EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND WINDSOR FRAMEWORK

REGULATION (EU) 2026/1388 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 17 JUNE 2026 ON PLANTS OBTAINED BY CERTAIN NEW GENOMIC TECHNIQUES AND THEIR PRODUCTS, AND AMENDING REGULATION (EU) 2017/625

Submitted by the Department for Environment, Food and Rural Affairs

17 August 2026

SUBJECT MATTER

1. On 17 June 2026 the EU adopted Regulation (EU) 2026/1388 ('the Regulation') on plants obtained by certain new genomic techniques and their products, and amending Regulation 2017/625. The term new genomic techniques is used to describe modern precision breeding methods for generating genetically modified plants.

2. The Regulation updates the regulatory framework for plants modified using new genomic techniques (NGTs) by adapting existing genetically modified organism (GMO) legislation, allowing for a more streamlined approval process.

3. The Regulation divides NGTs into two categories. Category 1 NGT plants are plants that could occur naturally or be produced by conventional breeding techniques, and their progeny obtained by conventional breeding techniques. These will be subject to a simpler verification process. Category 1 NGTs are still subject to the Organic Production Regulation 2018/848 and remain prohibited in organic production.

4. Category 2 NGT plants are all NGT plants that are not category 1 NGTs. They remain subject to existing GMO legislation with some modifications.

5. The Regulation regulates Category 1 NGTs in a similar way to how England's domestic legislation, The Genetic Technology (Precision Breeding) Regulations 2025, regulates precision bred plants. The Genetic Technology (Precision Breeding) Regulations 2025 implement the Genetic Technology (Precision Breeding) Act 2023. The 2023 Act also provides a framework for precision breeding in animals, which is not covered by the Regulation.

SCRUTINY HISTORY

6. An EM was provided to the Parliamentary scrutiny committee in August 2023 which explored the applicability of the proposed regulation under Article 13(3) of the Windsor Framework.

MINISTERIAL RESPONSIBILITY

7. The Secretary of State for Environment, Food and Rural Affairs is responsible for genetic modification of plants and animals.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

8. The topic of genetic modification is a devolved matter. The Genetic Technology (Precision Breeding) Act 2023, and The Genetic Technology (Precision Breeding) Regulations 2025, both apply in England only.

9. Under the UK Internal Market Act 2020, precision bred products may be sold in Scotland and Wales but may not undergo significant processing, including cultivation, in those territories.

10. Precision bred products may not undergo significant processing, including cultivation, in Northern Ireland. Precision bred products cannot currently be sold in Northern Ireland under the Windsor Framework.

11. Devolved government officials, including from Northern Ireland's Department of Agriculture, Environment, and Rural Affairs, were consulted in the drafting of this EM and have agreed with the impacts described.

LEGAL AND PROCEDURAL ISSUES

12. EU Legal base

    Articles 43 and 114 of the Treaty of the Functioning of the European Union

13. Voting Procedure

    Ordinary legislative procedure (Co-decision)

14. Timetable for adoption and implementation

    The Regulation was adopted on 17 June 2026 and was published in the Official Journal of the EU on 26 June 2026. It entered into force from the 16 July 2026 and will apply from the 17 July 2028. Articles 29, 30 and 31 apply from 16 July 2026.

POLICY IMPLICATIONS

15. This explanatory memorandum focuses on the implications of the provisions subject to Article 13(3) of the Windsor Framework, noting that we would undertake and provide further assessment in the event that further Articles need to be considered under Article 13(4).

16. Article 37 of the Regulation amends Article 23 of Regulation (EU) 2017/625 (the Official Controls Regulation (OCR)). As Regulation (EU) 2017/625 is listed in Annex 2 of the Windsor Framework, Article 37 will apply in Northern Ireland via Article 13(3) of the Windsor Framework subject to the democratic scrutiny process set out in Article 13(3a) of the Windsor Framework. Great Britain will align with Regulation (EU) 2017/625 under the UK-EU SPS Agreement.

17. As the definition of a Category 2 NGT is laid out in other parts of the Regulation, Article 37 of the Regulation in isolation will have no practicable impact if other parts of the Regulation are not applied in Northern Ireland via Article 13(4) of the Windsor Framework.

18. The remainder of the Regulation sets out new provisions which would apply only with the agreement of the UK and the EU at the Withdrawal Agreement Joint Committee, subject to the democratic safeguards engaged under Schedule 6B of the Northern Ireland Act 1998.

19. Article 37 of the Regulation amends Article 23 of Regulation (EU) 2017/625 by adding to paragraph 2, point (a)(ii) and paragraph 3, point (b) references to the Regulation, which require monitoring plans on the environmental effects of Category 2 NGTs to be included when applying to the competent authority of a Member State where such a Category 2 NGT is to be placed on the market. This applies when marketing a Category 2 NGT for food and feed or non-food and feed purposes.

20. The amendments empower the EU Commission to adopt delegated and implementing acts to apply the requirement for monitoring plans on the environmental effects of Category 2 NGTs, as laid down by the Regulation. Those delegated and implementing acts enable official controls to be carried out to check for this specific requirement, and for competent authorities to take action, including enforcement action, that may be required following such controls.

21. Article 37 of the Regulation will have no practicable impact prior to the EU Commission adopting the delegated and implementing acts that it enables. It will further have no practicable impact once those delegated and implementing acts are adopted. Without reference to other provisions of the Regulation which define NGT products, no controls could be applied to such products.

CONSULTATION

22. The EU Commission ran a public consultation for the initiative, that was open from 29 April until 22 July 2022. The proposal was subject to public feedback from 7 July to 5 November 2023. Feedback received is available online at legislation-for-plants - Food Safety - European Commission.

FINANCIAL IMPLICATIONS

23. There are no financial implications for the UK.

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