

## UK MINISTERS ACTING IN DEVOLVED AREAS

### 93 - The Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019

*Laid in the UK Parliament: 4 February 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   | Not known    |
| Date sifting period ends in UK Parliament  | N/A          |
| Written statement under SO 30C:  | Paper 17     |
| SICM under SO 30A (because amends primary legislation)                                 | Not required |

#### **Scrutiny procedure**

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|--|-------------|
| 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 the European Union (Withdrawal) Act 2018.

These Regulations amend the following retained EU law to correct deficiencies that arise as a consequence of the UK's exit from the EU: Regulation (EC) No. 1829/2003 (framework regulation on genetically modified food and feed); Commission Regulation (EC) No 641/2004 (detailed rules on applications for authorisation of new GM food and feed and adventitious or technically unavoidable presence of authorised GM material, and 68 Commission Decisions authorising GM food and/or feed events for placing on the market, or withdrawing such authorisations and providing transitional arrangements which will be extant when the UK exits the EU. The instrument also revokes Commission Regulation (EC) No 1981/2006 (detailed rules regarding the Community reference laboratory for GM organisms) which will become redundant when the UK exits the EU.

These Regulations will make technical fixes such as removing references to EU institutions and other Member States. It will also change the reference to the EU register of authorised GM food/feed to be a reference to an administrative register in the UK and will define 'third countries' as any country outside of the UK.

The more substantive amendments will:

- transfer responsibilities currently conferred on the European Food Safety Authority (EFSA) to the "Food Safety Authority" (the FSA in England, Wales and Northern Ireland, and Food Standards Scotland). For GM food and feed this will include undertaking risk assessments and producing scientific opinions on applications for GM food/feed authorisations;
- amend references to EU GM laboratories and laboratory networks to refer to the UK Reference Laboratory;
- transfer the European Commission's functions to the Welsh Ministers in relation to Wales to enable or require them to:
  - determine whether food or feed falls within scope of the relevant retained EU law;
  - decide whether to approve applications for new GMOs to be placed on the market;
  - modify, suspend or revoke authorisations in exceptional circumstances;
  - make regulations to amend non-essential elements of the retained EU law, for example to take account of new advances in science, and to make regulations to prescribe detailed rules relating to applications for, and applications for renewal of, authorisations of GM food/feed.

These Regulations will also correct individual retained EU GM food/feed authorisations to ensure that they remain valid in the UK context, and can continue to be placed on the UK market after EU exit.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 5 February 2019 regarding the effect of these Regulations:

- the statement fails to reference the following as being amended by the Regulations:
  - Commission Decision 2007/702/EC;
  - Commission Decision 2010/419/EU;
  - Commission Implementing Decision (EU) 2016/1685.

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.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations.