

EXPLANATORY MEMORANDUM TO
THE ZOOBOTIC DISEASE ERADICATION AND CONTROL (AMENDMENT)
(ENGLAND) (EU EXIT) REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Act.
- 1.2 This memorandum contains information for the Sifting Committees.

2. Purpose of the instrument

- 2.1 The Zoonotic Disease Eradication and Control (Amendment) (England) (EU Exit) Regulations 2018 ensure that the English legislation, which implements and provides enforcement powers for EU Directives protecting human health against zoonotic disease, will continue to be operable in England after the UK leaves the EU.

Explanations

What did any relevant EU law do before exit day?

- 2.2 Council Directive 2003/99/EC sets out requirements for the monitoring of zoonoses and antimicrobial resistance to zoonotic agents and other agents that pose a threat to public health. It is implemented by The Zoonoses (Monitoring) (England) Regulations 2007, which include powers of entry for inspectors to carry out monitoring activity. The animal health requirements for intra-Union trade in bovine animals are laid down in Council Directive 64/432/EEC. This Directive - which has been amended several times - harmonises the rules for intra-Union trade in bovine animals and establishes the animal health guarantees needed for the trade in these animals between the Member States. The objective of this harmonisation is to ensure that the same requirements are applied for trade between all the Member States thereby ensuring the safe and free circulation of the animals in the European Union territory. The Directive lays down rules regarding the health status in relation to animal diseases, including tuberculosis, and provisions for tests to detect these diseases to be carried out by official veterinarians. Enforcement of these rules in England is given effect in England primarily by The Tuberculosis (England) Order 2014.

Why is it being changed?

- 2.3 The minor and technical changes made by the instrument are necessary to ensure that the English legislation enforcing retained EU law continue to operate effectively.

What will it now do?

- 2.4 This instrument will address deficiencies in domestic legislation arising from withdrawal of the United Kingdom from the European Union and ensure that controls on zoonoses and zoonotic agents continue to operate on EU exit to protect public health.

3. Matters of special interest to Parliament

Matters of special interest to the Committees on the UK's exit from the European Union

3.1 The instrument is being laid for sifting by the Sifting Committees.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The Zoonoses (Monitoring) (England) Regulations 2007 were made using powers in section 2(2) of the European Communities Act. The enabling powers for Tuberculosis (England) Order 2014 are sections 1, 7(1), 8(1), 15(4), 25, 87(2) and 88(2) of the Animal Health Act 1981.

6.2 In addition to this instrument the Department will also introduce other instruments as part of the exit process, which interact with the legislation amended by this instrument.

6.3 Section 8(1) of the European Union (Withdrawal) Act 2018 provides that a Minister of the Crown may by regulations make such provision as the Minister considers appropriate to prevent, remedy or mitigate any failure of retained EU law to operate effectively or any other deficiency in retained EU law arising from the withdrawal of the United Kingdom from the EU. The instrument is made in exercise of these powers.

7. Policy background

What is being done and why?

7.1 The existing EU derived English legislation sets out controls that protect public health from zoonotic disease. The Government wishes to retain those standards of health protection on EU exit and is making amendments to EU derived English legislation to allow this. The amendments to the Tuberculosis (England) Order 2014 address cross-references to European Union legislation that will not operate effectively after exit.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the powers in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate

effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

9.1 None

10. Consultation outcome

10.1 The Scottish, Welsh and Northern Irish devolved administrations have been consulted about the proposed amendments.

11. Guidance

11.1 There is no associated guidance.

12. Impact

12.1 There is no significant, impact on business, charities or voluntary bodies.

12.2 There is no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because there are no significant impacts on business or on the public sector.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 This measure does not introduce duties or burdens on business. Businesses will not need to change their current practices as a result of the instrument.

14. Monitoring & review

14.1 No specific monitoring arrangements are needed.

14.2 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

15. Contact

15.1 Alison Gadsby at the Department for Environment, Food and Rural Affairs
Telephone: 020 0826 2696 or email: alison.gadsby@defra.gsi.gov.uk can be contacted with any queries regarding the instrument.

15.2 Catherine Harrold at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Gardiner of Kimble at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the ‘good reasons’ for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister’s opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument’s effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority’s response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

1.1 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

1.2 “In my view the Zoonotic Disease Eradication and Control (Amendment) (England) (EU Exit) Regulations 2018 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure). This is the case because this instrument addresses only technical deficiencies in EU derived United Kingdom legislation that will arise from withdrawal.”

2. Appropriateness statement

2.1 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble has made a statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Zoonotic Disease Eradication and Control (Amendment) (England) (EU Exit) Regulations 2018 does no more than is appropriate”.

2.2 This is the case because the instrument makes only minor and technical amendments to the EU derived English legislation to ensure that it remains operative following the withdrawal of the United Kingdom from the European Union.”

3. Good reasons

3.1 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”

It is important to retain the existing standards for protecting public health from zoonotic disease on EU exit. The amendments in this instrument will help to ensure that those standards are maintained.

4. Equalities

4.1 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble has made the following statement(s):

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

4.2 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lord Gardiner of Kimble, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

4.3 Given the subject matter of the instruments being amended and the technical nature of this instrument, no opportunities to advance the matters set out in section 149(1) of the Equality Act 2010 arise.

5. Explanations

5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.