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The Presiding Officer
c/o The Chamber Desk
Room G10
Scottish Parliament
Edinburgh
EH99 1SP

3 December 2019

Dear Presiding Officer,

THE OFFICIAL CONTROLS (AGRICULTURE ETC.) (SCOTLAND) REGULATIONS 2019 (SSI 2019/412)

The Official Controls (Agriculture etc.) (Scotland) Regulations 2019 (the Regulations) were made by the Scottish Ministers under section 2(2) of the European Communities Act 1972 this afternoon, and are being laid before the Scottish Parliament today with a coming into force date of 14 December 2019.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, it has not been possible to comply with this requirement. In accordance with the requirements of section 31(3) of that Act, this letter explains why this requirement has been breached.

The Regulations partially implement the Official Controls Regulation (EU) 2017/625 (the OCR) in respect of official controls and other official activities carried out on genetically modified organisms, animals, animal by-products and derived products. The OCR is a significant piece of EU legislation, and is a component of the wider Smarter Rules for Safer Food (SRSF) package that creates a single framework for all official controls and other official activities along the agri-food chain.

These Regulations repeal and replace The Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007, which had implemented the previous EU official controls regime. Separate but parallel legislation is also being made by Food Standards Scotland (in an instrument laid before the Scottish Parliament on 28 November 2019) and Scottish Government Plant Health division to implement the food and feed and plant health elements of the OCR, for which they have respective lead policy responsibility.

Implementation of the OCR in Scotland and the rest of the UK has been complicated by the continued uncertainty related to the timing of the UK's exit from the EU. It was only following



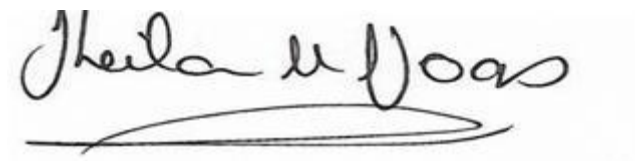
agreement to further extend Article 50 until the end of January 2020 that there was certainty that the UK would be legal required to implement the OCR by 14 December 2019.

These complexities, coupled with the significant challenge and prioritisation of resources associated with ensuring the necessary fixes to the EU law were in place for a possible no-deal EU Exit on 31 October 2019, has meant the necessary work to prepare for implementation in Scotland has been undertaken in shorter-than-normal timescales.

There has also been a need to align implementation of the instrument with the equivalent legislation being prepared by the other UK administrations, which were faced with similar challenges. As a result, under these challenging circumstances, it has not been possible for us to comply with the 28 day rule.

Preparation of the above regulations has been further complicated by delays at EU level in agreeing and publishing some of the relevant tertiary legislation.

The Scottish Government and Food Standards Scotland acknowledge the difficulties that breaching the 28 day rule poses in terms of Parliamentary scrutiny, and regret that on this occasion it has not been possible to comply with this requirement.

A handwritten signature in black ink, reading "Sheila M Voas", with a horizontal line underneath.

Sheila Voas
Chief Veterinary Officer (Scotland)