

# **Report on the Statutory Instrument Consent Memorandum for The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022**

December 2022



## 1. Background

- 1.** The UK Government laid a draft of The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 (the Regulations)<sup>1</sup> before the UK Parliament on 20 October 2022.
- 2.** Standing Order 30A states that a member of the government must lay a Statutory Instrument Consent Memorandum in relation to any statutory instrument, or a draft statutory instrument, laid before the UK Parliament by UK Ministers which makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd (“relevant provision”).
- 3.** On 21 November, Lesley Griffiths MS, the Minister for Rural Affairs and North Wales, and Trefnydd (the Minister), laid before the Senedd a Statutory Instrument Consent Memorandum (the Memorandum)<sup>2</sup> for the Regulations, in accordance with Standing Order 30A.
- 4.** The Minister wrote to notify us and the Economy, Trade and Rural Affairs Committee of the Memorandum.<sup>3</sup> The Minister apologised for a delay in its laying, and stated that a statutory instrument consent memorandum “ought to have been laid rather than the Written Statement” under Standing Order 30C laid on 21 October in respect of the Regulations.<sup>4</sup>
- 5.** The Minister requested in her letter that both committees report to the Senedd by 12 December:

*“You will wish to be aware the draft Regulations are subject to the affirmative procedure in the UK Parliament and are expected to come into force on 13 December. In this instance, therefore, given the delay in the laying of the SCIM, there isn't sufficient time before the Regulations are due to come into force for the 35-day reporting period to be observed. I can only apologise again for this. Consequently, I would ask, therefore, should your Committees*

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<sup>1</sup> [The Animals and Animal Health, Feed and Food, Plants and Plant Health \(Amendment\) Regulations 2022 \(draft\)](#)

<sup>2</sup> [Welsh Government Statutory Instrument Consent Memorandum: The Animals and Animal Health, Feed and Food, Plants and Plant Health \(Amendment\) Regulations 2022](#)

<sup>3</sup> [Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 21 November 2022](#)

<sup>4</sup> See [WS-30C\(6\)016 – The Animals and Animal Health, Feed and Food, Plants and Plant Health \(Amendment\) Regulations 2022](#). This statement was withdrawn and replaced by [WS-30C\(6\)020 – The Animals and Animal Health, Feed and Food, Plants and Plant Health \(Amendment\) Regulations 2022](#).

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*wish to consider the SICM, you please report to the Senedd no later than 12 December."*

**6.** The Minister also stated in her letter that she was "not minded" to table a motion for debate in plenary in respect of the Regulations as they address "minor" EU-exit related deficiencies. The Minister also said that:

*"SO30A provides that any Member of the Senedd may table a motion for a debate on this Statutory Instrument after relevant Committees have reported."*

## 2. The Statutory Instrument Consent Memorandum

**7.** The primary objective of the Regulations is to amend retained direct European Union (EU) law relating to official controls and animal and plant health, to ensure that the laws operate effectively following the UK's withdrawal from the EU.

**8.** The Memorandum states that:

*"This instrument addresses minor EU Exit related deficiencies, further deficiencies not anticipated at the time of withdrawal from the EU and ensures the functioning of a Great Britain (GB)-wide imports regime. It would seem appropriate for a single set of GB wide amendments to be made as they need to work for the whole of the UK, or Great Britain(where there is freedom of movement), to ensure there are common standards and to minimise disruptions to traders, local authorities, and inspection agencies alike."<sup>5</sup>*

**9.** The Regulations to which the Memorandum relates are subject to the draft affirmative procedure, with provisions coming into force on 13 December 2022.

**10.** Paragraph 10 of the Memorandum states that part 5, paragraph 20, of the Regulations includes a relevant provision "that makes a minor amendment to section 29 of the *Plant Varieties and Seeds Act 1964*".

**11.** Paragraph 12 of the Memorandum sets out why, in the view of the Welsh Government, it is appropriate for the Regulations to make that provision. In particular the Memorandum states

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<sup>5</sup> Statutory Instrument Consent Memorandum, paragraph 8

that the Regulations represent “the most practicable and proportionate legislative vehicle to enable these provisions to apply in Wales.”

### 3. Committee consideration

**12.** We considered the Memorandum at our meeting on 5 December 2022.<sup>6</sup>

#### Our view

**13.** We acknowledge the Minister’s explanation for the delay in tabling the Memorandum.

**14.** We are content with the Memorandum but consider that the Minister should table a motion to seek the Senedd’s agreement to the inclusion of a relevant provision in the Regulations.

**Recommendation 1.** The Minister should table a motion under Standing Order 30A.10 to seek the Senedd’s agreement to the inclusion of a relevant provision in The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022.

**15.** In reaching this view we have taken into account the views of our predecessor Committee, expressed in correspondence with the Welsh Government,<sup>7</sup> and the views expressed by the Llywydd in correspondence with our predecessor Committee.<sup>8</sup> We have written on this matter to the Business Committee,<sup>9</sup> and the Llywydd has stated her intention to discuss the matter with our Chair in due course.<sup>10</sup>

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<sup>6</sup> [Legislation, Justice and Constitution Committee](#), 5 December 2022

<sup>7</sup> Constitutional and Legislative Affairs Committee, [Letter to the First Minister](#), 6 February 2019; Legislation, Justice and Constitution Committee (Fifth Senedd), [Letter to the First Minister](#), 23 October 2020

<sup>8</sup> Y Llywydd, [Letter to the Constitutional and Legislative Affairs Committee](#), 7 May 2019

<sup>9</sup> Legislation, Justice and Constitution Committee, [Letter to the Llywydd, Chair of the Business Committee](#), 23 November 2022

<sup>10</sup> [Business Committee](#), 29 November 2022, Minutes

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