material in the event of the UK leaving the EU in a ‘no deal’ scenario. This is done by providing a common list of regulated pests and plant material for England, Wales and Northern Ireland which mirrors the pests and plant material that are currently regulated under the Plant Health Directive.

The Regulations also set out amendments to deal with deficiencies in retained direct EU legislation relating to plant health, comprising EU plant health derogations (to enable them to continue to be used in line with existing practice) and EU plant health emergency decisions (to ensure that UK biosecurity continues to be protected).

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 20 December 2018 regarding the effect of these Regulations:

- In the list of retained direct EU legislation being revoked, the Welsh Government's statement includes '*Commission Implementing Decision 2013/413/EU authorising Member States to provide derogations from certain provisions of Council Directive 2000/29/EC in respect of potatoes, other than potatoes intended for planting, originating in the regions of Akkar and Bekaa of Lebanon*'. However, that decision is not listed in the Regulations as one that is being revoked. As such, it is unclear why the Welsh Government have included it in the statement.

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.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations.