

POLICY NOTE

THE IMPORTATION OF ANIMALS AND RELATED PRODUCTS (MISCELLANEOUS AMENDMENT AND REVOCATION) (SCOTLAND) ORDER 2023

SSI 2023/391

The above instrument was made in exercise of the powers conferred by sections 1, 10(1) and (2), 29, 87(2) and 88(2) of the Animal Health Act 1981⁽¹⁾.

The instrument is subject to *no procedure*.

Summary Box

This instrument amends or revokes several orders having effect under the Animal Health Act 1981 which prohibit the importation of animals or animal products except under authority of a licence. The SSI is being made to coincide with coming into force of sections 2 and 3 of the Retained EU Law (Revocation and Reform) Act 2023 which change the status of retained EU law, in order to clarify and preserve the current application of these orders and revoke those orders which had become unnecessary.

Policy Objectives

A number of orders having effect under the Animal Health Act 1981 prohibit, except under licence, imports of animals and animal products. The application of the supremacy of EU law, and the subordination of domestic enactments to retained direct EU law on imports of animals and animal products, has meant that some of these prohibitions did not apply and were unnecessary to protect animal health.

Without the principle of supremacy, the import of the animals and animal products covered by those orders, which can currently either be freely imported into Scotland from outside Great Britain or are authorised for import into Scotland, provided they meet conditions in retained direct EU law, may be prohibited unless also done under licence.

This instrument addresses the effects the change in status of EU law will have on these orders by amending or revoking several orders made or having effect under the Animal Health Act 1981 which prohibit the importation of animals and related products, except under the authority of a licence.

The instrument amends the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974, which regulates the importation into Great Britain of certain orders of mammals. It amends that order to provide that the prohibition on landing does not apply to dogs, cats and ferrets which come from territories and meet health requirements for importation provided for in Commission Implementing Decision (EU) 2019/294 and Directive 92/65/EC and given effect by the Trade in Animals and Related Products (Scotland) Regulations 2012

(1) 1981 c. 22. The power to make Orders was originally conferred on “the Ministers” as defined in section 86(1) of that Act. The functions of the Ministers were, insofar as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

The instrument amends the Importation of Animals Order 1977, which regulates the importation into Great Britain of ruminating animals, swine and elephants. It amends that order to provide that the prohibition on landing such animals, otherwise than under a licence, does not apply where the authorisation for importation of such animals is provided for in retained direct EU legislation.

The instrument amends the Importation of Birds, Poultry and Hatching Eggs Order 1979, which regulates the importation into Great Britain of poultry, hatching eggs and captive birds. It amends that order to provide that the prohibition on landing poultry, hatching eggs and captive birds, otherwise than under a licence, does not apply where the authorisation for importation is provided for in retained direct EU legislation.

The instrument amends the Importation of Embryos, Ova and Semen Order 1980, which regulates the importation into Great Britain of the embryos, ova and semen of any mammal (except humans) and the semen of poultry. It amends that order to provide that the prohibition on landing embryos, ova and semen, otherwise than under a licence, does not apply where the authorisation for importation is provided for in retained direct EU legislation.

The instrument amends the Importation of Animal Products and Poultry Products Order 1980 which prohibits the importation into Great Britain of animal and poultry products otherwise than under a licence. It amends that Order to provide that the prohibition does not apply to animal and poultry products imported from Northern Ireland.

The instrument revokes the Hares (Control of Importation) Order 1965, the Importation of Processed Animal Protein Order 1981, the Importation of Salmonid Viscera Order 1986. The current application of these orders has been superseded by other applicable legislation.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

There is no statutory duty to consult, and policy officials have concluded that a consultation is not necessary.

Impact Assessments

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

Financial Effects

The Minister for Energy and the Environment confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government

Agriculture and Rural Economy Directorate
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