

UK MINISTERS ACTING IN DEVOLVED AREAS

182 – Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2020
Laid in the UK Parliament: 12 October 2020

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Draft affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	NA
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	NA
Date sifting period ends in UK Parliament	NA
Written statement under SO 30C:	Paper 89
SICM under SO 30A (because amends primary legislation)	Not required
Scrutiny procedure	
Outcome of sifting	NA
Procedure	Draft affirmative
Date of consideration by the Joint Committee on Statutory Instruments	21/10/20
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	27/10/20

Background

The Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2020 (“the Regulations”) are proposed to be made by the UK Government pursuant to sections 8(1) and 8C of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (“the 2018 Act”).

Summary

The Regulations are subject to the procedure, and amend retained EU legislation and existing United Kingdom legislation (including legislation previously made under the 2018 Act), relating to the control and movement, release and marketing of genetically modified organisms. These amendments are needed to implement the Protocol on Ireland/Northern Ireland in the Withdrawal Agreement.

Prior to exit day, various secondary legislation made minor and technical changes to ensure that retained EU legislation and domestic UK legislation enforcing it would continue to work effectively. References to the EU, EU institutions and EU administrative processes were changed to UK equivalents and legal references updated to refer to the relevant UK legislation. Since those pieces of secondary legislation were made, the UK and

the EU adopted the Withdrawal Agreement including the Protocol. EU legislation on GMOs mentioned above (together with legislation made under it) is included in Annex 2 to the Protocol as follows:

- Regulation (EC) No 1830/2003;
- Regulation (EC) No 1946/2003;
- Part C of Directive 2001/18/EC.

The inclusion of this EU legislation in Annex 2 to the Protocol means further changes are needed to ensure that the UK's obligations under the Protocol are given effect and that retained EU legislation and domestic legislation enforcing it in Great Britain will continue to work effectively. Changes need to be made to references to the UK, UK institutions and UK administrative processes and UK legislation to refer to GB equivalents.

For this purpose, the Regulations amend:

- the Genetically Modified Organisms (Amendment) (England) (EU Exit) Regulations 2019 (S.I. 2019/88);
- the Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/90);
- the Food and Farming (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/759);
- the Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/778).

The Regulations also makes a minor amendment to one piece of EU legislation (Regulation (EC) NO 1830/2003), which was transferred into UK law, that is, retained direct EU legislation (as it applies in Great Britain). This formally cancels a provision in that legislation which grants powers to adopt Delegated Acts on the EU Commission and will be of no practical application in Great Britain after the end of the transition period.

Statement by Welsh Government

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 15 October 2020 regarding the effect of these Regulations:

- (1) Whilst the following EU instruments clearly form part of the overall regime for the use and control of genetically modified organisms, it is unclear why they are listed in the statement as being amended by the Regulations having regard to both the Regulations themselves and the accompanying Explanatory Memorandum: Part C of Directive 2001/18; Council Decision 2003/701/EC; Council Decision 2002/813/EC, and Commission Decision 94/730/EC. The other EU instruments listed are amended by the Regulations (albeit indirectly in that the Regulations are amending existing EU exit regulations as listed above).
- (2) Commission Regulation (EC) No 65/2004 is amended (indirectly) by paragraph 4 of the Schedule to the Regulations, but is not listed in the statement as an instrument that is being so amended.

(3) The statement lists the Animal Health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019 as being amended by the Regulations, but such amendment cannot be identified from the Regulations themselves or the accompanying Explanatory Memorandum.

Intergovernmental Agreement on the European Union (Withdrawal) Bill

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.