

EXPLANATORY MEMORANDUM TO
THE ZOOBOTIC DISEASE ERADICATION AND CONTROL (AMENDMENT) (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 Committees on the UK's exit from the European Union.

2. Purpose of the instrument

- 2.1 The Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018 amend retained EU law which protects human health against zoonotic disease (in particular, salmonella) so that it will continue to be operable after the UK leaves the EU. Zoonotic diseases are those that may transfer from animals to humans.

Explanations

What did any relevant EU law do before exit day?

- 2.2 Controls on salmonella and other specified food-borne zoonotic agents are set out in Council Regulation (EC) No 2160/2003. This requires Member States to establish national control programmes for specified zoonosis and zoonotic agents; sets out requirements for the movement of live animals and hatching eggs between Member States and for trade in live animals and hatching eggs between Member States and third countries and sets out requirements for laboratories testing for zoonoses and zoonotic agents. Commission Decisions 2003/644 and 2004/235 establish additional guarantees regarding salmonella for consignments to Finland and Sweden of breeding poultry and day-old chicks and additional guarantees regarding salmonella for consignments to Finland and Sweden of laying hens, respectively. Commission Decision 2004/665/EC made provision for a baseline study on the prevalence of salmonella in laying flocks. Regulation 2160/2003 is implemented by Commission Regulation (EC) No 1177/2006 which sets out requirements for the use of specific control methods (antimicrobials and vaccinations) in the national control programmes for salmonella in poultry; Commission Regulation (EU) No 200/2010 setting an EU target for the reduction of the prevalence of salmonella in breeding hens; Commission Regulation (EU) No 517/2011 setting an EU target for the reduction of the prevalence of salmonella in laying hens; Commission Regulation (EU) No 200/2012 of 8 March 2012 setting an EU target for the reduction of the prevalence of salmonella in broilers and Commission Regulation (EU) No 1190/2012 setting an EU target for the reduction of the prevalence of salmonella in turkeys. Commission Implementing Decision 2013/652/EU on the monitoring and reporting of antimicrobial resistance in zoonotic and commensal bacteria implements Directive 2003/99/EC on the monitoring of zoonoses and zoonotic agents.

Why is it being changed?

- 2.3 The minor and technical changes made by the instrument are necessary to ensure that retained EU law continues to operate effectively. The changes include removing or amending references to EU institutions such as “Community reference laboratories” and “the Commission” which will no longer be appropriate after exit. Imports of live poultry and hatching eggs from the EU will continue on the same basis after exit day.

What will it now do?

- 2.4 This instrument will ensure that controls on zoonoses and zoonotic agents (primarily on salmonella) continue to operate on EU exit to protect public health.

3. Matters of special interest to Parliament

- 3.1 The instrument is being laid for sifting to the European Union (Withdrawal) Act 2018 by the European Statutory Instrument Committee (ESIC) and Secondary Legislation Scrutiny Committee (SLSC).

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 the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

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 EU legislation amended by this instrument controls salmonella and other food-borne zoonotic agents. This EU legislation will become retained EU law by virtue of the European Union (Withdrawal) Act 2018.
6.2 This instrument amends retained EU legislation to remedy deficiencies arising from the withdrawal of the United Kingdom from the EU and ensure that controls on zoonotic disease continue to operate effectively.
6.3 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.
6.4 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 legislation sets out controls that protect public health from zoonotic disease and in particular from salmonella. The Government wishes to retain those standards of health protection on EU exit and is making amendments to retained EU legislation to allow this.

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(1) of, and paragraph 21(b) of Schedule 7 to, 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.

9. Consolidation

- 9.1 None.

10. Consultation outcome

- 10.1 The amendments have been discussed with the Scottish, Welsh and Northern Irish devolved administrations who have accepted the approach taken. There has been no other consultation

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	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
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) (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 retained EU 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:
- 2.2 “In my view the Zoonotic Disease Eradication and Control (Amendment) (EU Exit) Regulations 2018 does no more than is appropriate”. This is the case because the instrument makes only minor and technical amendments to the EU retained 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:
- 3.2 “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 As this instrument does not make a substantive change to existing law no impact on equalities is expected.

5. Explanations

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