UK MINISTERS ACTING IN DEVOLVED AREAS

80 - The Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019

Laid in the UK Parliament: 21 January 2019

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	21/01/2019
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 16
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	Not known
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	Not known

Commentary

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

This instrument is made using powers in the European Union (Withdrawal) Act 20181 ("the Withdrawal Act") to address deficiencies in retained EU law in relation to chemicals and genetically modified organisms (GMOs) legislation arising from the withdrawal of the United Kingdom (UK) from the European Union (EU). This instrument ensures that UK chemicals and GMO regulations will continue to operate effectively at the point at which the UK leaves the EU ("Exit"). This instrument does not make any policy changes beyond the intent of ensuring continued operability of the relevant legislation.

As directly applicable European Regulations, requiring no transposition into UK law, the BPR, CLP and PIC Regulations will be retained under the arrangements offered in Section 3(1) of the Withdrawal Act. The instrument makes corrections to these Regulations using the Withdrawal Act powers.

Due to amendments to the CLP Regulation made in this instrument, amendments are to be made to downstream legislation i.e. legislation that sits 'downstream' of the CLP Regulation, but which relies on hazard classification, in whole or in part, to define its intended scope and to act as a 'trigger' for additional risk control measures. This is to ensure that the downstream legislation continues to provide the appropriate and necessary references to the CLP Regulation and (where required) to the UK mandatory classification and labelling list that the amended CLP Regulation provides for.

This instrument also amends relevant regulations to address deficiencies arising from the UK's withdrawal from the EU to allow the Health and Safety Executive to enforce provisions and to recover costs for its work.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 24 January 2019 regarding the effect of these Regulations:

- The statement refers to the following secondary legislation to be corrected: the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013; the Explosives (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2015; the Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2015, and the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2015. However, paragraph 4.2 of the Explanatory Memorandum states that these instruments "…apply to Northern Ireland only…".

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.