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Convener of Rural Economy and Connectivity
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THE AGRICULTURE (TRANSFER OF FUNCTIONS) (EU EXIT) (No.2) REGULATIONS 2019

EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

The Scottish Parliament recommended on 12 February 2019 that The Agriculture (Transfer of Functions) (EU Exit) (No.2) Regulations 2019 should include Scottish devolved matters, as set out in the notification to the Parliament.

Since submitting the notification to you, the UK Government have now redrafted this SI, which is now named The Agriculture (Legislative Functions) (EU Exit) (No.2) Regulations 2019.

The above named SI was laid in the UK Parliament on 14 February 2019. I can now confirm that this SI varies in some respects from the original proposal but that the variation is not so significant as to need any further process.

Provisions no longer contained within this SI

It was decided by UK Government to remove some of the content which was originally intended for inclusion within this SI. Most of the removed provisions are reserved provisions and the remaining removed provisions are organics logo provisions, a non legislative function and a financial management provision.

Removed reserved provisions

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



Reserved provisions which have been removed have been previously notified as reserved, and this is not disputed by the Scottish Government. The EU Regulations and the specific articles to which the removed reserved amendments relate are noted below:

Regulation (EU) No 1308/2013

Articles 97(3); 97(4); 99; 202(3); 202(4); 202(5); 202(6); 202(7); 203; 204

Regulation (EU) No 510/2014

All notified content

Council Regulation (EU) No 1370/2013

13(1); 13(3)

Regulation (EU) No 1306/2013

62(1); 90(4)

Some of the removed reserved content is included in another Defra EU exit SI, laid on 14 Feb, the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019. The rest of the removed reserved content is intended to be included in a later Defra EU exit SI. Although this content is reserved, Defra are in regular discussion with Scottish Government officials and the other devolved administrations to provide information about that further Defra EU Exit SI.

Removed organic logo provisions

It was also decided by the UK Government to remove some of the amendments to provisions previously anticipated to be included in this SI in relation to organic logos. Some of the amendments to Council Regulation (EC) No 834/2007 previously anticipated to be included in this SI are now expected to be included in a later Defra EU exit SI. Scottish Government officials are in regular discussion with Defra and the other devolved administrations on the preparation of that SI. The articles to which the removed amendments relate are noted below.

Council Regulation (EC) No 834/2007

Article 24(1)(b);

Article 25(2).

Removed non legislative function

Article 17 of Regulation (EU) No 1308/2013 has been removed to another Defra EU exit SI, the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019 laid on 13 February. This provision is not a transfer of a legislative function in itself, rather it is a reference to rules made under legislative functions in other articles, hence is better located in the other SI.

Removed financial management provision

Art 62(2) of Regulation 1306/2013 has been removed to another SI, the Agriculture (Legislative Functions) (EU Exit) Regulations 2019, laid on 13 February 2019, as this SI contained the bulk of the changes to Regulation 1306/2013.

Provisions now contained within this SI not previously notified

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As well as the amendments noted above, there have also been additions to the content of this SI since date of notification. All of the additional functions being transferred in amendments to these regulations are considered to fall within devolved competence.

The content which has been added is noted below – a detailed breakdown of which function this legislation transfers is shown in Annex A.

Regulation (EU) No 1308/2013

Articles 24(4); 35; 57; 87(2); 221(2)

Regulation (EU) No 1370/2013

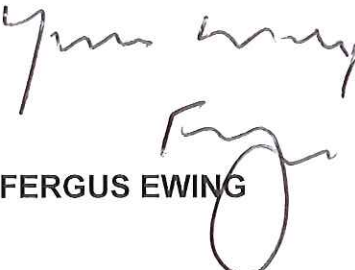
Article 3(2)

Regulation (EU) 2014/1144

Article 22(10)

Additionally, the function in article 4(3) has been amended (see Annex A).

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.


FERGUS EWING