



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020**

DATE **30 October 2020**

BY **Rebecca Evans MS, Minister for Finance and Trefnydd**

SO30C – Notification in Relation to Statutory Instruments made by UK Ministers in devolved areas under the European Union (Withdrawal) Act 2018 not laid before the Senedd

The Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020

The purpose of the amendments

The 2020 Regulations amend the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/720) to ensure that UK chemicals and genetically modified organisms legislation will continue to operate effectively in conjunction with the Withdrawal Agreement at the end of the transition period.

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here:

<https://www.legislation.gov.uk/ukdsi/2020/9780348213409/introduction>

Any impact the SI may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence

The UK Chemicals regime covers both devolved and reserved matters, as it has been designed to protect the health and safety of workers (a reserved matter in Wales and Scotland) as well as public health and the environment (which are devolved). Import and export controls are also reserved for chemicals other than fertilisers and pesticides, as is animal testing for scientific purposes.

The 2020 Regulations confer functions on the Welsh Ministers without encumbrance.

The 2020 Regulations confer a Regulation making function on the Secretary of State the exercise of which is subject to the consent of Ministers in the devolved administrations. The function constitutes a function of a Minister of the Crown for the purposes Schedule 7B to the Government of Wales Act 2006. A future Senedd Bill seeking to remove or modify the function could trigger a requirement to consult the UK Government.

The 2020 Regulations confer technical reporting functions on the Health and Safety Executive that constitute functions of a public authority other than a devolved Welsh Authority for the purposes Schedule 7B to the Government of Wales Act 2006. This therefore may be a relevant consideration in the context of the Senedd's competence to legislate in the future regarding those functions.

Why consent was given

Consent has been given to the UK Government to make these amendments in relation to, and on behalf of, Wales for reasons of efficiency and expediency and to ensure the consistency and coherence of the statute book. The amendments have been considered and there is no divergence in policy. The amendments are to ensure the statute book will continue to operate effectively at the end of the transition period.

The law which is being amended

The 2020 Regulations amend provisions in the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 that in turn amend the following legislation that applies to Wales:

Amendment of Subordinate Legislation

The Plant Protection Products (Fees and Charges) Regulations 2011;
The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013;
The Genetically Modified Organisms (Contained Use) Regulations 2014;
The Control of Major Accident Hazards Regulations 2015.

Amendment of Retained Direct EU Legislation

Regulation (EC) No 1907/2006 concerning the registration, evaluation, authorisation and restriction of Chemicals;
Regulation (EC) No 1272/2008 on the classification, labelling and packaging of substances and mixtures;
Regulation (EU) No 544/2011 on data requirements for active substances;
Regulation (EU) No 545/2011 on data requirements for plant protection products;
Regulation (EU) No 547/2011 on labelling requirements for plant protection products;
Regulation (EU) No 528/2012 concerning the making available on the market and use of biocidal products;
Regulation (EU) No 649/2012 concerning the export and import of hazardous chemicals;
Regulation (EU) No 283/2013 on data requirements for active substances;

Regulation (EU) 284/2013 on data requirements for plant protection products;
Regulation (EU) No 354/2013 on changes of biocidal products;
Regulation (EU) No 414/2013 specifying a procedure for the authorisation of same biocidal products;
Regulation (EU) No 88/2014 specifying a procedure for the amendment of Annex I to Regulation (EU) No 528/2012;
Regulation (EU) No 1062/2014 on the work programme for the systematic examination of existing active substances contained in biocidal products.

The 2020 Regulations revoke Regulation (EU) No 492/2014 regarding the rules for the renewal of authorisations of biocidal products subject to mutual recognition.

The 2020 Regulations amend Annex II to the EEA Agreement.

The 2020 Regulations make saving, transitional and consequential provision.