

## UK MINISTERS ACTING IN DEVOLVED AREAS

### 003 - The Animal Health, Plant Health, Seeds and Seed Potatoes (Miscellaneous Amendments) Regulations 2021

Laid in the UK Parliament: 3 November 2021

#### Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Made negative
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	N/A
Date sifting period ends in UK Parliament	N/A
SICM under SO 30A (because amends primary legislation)	Not required

#### Scrutiny procedure

Outcome of sifting	N/A
Procedure	Made negative
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

#### Background

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.

#### Summary

The purpose of these Regulations is to address failures of retained EU law to operate effectively following the withdrawal of the UK from the EU. This will ensure that plant and animal health controls can operate effectively to protect biosecurity and support trade between Great Britain and the relevant third countries.

The Regulations make amendments to secondary legislation to correct deficiencies relating to plant health, seeds and seed potatoes which have arisen as a result of the withdrawal of the UK from the EU.

The Regulations also correct errors in various statutory instruments.

### **Statement by Welsh Government**

The Welsh Government's statement states that the Regulations:

*"...confer functions on the National Plant Protection Organisation of the United Kingdom. These functions may constitute functions of a reserved authority for the purposes of paragraph 8(1) of Schedule 7B to the Government of Wales Act 2006 and as such represent a potential restriction on the future competence of the Senedd."*

The statement does not identify which legislative powers of the Senedd or executive powers of the Welsh Ministers are affected by this instrument. Legal advisers recommend that clarification is sought as to which devolved powers are affected and how the Regulations represent a potential restriction on the future competence of the Senedd.

### **Intergovernmental Agreement on the European Union (Withdrawal) Bill**

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

As it is unclear from the Welsh Government's statement dated 26 October 2021 the impact the Regulations may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence, Legal Advisers have been unable to assess whether 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.