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01 November 2023

Dear Convener,

## **NID/016: The Windsor Framework (Non-Commercial Movement of Pet Animals) Regulations 2024**

### **EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which UK government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

NID/016 is subject to affirmative procedure and the UK Government intend to lay the instrument in draft on 4 December 2023. The instrument provides a legislative basis for the Windsor Framework non-commercial movement of pet animals scheme which will allow pets (dogs, cats and ferrets) moving from Great Britain to Northern Ireland to do so with significantly reduced requirements than those that were required under the Northern Ireland Protocol.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

As matters stand, a response from the Committee is requested by 30 November 2023. Such a timescale would allow the Scottish Parliament 28 days to scrutinise the instrument prior to the laying of this instrument in the UK Parliament.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gillian Martin', written in a cursive style.

**GILLIAN MARTIN**

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## NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Windsor Framework (Non-Commercial Movement of Pet Animals) Regulations 2024 – (NID/016)

### Is the notification Type 1 or Type 2

Type 1

#### **A brief overview of the SI (including reserved provision).**

The Windsor Framework (Non-Commercial Movement of Pet Animals) Regulations 2024 establishes a scheme for the non-commercial movement of pet animals in line with the provisions of Article 12 of [Regulation \(EU\) 2023/1231](#) of the European Parliament and of the Council of 14 June 2023 on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland.

The SI provides a legislative basis for the Windsor Framework non-commercial movement of pet animals scheme which will allow pets (dogs, cats and ferrets) moving from Great Britain to Northern Ireland to do so with significantly reduced requirements than those that were required under the Northern Ireland Protocol. It will extend to England and Wales, Scotland and Northern Ireland. In so far as it makes provision in relation to the regulation of movement of animals out of Scotland for the purposes of protecting human and animal health, it relates to devolved matters.

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU because it gives effect to aspects of the Windsor Framework agreement between the UK and the EU on the operation of the Northern Ireland Protocol.

The SI will be made using the affirmative procedure and is to be laid in draft on 4 December 2023 and is intended to come into force 29 January 2023.

The SI is made in exercise of powers conferred by section 8C(1) and (2) and paragraph 21 of schedule 7 of the European Union Withdrawal Act 2018.

#### **Details of the provisions that Scottish Ministers are being asked to consent to.**

The SI will make the following provisions:

- It will require a pet travelling from Great Britain to Northern Ireland to be accompanied by a pet travel document and a declaration. It will require entries in the application for a pet travel document to be verified by a

competent authority in accordance with Article 12(2) of Regulation (EU) 2023/1231 before any document can be issued.

- It will require checks to be performed by a competent authority in accordance with Article 12(1)(f) of Regulation (EU) 2023/1231 in relation to pet animals and the documents that must accompany those animals when travelling from Great Britain to Northern Ireland.
- It will prescribe the process where non-compliance associated with the movement of pet animals from Great Britain to Northern Ireland is identified. It will provide for suspension from the scheme in cases of non-compliance, and prescribes the process for reviewing a decision to suspend.
- It will include provisions relating to database operators, including the powers of competent authorities to request information held by those operators. This includes a pet's microchip record and specific information relating to the details contained in the pet travel document. It will provide for an offence, punishable on summary conviction, for database operators who fail to comply with such a request for information. The maximum penalty for an offence will be a fine not exceeding level 4 on the standard scale. This is consistent with the offences created by the Microchipping of Dogs (Scotland) Regulations 2016.
- It will provide that the competent authority in relation to Scotland, will be the Scottish Ministers, with powers for the Scottish Ministers to designate another organisation or body to carry out checks on pet animals being moved.

In so far as the provisions extend to Scotland, the provisions relate to devolved matters, and the consent of the Scottish Ministers is sought for their inclusion in the instrument.

### **Summary of the proposals**

The SI provides a legislative basis for the Windsor Framework non-commercial movement of pet animals scheme. The Windsor Framework was agreed by the UK and EU in February 2023. The Windsor Framework made fundamental changes to the Northern Ireland Protocol. It puts in place a new, sustainable and durable framework for the movement of pets for non-commercial reasons. Specifically, the Windsor Framework non-commercial movement of pet animals scheme enables UK-based pet owners to travel to Northern Ireland with their pets (dogs, cats and ferrets) without the need for pet health treatments or the complex single-use pet travel certificates.

The SI establishes the requirements that must be met for a pet animal to travel under the scheme. It requires pet owners (or those travelling with a pet animal) to apply for a pet travel document and make a declaration that the pet animal will not subsequently be moved into the EU. When applying for the document, pet owners will need to supply specific information required in implementing acts adopted by the EU under Regulation (EU) 2023/1231 to the relevant competent authority.

It allows the relevant competent authority to request certain information from commercially owned pet microchip databases to ensure compliance with the scheme. This includes a pet's microchip record and specific information relating to the details contained in the pet travel document. If a request from the competent authority is not met by a pet microchip database operator (such as a refusal to provide information) that will be an offence punishable on summary conviction. This is to ensure reliable access to information contained in the pet microchip databases to enable the competent authorities to undertake their necessary assurance duties.

The SI permits the competent authority to carry out pet identity and documentary compliance checks in accordance with the requirements of Regulation (EU) 2023/1231. Where a non-compliance is identified, the pet must be presented at the Sanitary and Phytosanitary (SPS) Inspection Facility in Northern Ireland for the non-compliance to be remedied. If the competent authority believes that the pet owner or authorised person has failed to present their pet at the SPS Inspection Facility, it may serve a notice on them suspending them from the scheme.

The Windsor Framework non-commercial movement of pet animals scheme does not apply to pet animals which do not originate in the UK, for example those owners and pets whose journey originates outside of the UK that are travelling to Northern Ireland via Great Britain. The scheme also does not apply to the movement of dogs, cats and ferrets for commercial reasons, including where there is a change in ownership or sale.

#### **Does the SI relate to a common framework or other scheme?**

No.

#### **Summary of stakeholder engagement/consultation**

The UK Government has considered and reflected engagement with interested stakeholders through user research with pet owners, ferry and airline companies operating travel routes between GB and NI and commercially owned pet microchip database operators, in drafting these Regulations. However, there has been no formal consultation.

#### **A note of other impact assessments, (if available)**

The UK Government have advised that there is no, or no significant, impact on private, voluntary or public sector is foreseen.

#### **Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation**

The SI takes account of devolved competence. The Scottish Ministers are the competent authority for the Windsor Framework non-commercial movement of pet animals scheme in relation to Scotland.

It would not be possible for Scottish Ministers to make provision for the aspects of the scheme which extend to Northern Ireland, or other parts of the UK. One scheme for the whole of the UK in a UK SI provides clarity and confidence for pet owners, ferry and airline companies operating travel routes between GB and NI, and commercially owned pet microchip database operators. Therefore, the Scottish Ministers consider that consenting to this SI is acceptable.

**Intended laying date (if known) of instruments likely to arise**

NDI/016 will be made using the affirmative procedure and is to be laid in draft on 4 December 2023 to come into force 29 January 2023.

**If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?**

The Scottish Parliament will have 28 days to scrutinise the Scottish Ministers proposal to consent.

**Information about any time dependency associated with the proposal**

Not applicable

**Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?**

None

**Any significant financial implications?**

No significant financial implications.

## SI NOTIFICATION: SUMMARY

<b>Title of Instrument</b>
The Windsor Framework (Pet Travel Scheme) Regulations 2024 (NID/016)
<b>Proposed laying date at Westminster</b>
4 December 2023
<b>Date by which Committee has been asked to respond</b>
30 November 2023
<b>Power(s) under which SI is to be made</b>
The instrument is made in exercise of powers conferred by section 8C(1) and (2) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018
<b>Categorisation under SI Protocol</b>
Type 1
<b>Purpose</b>
NID/016 implements aspects of the Windsor Framework relating to the non-commercial movement of pet animals. Specifically, NID/016 provides the legislative basis for the Windsor Framework non-commercial movement of pet animals scheme and establishes requirements in order for pets (cats, dogs and ferrets) to be able to move via the scheme.
<b>Other information</b>
The changes are necessary to implement the Windsor Framework which was agreed by the UK and the EU in February 2023.
<b>SG Policy contact:</b>
Eilidh Wallace ( <a href="mailto:eilidh.wallace@gov.scot">eilidh.wallace@gov.scot</a> ) Animal Health and Welfare Division: Disease Control Agriculture and Rural Economy Directorate