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Rural Economy and Connectivity Committee Comataidh Eaconomaidh Dùthchail is Co- cheangailteachd

Subordinate Legislation considered by the Rural Economy and Connectivity Committee on 13 March 2019



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Rural Economy and Connectivity Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for the Rural Economy and the matters falling within the responsibility of the Cabinet Secretary for Transport, Infrastructure and Connectivity.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/rural-committee.aspx>



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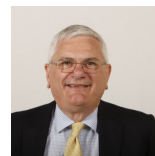
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Executive Summary

1. This report details the Rural Economy and Connectivity Committee's consideration of the following draft affirmative instruments:

- Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019;
- Forestry (EU Exit) (Scotland) (Amendment etc.) Regulations 2019;
- Forestry (Exemptions) (Scotland) Regulations 2019; and
- Forestry and Land Management (Scotland) Act 2018 (Consequential Amendments) Regulations 2019.

The Committee agreed to recommend to the Parliament that it should approve these instruments.

Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 [draft] and Forestry (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 [draft]

The Committee reports to the Parliament as follows—

2. On 4 March 2019, the Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 and Forestry (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 draft instruments were laid before the Parliament and were subject to the affirmative resolution procedure.

Purpose of the instruments

3. The purpose of the draft Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 is to correct deficiencies in domestic legislation which implements EU Directive 2000/29/EC, and its amendments, on measures to protect plant health and in retained direct EU legislation relating to plant health arising in consequence of the United Kingdom's withdrawal from the EU in a 'no deal' scenario and will come into force on exit day.
4. The purpose of the draft Forestry (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 is to make amendments to a number of pieces of secondary legislation relating to forestry plant health and environmental impact assessments relating to forestry. The majority of the amendments are making technical and minor changes to address failures of retained EU law to operate effectively. The key policy objectives are to
 - ensure that the trade in plant and plant products continues as usual, maintaining biosecurity and facilitating trade with minimal impact on business; and
 - ensure that forestry developments continue to meet environmental standards after EU Exit.
5. Earlier versions of both of these instruments were laid and withdrawn by the Scottish Government to correct a minor error noted by the legal advisers to the Delegated Power and Law Reform Committee.

Delegated Powers and Law Reform Committee consideration

6. The Delegated Powers and Law Reform (DPLR) Committee considered both instruments at its [meeting on 12 March 2019](#) and agreed not to draw the Parliament's attention to the instruments on any grounds within its remit.

Rural Economy and Connectivity Committee consideration

7. At its 9th meeting of 2019, held on 13 March, the Rural Economy and Connectivity Committee took evidence on these instruments from Fergus Ewing, Cabinet Secretary for the Rural Economy, and his officials.
8. In its discussions with the Cabinet Secretary, the Committee considered details of the timing for both sets of regulations to come into force, and Scottish Government officials also clarified that both instruments had been drafted purely to take care of the possibility of the UK leaving the EU without an EU exit deal.
9. The Cabinet Secretary subsequently moved the following motions in his name—

S5M-15963—That the Rural Economy and Connectivity Committee recommends that the Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 [draft] be approved.

S5M-15962—That the Rural Economy and Connectivity Committee recommends that the Forestry (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 [draft] be approved.
10. The Committee agreed both motions without division.
11. The [Official Report](#) of the meeting is available for further information.

Forestry (Exemptions) (Scotland) Regulations 2019; and Forestry and Land Management (Scotland) Act 2018 (Consequential Amendments) Regulations 2019

The Committee reports to the Parliament as follows—

12. The Forestry (Exemptions) (Scotland) Regulations 2019 and Forestry and Land Management (Scotland) Act 2018 (Consequential Amendments) Regulations 2019 draft instruments were laid before the Parliament on 15 March 2019 and 15 February 2019 respectively, and were subject to the affirmative resolution procedure.

Purpose of the instruments

13. The purpose of the draft Forestry (Exemptions) (Scotland) Regulations 2019 is to create exemptions to the requirement to have permission from the forestry regulator, Scottish Ministers, in order to fell trees. This means that the offence of unauthorised felling (Forestry and Land Management (Scotland) Act, s23) will not apply to felling carried out in the circumstances described in this instrument.
14. The purpose of the draft Forestry and Land Management (Scotland) Act 2018 (Consequential Amendments) Regulations 2019 is to make changes to various pieces of primary legislation that are necessary as a consequence of the Forestry and Land Management (Scotland) Act 2018.

Delegated Powers and Law Reform Committee Consideration

15. The Delegated Powers and Law Reform (DPLR) Committee considered both instruments at its [meeting on 26 February 2019](#) and agreed not to draw the Parliament's attention to the instruments on any grounds within its remit.

Rural Economy and Connectivity Committee consideration

16. At its 9th meeting of 2019, held on 13 March, the Rural Economy and Connectivity Committee took evidence on these instruments from Fergus Ewing, Cabinet Secretary for the Rural Economy, and his officials.

17. In the Committee's discussions with the Cabinet Secretary, the Scottish Government officials clarified that for the draft Forestry (Exemptions) (Scotland) Regulations 2019:
 - tree diseases other than Dutch elm disease had not been included in the regulations, as these further diseases can be dealt with through plant health legislation rather than a full-scale exemption in the regulations; and
 - entirely dead trees can be felled under these regulations, in the interests of preventing danger to the public from falling trees.
18. The Cabinet Secretary subsequently moved the following motions in his name—

S5M-15923—That the Rural Economy and Connectivity Committee recommends that the Forestry (Exemptions) (Scotland) Regulations 2019 [draft] be approved.

S5M-15922—That the Rural Economy and Connectivity Committee recommends that the Forestry and Land Management (Scotland) Act 2018 (Consequential Amendments) Regulations 2019 [draft] be approved.
19. The Committee agreed both motions without division.
20. The [Official Report](#) of the meeting is available for further information.

Recommendation

The Rural Economy and Connectivity Committee recommends to the Parliament that it approves the following draft instruments—

- Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019;
- Forestry (EU Exit) (Scotland) (Amendment etc.) Regulations 2019;
- Forestry(Exemptions) (Scotland) Regulations 2019; and
- Forestry and Land Management (Scotland) Act 2018 (Consequential Amendments) Regulations 2019.

