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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**The Agriculture (Legislative Functions)  
(EU Exit) (No.2) Regulations 2019**

**PART 2**

**Common Market Organisation Amendments**

**Amendment of Regulation (EU) No 1308/2013**

37. For Articles 227 to 229 substitute—

*“Article 227*

*Regulations*

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.
2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010<sup>(1)</sup>.
3. Any power of the Department of Agriculture, Environment and Rural Affairs or Department of Health to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979<sup>(2)</sup>.
4. Regulations under this Regulation may—
  - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
  - (b) make different provision for different purposes.

*Article 228*

*Regulations: the Secretary of State*

1. Except as specified in paragraphs 2 to 6, a statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
2. A statutory instrument containing regulations made by the Secretary of State under Article 221(1) or (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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(1) 2010 asp. 10.

(2) S.I. 1979/1573 (N.I. 12).

3. A statutory instrument containing regulations made by the Secretary of State under Article 219, 220(1) or (2) or 221(2) must be laid before each House of Parliament after being made.

4. Regulations made by the Secretary of State under any of the Articles specified in paragraph 3 cease to have effect at the end of the period of 28 days beginning with the day on which the instrument containing them is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.

5. In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which Parliament is:

- (a) dissolved or prorogued, or
- (b) during which either House of Parliament is adjourned for more than 4 days.

6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

7. The Secretary of State may not make regulations under any of the provisions specified in paragraph 8 without the consent of the relevant authorities for Wales, Scotland and Northern Ireland.

8. Where any of the relevant authorities for Wales, Scotland or Northern Ireland requests the Secretary of State to make regulations under any of the provisions specified in paragraph 6, the Secretary of State must have regard to that request.

9. The specified provisions are:

- (a) Article 80(4) and (5);
- (b) Article 83(4)(b);
- (c) Article 147(3) and (4).

#### *Article 228A*

##### *Regulations: the Welsh Ministers*

1. Except as specified in paragraphs 2 to 6, a statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of National Assembly for Wales.

2. A statutory instrument containing regulations made by the Welsh Ministers under Article 221(1) or (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

3. A statutory instrument containing regulations made by the Welsh Ministers under Article 219, 220(1) or (2) or 221(2) must be laid before the National Assembly for Wales after being made.

4. Regulations made by the Welsh Ministers under any of the Articles specified in paragraph 3 cease to have effect at the end of the period of 28 days beginning with the day on which the instrument containing them is made unless, during that period, the instrument is approved by a resolution of the National Assembly for Wales.

5. In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which the National Assembly for Wales is:

- (a) dissolved, or
- (b) in recess for more than 4 days.

6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

#### *Article 229*

##### *Regulations: the Scottish Ministers*

1. Except as specified in paragraphs 2 to 6, regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

2. Regulations made by the Scottish Ministers under Article 221(1) or (4) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

3. A statutory instrument containing regulations made by the Scottish Ministers under Article 219, 220(1) or (2) or 221(2) must be laid before the Scottish Parliament after being made.

4. Regulations made by the Scottish Ministers under any of the Articles specified in paragraph 3 cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament.

5. In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which the Scottish Parliament is:

- (a) dissolved, or
- (b) in recess for more than 4 days.

6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.

#### *Article 229A*

##### *Regulations: Northern Ireland*

1. Except as specified in paragraphs 2 to 6, regulations made by the Department of Agriculture, Environment and Rural Affairs or the Department of Health under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(3) as if they were a statutory instrument within the meaning of that Act.

2. Regulations may not be made by either Department under Article 221(1) or (4) unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.

3. Regulations made by either Department under Article 219, 220(1) or (2) or 221(2) must be laid before the Northern Ireland Assembly after being made.

4. Regulations made by either Department under any of the Articles specified in paragraph 3 cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by a resolution of the Northern Ireland Assembly.

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(3) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

5. In calculating the period of 28 days for the purposes of paragraph 4, no account is to be taken of any time during which the Northern Ireland Assembly is:

- (a) dissolved,
- (b) in recess for more than 4 days, or
- (c) adjourned for more than 6 days.

6. If regulations cease to have effect as a result of paragraph 4, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.”.