

UK MINISTERS ACTING IN DEVOLVED AREAS

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

Laid in the UK Parliament: 15 October 2020

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	N/A
Date sifting period ends in UK Parliament	N/A
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	4 November 2020
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 October 2020

Background

These Regulations are proposed to be made by the UK Government pursuant to sections 8(1) and 8C(1) of, and paragraphs 1 and 7 of Schedule 4 and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018 and by section 41(1) of, and paragraph 12 of Schedule 4 to, the European Union (Withdrawal Agreement) Act 2020.

Summary

These Regulations are being made to address deficiencies in retained EU law relating to chemicals and genetically modified organisms.

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

The Regulations amend the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 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.

Statement by Welsh Government

Legal Advisers agree with the statement laid by the Welsh Government dated 30 October 2020 regarding the effect of these Regulations.

We note that these 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.

These 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.

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

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.