

## UK MINISTERS ACTING IN DEVOLVED AREAS

### **121 - The Common Organisation of the Markets in Agricultural Products (Council Regulations) (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019**

*Laid in the UK Parliament: 13 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	Not known
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 62
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) and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

The Common Market Organisation (“CMO”) is the framework for the market measures provided for under the Common Agriculture Policy (“CAP”), providing the framework for the market support schemes set up in the various agricultural sectors. The CMOs were set up as a means of meeting the objectives of the CAP and in particular to stabilise markets, ensure a fair standard of living for agricultural producers and increase agricultural productivity. It has over time broadened out to provide a toolkit that enables the EU to manage market volatility, incentivise collaboration between and competitiveness of agricultural producers and facilitate trade.

The 2019 Regulations make amendments to various existing EU legislation which forms part of UK law relating to the CMO.

The 2019 Regulations provide operability fixes to the following policy areas: public intervention and aid for private storage, aid schemes, marketing standards, producer organisations, import and export rules and crisis measures.

The 2019 Regulations also makes the necessary operability fixes on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries. After EU Exit and without amendment, the above retained EU legislation would contain inoperable provisions that would prevent the delivery of market support schemes to the agricultural sector.

Legal Advisers agree with the statement laid by the Welsh Government dated 19 February 2019 regarding the effect of these Regulations. The statement notes that that the instrument contains provision which enables the Welsh Ministers to exercise functions with encumbrance and for the Welsh Ministers to provide consent to the Secretary of State to exercise functions in relation to Wales.

Further, functions which are transferred to the Secretary of State that are exercisable jointly with the Welsh Ministers may constitute functions of Minister of the Crown for the purposes of Schedule 7B to the Government of Wales Act 2006 ("GOWA 2006"). This may be a relevant consideration in the context of the Assembly's competence to legislate in the future in these areas.

The statement further notes, that functions transferred so that they are exercisable by the Secretary of State alone or 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 GOWA 2006. A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UK Government.

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.