



Law Society
of Scotland

The Law Society Scotland

UK Internal Market White Paper

August 2020



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Constitutional Law sub-committee, Trade Policy Working party and other Committees and Sub-committees welcome the opportunity to consider and respond to the UK Internal Market White Paper. We have the following comments to put forward for consideration.

General Comments

Summary of Comments

We have taken a keen interest in commenting on proposals for legal and constitutional change arising out of the UK's Withdrawal from the EU including the implications for Scotland and its relationship with the rest of the UK, constitutional developments and changes in the law in connection with Brexit, the relationship of the UK and the EU, Trade Agreements and the impact on Devolution.

This has included commenting on the Finance and Constitution Committee in the Scottish Parliament Inquiry in to *Scotland and the UK Internal Market* <https://www.lawscot.org.uk/media/368476/20-02-28-tra-con-comp-fcc-uk-internal-market.pdf>, the Scottish Affairs committee in the House of Commons Inquiry in to the *Relationship between the UK and Scottish Government* <https://www.lawscot.org.uk/media/361490/161118-inq-by-scottish-affairs-select-committee-relationship-btw-uk-plus-scottish-governments.pdf> and the Public administration and Constitutional Affairs Committee in the House of Commons Inquiry into Devolution and exiting the EU <https://www.lawscot.org.uk/media/359260/271117-public-admin-consultation-response.pdf>. We also conducted a survey of the powers returning from the EU that intersect with the Devolution Settlement <https://www.lawscot.org.uk/media/359818/ministers-111-paper-final-12-mar.pdf>

Our approach to this paper has been to consider each paragraph in the Paper and comment on the legal issues that might be raised. Where possible we make recommendations and raise questions where the UK Government should provide more clarity or explanation as to what is proposed. Accordingly, we have the specific points to make:

- A. We recommend that the Government engage in pre-legislative consultation on the clauses concerning the Market Access Commitment to ensure that the effectiveness of the consultation begun by this White Paper is maximised.
- B. On matters concerning the scope of the Internal Market we recommend that the Government engage in pre-legislative consultation on the clauses containing the exclusions from the scope of the Internal Market in order that there is complete clarity about what is excluded from the Internal Market provisions.
- C. We note that the Government intends to review “the objectives for regulating professions and recognising international qualifications “ We urge the Government to engage at an early stage with professional bodies affected by the proposed review in order to be ready for the end of the Transition Period.
- D. In order to ensure proper Parliamentary scrutiny, we recommend that Internal Market issues which are of significant impact should be legislated by primary legislation and that where appropriate super-affirmative and affirmative procedure should be included for implementing Internal Market policies.
- E. We encourage the Government to ensure it complies with the Memorandum of Understanding and Concordat on International Relations which states:

“The UK Government recognises that the devolved administrations will have an interest in international policy making in relation to devolved matters and also in obligations touching on devolved matters that the UK may agree as a result of concluding international agreements (including UN Conventions)” and paragraph D1.5 which states:

“The parties to this Concordat recognise that the conduct of international relations is likely to have implications for the devolved responsibilities of Scottish Ministers and that the exercise of these responsibilities is likely to have implications for international relations. This Concordat therefore reflects a mutual determination to ensure that there is close co-operation in these areas between the United Kingdom Government and the Scottish Ministers with the objective of promoting the overseas interests of the United Kingdom and all its constituent parts”.

- F. We recommend that the Government engage in pre-legislative consultation on the clauses for the single, unified subsidy control regime as soon as possible.
- G. Throughout the response we also raise several questions on the detail of the proposals.

Consultation Questions

The following questions occur in the consultation. Our responses follow each question.

Question 1: Do you agree that the government should seek to mitigate against both ‘direct ’and ‘indirect ’ discrimination in areas which affect the provision of goods and services? Could you provide examples of indirect discrimination that would affect the functioning of the Internal Market?

Our response

If the Government intends to legislate for an Internal Market then in order to make law which is effective it would be necessary to legislate to prohibit 'direct' and 'indirect' discrimination in areas which affect the provision of goods and services. We note the lack of enforcement provisions in the White Paper. How does the Government intend that the Market Access Commitment will be enforced?

Question 2: What areas do you think should be covered by non-discrimination but not mutual recognition?

Our response

We have no empirical evidence upon which to answer this question. Each area should be dealt with on a case by case basis.

Question 3: What would be the most effective way of implementing the two functions outlined above? Should aspects be delivered through existing vehicles or through bespoke arrangements?

Question 4: How should the Government best ensure that these functions are carried out independently, help the smooth functioning of the internal market and are fully representative of the interests of businesses and consumers across the whole of the UK?

Our response to questions 3 and 4

In order to deliver these functions in an independent way there are a number of options. We favour a new statutory body which should meet stringent requirements of independence, accountability and transparency. There are some precedents which could serve as models: for example the National Audit Office established under the Budget Responsibility and National Audit Act 2011 or the Climate Change Committee established under the Climate Change Act 2008. Accordingly, an Internal Market Independent Monitoring and Advisory Committee could be set up under statute whose members will be selected the National Authorities (such as the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Northern Ireland Executive) after an open competition, appointed by Her Majesty The Queen whilst accountable to Parliament and the Devolved Legislatures.

Specific Comments

The White Paper

Introduction

We have no comments on the Introduction.

Setting the Scene: The history of our Internal Market

Paragraphs 1-5 and 58-64 give a brief, summarised overview of the political economy of the UK since 1707.

Our Comments

The Treaty of Union 1707 and the relative Acts of Union provided created the United Kingdom of Great Britain. They also provided for certain reservations or “treaty opt-outs” concerning Religion, the Legal System and education. Securing access to England’s overseas and domestic markets was a key objective for Scotland entering into the Union and was enacted into law by the Union Acts which provided for common customs tariffs, non-discriminatory access to markets, and a common currency.

The United Kingdom of Great Britain and Ireland was created by the Union with Ireland Act 1800.

Article Six of that Act <https://www.legislation.gov.uk/apgb/Geo3/39-40/67/contents> touches on market issues states:

“That his Majesty’s subjects of Great Britain and Ireland shall [...] be entitled to the same privileges and be on the same footing, as to encouragements and bounties on the like articles, being the growth, produce or manufacture of either country respectively, and generally in respect of trade and navigation in all ports and places in the United Kingdom and its dependencies; and that in all treaties made by his Majesty his heirs and successors, with any foreign power, his Majesty’s subjects of Ireland shall have the same privileges and be on the same footing as his Majesty’s subjects of Great Britain”.

The Government of Ireland Act 1920 transferred several policy areas to Northern Ireland but trade was excepted and remained the responsibility of the UK Parliament.

This resonates in the Northern Ireland Act 1998, section 14(5) which enables the Secretary of State not to submit for Royal Assent an Assembly Bill which contains provisions which “would have an adverse effect on the operation of the single market in goods and services within the United Kingdom.”

Section 26(4)(b) of the Northern Ireland Act 1998 provides for an equivalent power which can be exercised by the Secretary of State in relation to subordinate legislation.

Part 1: Our Internal Market after the Transition Period

Paragraphs 6-11 and 65-67 provides a sketch of the consequences of leaving the Transition Period on 31 December 2020 focusing on the impact on the regulation of trade in goods and services. The paper acknowledges that “recent regulation in the UK has been shaped through our membership of the EU, creating a high degree of uniformity” and confirms that after “the Transition Period, powers previously exercised at EU level are flowing back to the UK Government and the devolved administrations in line with the devolution settlements”. Paragraph 67 states that the devolved administrations will “therefore be gaining the ability to regulate in new areas such as agri-food, chemicals, waste and fisheries”. As a result, the UK will now have the opportunity to develop an alternative regulatory system supporting the free flow of goods and services through the whole economy.

Our Comments

Paragraph 6 acknowledges that the “way we regulate labour, capital, goods and services in the UK will no longer be decided by the EU’. Instead, the regulation of the EU’s Fundamental Freedoms, freedom of movement of workers, capital, goods and services will return to the UK. The White Paper only deals with freedom of movement of goods and services within the UK. Given that the intention is to replace the EU arrangements with UK ones we note that there is no mention of the principles of subsidiarity or proportionality in the paper. Does the Government see no role for these principles in the new arrangements? We believe that intra-UK freedom of movement of people is protected by Article IV of the Union Acts and other legislation such as the Equality Act 2010 and the Human Rights Act 1998. We take the view that free movement of capital is available to the UK after the Transition, because the restrictions to free movement of capital are prohibited unless justified under EU law. Provided the post-Transition legal framework in the UK is comparable with that of the EU, unjustifiable derogations to free movement of capital would not apply against the UK.

We note the reference to the powers of the devolved administrations in agri-food, chemicals, waste and fisheries. We refer to our Survey of the 111 EU powers which intersect with devolved powers which indicates that the Scottish Parliament has already legislated on Agri-food, chemicals, waste and fisheries <https://www.lawscot.org.uk/media/359818/ministers-111-paper-final-12-mar.pdf> in the context of implementing EU law.

This White Paper

Paragraphs 12-14 and 70-86 describe the White Paper and its purpose. The White Paper presents a UK-wide approach for seamless trade across the UK’s Internal Market by providing a Market Access Commitment to all businesses and citizens in the UK.

Paragraphs 76-79 set out detail from stakeholder discussions which focus on “the importance of a seamless Internal Market to allow business to develop efficient supply and distribution chains for goods”. There is focus on consistent regulation to reduce business complexity and cost, unlock efficiencies and economies of scale in turn increasing international competitiveness.

The Government aims to implement a system that works alongside new devolved powers while guaranteeing consistency and clarity through new legislation on a Market Access Commitment in law, minimising domestic trade costs, business uncertainty and bureaucracy by the end of 2020.

The purpose of this White Paper is “to set out the Government’s plan for the key objectives and application in UK of our Internal Market system for the whole of the UK, and to seek additional stakeholder views on some of the details of how this system should function”. In the White Paper the Government “explain how the UK’s Internal Market is currently organised, including the evidence for a high level of interconnection across the UK, and the benefits this gives us all for trade”. The White Paper examines “the proposed aims of the UK Internal Market system and set out its targeted scope. This includes describing the legislative underpinning for the Internal Market to provide a legal safety net to business, professionals and consumers, which cannot be provided through purely administrative channels. Finally, the White Paper sets out the Government’s stance on the formal reservation of subsidy control as this power returns from the EU”.

Paragraphs 81-86 focus on the economic arguments relating to avoidance of a “cumulative burden of multiple regulatory differences “.

Our Comments

We note that the Government aims to implement new legislation for a “Market Access Commitment” in law, minimising domestic trade costs, business uncertainty and bureaucracy by the end of 2020 (paragraph 13). This is a complex issue and the White Paper is limited in the detail which is needed for a statutory commitment. We recommend that the Government consult on draft clauses to ensure that the effectiveness of the consultation begun by this White Paper is maximized and that there is clarity about what the Government is proposing.

These paragraphs propose to explain how the UK’s Internal Market is organised, including the level of interconnection across the UK, and the benefits for trade, the proposed aims of the UK Internal Market system and its scope.

This includes describing the proposal for the legislative underpinning for the Internal Market and the Government’s reservation of subsidy control upon which we comment later in this response.

Maintaining market access with regulatory difference

Paragraphs 15-19 introduce the concepts of maintaining a “coherent market structure” and prohibiting “economic barriers” which “could block or inhibit trade in goods ... and services” across the UK.

Our Comments

Paragraph 17 generates the following questions:

1. Do these principles extend to all regulatory schemes?
2. Can the Government explain what complexities in the construction sector they consider problematic?
3. England and Scotland already diverge in the law relating to building regulations see: The Building Act 1984 (England and Wales) and the Building (Scotland) Act 2003. What problems have emerged which require this devolved legislation to be included in the new scheme?
4. Similar questions arise in relation to the reference in Paragraph 17 to the “processes for obtaining construction permits” which we interpret as referring to the requirements of planning permission. This too is devolved legislation which has functioned on a separate basis since the original planning legislation in the Town and Country Planning Act 1947 (England and Wales) and the Town and Country Planning (Scotland) Act 1947.
5. The Government should explain the specific issues it has with the separate planning regimes operating between the two jurisdictions?

6. What evidence does the Government have that different approaches to the regulation of construction professionals could make it harder for Scottish construction companies to bid for contracts in England?
7. Do these principles apply to non-statutory areas, such as the common law?
8. How will these principles be enforced? Will businesses, workers and consumers be able to take action against an authority which has failed to regulate in a way that avoids unfavourable treatment to goods or services originating in different part of the UK to that afforded to goods or services originating in that authority's part?
9. Paragraph 18 refers to areas where specific powers are not returning from the EU and that accordingly some new barriers could arise. How will the Government ensure regulatory arrangements for new types of professions? Does the Government intend to create new professional reservations in the Scotland Act 1998?
10. The Technical Standards and Regulations Directive 2015/1535/EU requires any regulation which might restrict the placing on the market of goods to be pre-notified. Prenotification is not referred to in the White Paper. Does the Government plan for such a system to be part of the new arrangements?

Common Frameworks and Managing regulatory difference: the need for a UK model

Paragraphs 20-22 and 87-94 concern Common Frameworks. They postulate the “recognition that regulatory coherence is an important part of the UK’s overall economic prosperity which involves...Common Frameworks”.

Our Comments

In October 2017 the Joint Ministerial Committee (European Negotiations) (JMC(EN)) agreed that common frameworks should be established where necessary. The communique stated:

“ The following principles apply to common frameworks in areas where EU law currently intersects with devolved competence. There will also be close working between the UK Government and the devolved administrations on reserved and excepted matters that impact significantly on devolved responsibilities.

Discussions will be either multilateral or bilateral between the UK Government and the devolved administrations. It will be the aim of all parties to agree where there is a need for common frameworks and the content of them.

The outcomes from these discussions on common frameworks will be without prejudice to the UK’s negotiations and future relationship with the EU.

Principles

Common frameworks will be established where they are necessary in order to:

- enable the functioning of the UK internal market, while acknowledging policy divergence;
- ensure compliance with international obligations;
- ensure the UK can negotiate, enter and implement new trade agreements and international treaties;
- enable the management of common resources;
- administer and provide access to justice in cases with a cross-border element;
- safeguard the security of the UK.”

The Cabinet Office published in late 2017 a list of 111 points where EU Law intersects with devolved matters. This has been supplemented by the publication of the UK Government’s Frameworks analysis: breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland on 9 March 2018. The analysis sets out the UK Government’s provisional assessment of areas of EU law that intersect with devolved competence in each devolved administration. The analysis makes clear that as the devolution settlements are asymmetrical, a different range of powers is relevant to Scotland, Wales and Northern Ireland.

There is an increase in the number of policy areas within the analysis from 153 to 160 and some change in the number of policy areas in each category, including a reduction from 24 to 21 in the category where legislation may be required in whole or in part see our analysis of the 111 points:

<https://www.lawscof.org.uk/media/359818/ministers-111-paper-final-12-mar.pdf>

We have appended an up to date analysis of the remaining 21 points in the Appendix.

The number of areas where non-legislative arrangements are being considered has reduced from 82 to 78. The number of areas where no further action is required to create a common framework has increased from 49 to 63.

There are now four policy areas that the UK Government believes are reserved but remain subject to ongoing discussion with the devolved administrations; the other areas listed in this category in the initial analysis have been resolved.

The intergovernmental agreement and the memorandum agreed by the JMC(EN) require to take into account the European Union (Withdrawal) Act 2018. Section 12 of the Act inserted into the Scotland Act 1998 a new section 30A entitled Legislative Competence: Restriction relating to retained EU Law. Section 30A provides that –

“ an Act of the Scottish Parliament cannot modify or confer power by subordinate legislation to modify retained EU law so far as the modification is of a description specified in regulations by a Minister of the Crown.”

The power to lay regulations is covered by subsection (30A)(3) which states that “a Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under this section unless:-

- (a) “The Scottish Parliament has made a consent decision in relation to the laying of the draft or
- (b) The forty day period has ended without the Parliament having made such a decision”.

A consent decision is defined as: -

- (a) “A decision to agree a motion consenting to the laying of the draft
- (b) A decision not to agree to a motion consenting to the laying of the draft or
- (c) A decision to agree a motion refusing to consent to the laying of the draft”.

We welcome the fact that no regulation has been laid under new section 30A since that section came into effect.

Scope and the Government’s response to the evolution of the UK Internal Market

Paragraphs 23, 50 and 98-102 and 138-145 set out the scope of the Government’s response to the evolution of the UK Internal Market. Paragraph 23 indicates that reserved areas (“to the extent they are reserved/excepted within each devolution settlement” including as per paragraph 133 “conditions on transport, disposal or the manner of sale of goods”) will be out of scope of the Market Access Commitment. We deal with paragraph 50 later in this response. Paragraph 98 states “One of our key objectives for the UK Internal Market is to ensure the protection of intra-UK trade by avoiding the creation of unnecessary barriers caused by regulatory differences between the UK Government and devolved administrations...”

Paragraph 97 explains that the UK Government plans to review “the objectives for regulating professions and recognising international qualifications”. These findings will be implemented alongside, and will work together with, the approach to professional qualifications in the UK Internal Market.

Paragraphs 101 and 102 cover the Government’s approach to regulatory powers and services.

Paragraph 101 identifies that most differences in regulation do not take the form of primary legislation. Therefore, “the Internal Market system will cover wider regulatory powers, such as secondary legislation and regulation made, not just by governments, but also by other regulators concerned with regulating professionals and service providers. This should be in scope where it could significantly impact the UK Internal Market as a whole’.

Paragraph 102. The paper asserts “In the area of services, factors that impede trade flows will affect both industry and individual lives. With the UK being a services-based economy, but with a strong interaction with goods and production, consistency and certainty are vital. It is therefore important for the UK Internal Market system to facilitate the provision of services throughout the UK, whether they are based on professional qualifications, licensing or other authorisation schemes”.

Our Comments

The exclusion of reserved or excepted matters is consistent with judicial comment on the UK Internal Market, In *Imperial Tobacco v Lord Advocate* [2012] UKSC 61 at paragraph 29, Lord Hope commented that a common theme to the reserved policy areas in the Scotland Act 1998:

“is that matters in which the United Kingdom as a whole has an interest should continue to be the responsibility of the United Kingdom Parliament at Westminster. They include ...matters that are designed to ensure that there is a single market within the United Kingdom for the free movement of goods and services”

Other matters which will be out of scope include:

1. Social policy measures with limited internal market impacts. It would be helpful if the Government could explain precisely which social policy measures are intended?
2. Pre-existing differences and policies. We recommend that the Government engage in pre-legislative consultation on the clauses concerning the exclusions from the scope of the Internal Market in order that there is complete clarity about what is precisely excluded.

There is acceptance that the “UK Internal Market system should be broadly focused on regulatory requirements that impact on the provision of goods or services” because of the wider effect of returning EU law, this is the area where the potential for new divergence will be most apparent. We agree with this assessment.

We note that “the Internal Market system will cover wider regulatory powers, such as secondary legislation “. Although most EU Law was implemented by secondary legislation under Section 2 of the European Communities Act 1972 those orders were preceded by the legislative processes of the EU and input by the UK Government and had been subject to Parliamentary scrutiny in the EU and domestic legislatures. In order to ensure proper Parliamentary scrutiny we recommend that Internal Market issues which are of significant impact should be legislated by primary legislation and that where appropriate super-affirmative and affirmative procedure should be included for implementing Internal Market policies.

In relation to paragraphs 97 and 102 we note that it is “important for the UK Internal Market system to facilitate the provision of services throughout the UK” and that the Government intends to review “the objectives for regulating professions and recognising international qualifications “ We urge the Government to engage at an early stage with professional bodies affected by the proposed review in order to be ready for the end of the Transition Period.

Key objectives

Paragraphs 24, 25, 26 and 103-105 set out the objectives for the UKIM. These are to:

- a) secure continued economic opportunities across the UK;

- b) continue to increase competitiveness and enable citizens across the UK to be in an environment that is the best place in the world to do business; and
- c) continue to support the general welfare, prosperity and economic security of all UK citizens.

There are three supporting aims: 1. Maintain frictionless trade between all parts of the UK, 2. Maintain fair competition and prevent discrimination and 3. Continue to protect business, consumers and civil society by engaging them in the development of the market.

These supporting aims are underpinned by two Design Rules: 1. Foster collaboration and dialogue and 2. Build trust and ensure openness and Build trust and ensure openness

Our Comments

We note these objectives.

A legislative underpinning for the UK Internal Market

Paragraphs 28, 72 and 112-115 set out the Government's proposal for a Market Access Commitment and to reinforce the objectives referred to in the White Paper in an Internal Market Bill. Paragraph 72 defines the Internal Market as "the set of rules which ensures there are no barriers to trading within the UK". The Government intends that the bill will commit to all citizens and businesses free access to economic activity across the UK and market access across the UK delivered through the principles of mutual recognition and non-discrimination. The bill will outlaw "unnecessary regulatory barriers" which could emerge between the different parts of the UK and will seek to provide certainty and clarity.

The Government explains the need for such legislation by setting out what it considers to be the consequences of not having such a Commitment:

1. increased unpredictability through regulatory differences across the UK.
2. barriers that could arise from regulatory differences; and noting
3. the experience of other countries such as Australia and Switzerland that a legal underpinning can increase certainty for businesses and governments.

The Government set the following question on some of the content of the Internal Market Bill:

Question 1: Do you agree that the Government should seek to mitigate against both 'direct' and 'indirect' discrimination in areas which affect the provision of goods and services? Could you provide examples of indirect discrimination that would affect the functioning of the Internal Market?

Our Comments

We note the Government's intention to legislate for the UK Internal Market and recommend that the Government consult on draft clauses as soon as possible given the need to have legislation in place by the

end of the Transition Period. In passing we note that one of the consequences of devolution is regulatory difference and any proposal to assert a common regulatory framework which touches on devolved competences will need to be explained clearly.

We take issue with the sentence in paragraph 28 which states that “In the absence of specific Internal Market legal provision, courts faced with businesses seeking to prove their rights will lack clear guidance about governments’ intentions”. This comment indicates a misunderstanding about the role of legislation. The law is not a vehicle to give the courts guidance about “governments’ (sic) intentions”. We take the view that legislation is an expression of Parliament’s intention rather than the Government’s intention and that the courts are bound by the will of Parliament expressed in the law rather than the Government’s intentions.

Caution should be used when comparing the UK as a unitary state with Federal States such as Australia and Switzerland which are subject to overarching constitutional arrangements for example written constitutions that provide the legal basis for challenging and defending such underpinnings. These formal arrangements, protecting the domains of federal and state governments, however, remain largely absent in the UK context.

In relation to Question 1, if the Government intends to legislate for an Internal Market then in order to make law which is effective it would be necessary to legislate to prohibit ‘direct’ and ‘indirect’ discrimination in areas which affect the provision of goods and services. We note the lack of enforcement provisions in the White Paper. How does the government intend that the Market Access commitment will be enforced.

Maintaining high standards

Paragraphs 31-44 contain a number of commitments to maintaining high standards in relation to goods, food, animal health and welfare standards. Other structural arrangements are also underlined including that the devolved administrations would retain the right to legislate in devolved policy areas that they currently enjoy. There are also undertakings to protect consumer interests through the new Trade and Agriculture Commission the continuing work of the Food Standards Agency and Food Standards Scotland to ensure that food imports comply with UK safety standards.

Our Comments

Paragraph 32 provides confirmation that under the Government’s proposed approach the devolved administrations would retain the right to legislate in devolved policy areas. However, we question what does “legislated innovation” mean in this context?

In Paragraph 35 there is confirmation that domestic import standards will include a ban on using artificial growth hormones in domestic and imported products and set out that no products other than portable water will be approved to decontaminate poultry carcasses.

What is the definition of potable water in these circumstances? Could international obligations require change to this commitment?

We note that the areas of law referred to in Paragraphs 37 (health and safety legislation), 38 (employment law), 39 (competition law), 40 (consumer protection law) and 41 (environmental international agreements) are all reserved in terms of the Scotland Act 1998 and would therefore be out of scope of the Internal Market Bill.

Regarding paragraph 42 we commend the prospective ban on the supply of plastic straws, drinks stirrers and plastic stemmed cotton buds which is to come into effect in England and Wales (rather than the UK as stated in the White Paper) in October 2020. We note that Scotland banned the manufacture or sale of plastic stemmed cotton buds by the Environmental Protection (Cotton Buds) (Scotland) Regulations 2019 : <https://www.legislation.gov.uk/ssi/2019/271/made>.

In respect of paragraph 43 we note the reference to “The UK’s microbead ban which came into effect in January 2018”. The ban was in fact implemented across Great Britain i.e. England, Scotland and Wales through regulations in the three legislatures in 2018:

- The Environmental Protection (Microbeads) (England) Regulations 2017 which entered into force on 9th January 2018 (for certain purposes) and (completely) on 19th June 2018;
- The Environmental Protection (Microbeads) (Scotland) Regulations 2018 which entered into force on 19th June 2018;
- The Environmental Protection (Microbeads) (Wales) Regulations 2018 which enter into force on 30th June 2018.

However, the Environmental Protection (Microbeads) Regulations (Northern Ireland) 2019 only came into effect in March 2019. This is a bad example to use about the timing of the UK’s microbead ban because of the phased implementation of the law across the UK.

International trade

Paragraphs 45 and 123-125 deal with international trade and how an Internal Market system has a vital role in international trade competition, the respective roles of the UK Parliament and Government and the devolved legislatures and administrations and the implementation of future trade deals.

Our Comments

With regard to Paragraphs 45 and 123 the devolved legislatures and administrations have not played a formal role in negotiating treaties. The Scotland Act 1998 Schedule 5, paragraph 7 provides that:

“1) International relations, including relations with territories outside the United Kingdom, the European Union (and their institutions) and other international organisations, regulation of international trade, and international development assistance and co-operation are reserved matters.

2) Sub-paragraph (1) does not reserve—

(a) observing and implementing international obligations, obligations under the Human Rights Convention

and obligations under EU law,

(b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.”

As we have stated elsewhere a “whole-of-government” approach has particular relevance to other international agreements - including trade agreements - which may or will have an impact on domestic law. In this context “whole of government” should be interpreted as “whole of governance” to include not only the UK Government and Whitehall Ministries but also the Scottish Government, the Northern Ireland Executive and the Welsh Government as well as professional bodies, the universities and civic society groups.

We encourage the Government to ensure it complies with the Memorandum of Understanding (MoU) and *Concordat on International Relations* which states:

“The UK Government recognises that the devolved administrations will have an interest in international policy making in relation to devolved matters and also in obligations touching on devolved matters that the UK may agree as a result of concluding international agreements (including UN Conventions)” and paragraph D1.5 which states: “The parties to this Concordat recognise that the conduct of international relations is likely to have implications for the devolved responsibilities of Scottish Ministers and that the exercise of these responsibilities is likely to have implications for international relations. This Concordat therefore reflects a mutual determination to ensure that there is close co-operation in these areas between the United Kingdom Government and the Scottish Ministers with the objective of promoting the overseas interests of the United Kingdom and all its constituent parts” as well as following the schematic set out in the *Trade White Paper Preparing for our future UK trade policy*

<https://www.gov.uk/government/publications/preparing-for-our-future-uk-trade-policy> that “the Government is committed to ensuring the devolved administrations have a meaningful role in trade policy”.

Paragraph 124 states that:

‘As the arrangements in other countries demonstrate, the introduction and maintenance of collaborative relations to deal with regulatory barriers within a country helps its ability to develop and implement ambitious trade deals that can deliver UK-wide benefits and prosperity to businesses and citizens’.

Building on the MoU and Concordat consideration must be given to the important role intra-UK government collaboration will play in the Post-Transition Period.

It is important that UK trade policy takes into account the circumstances of England, Scotland, Wales and Northern Ireland. We hope that the Government will be able to work closely with the devolved administrations to deliver an approach that works for the whole of the UK.

Securing investment

Paragraphs 47 and 126, propose that the Government will ensure that “left behind” towns and cities will be able to benefit from initiatives such as protecting the UK Internal Market, as part of the levelling-up and

Coronavirus recovery agendas. The Government will also consider which spending powers it needs to enhance the UK internal market.

Our Comments

This seems in the briefest possible of terms to be referring to a regional development policy. We recommend that the Government should provide more detail of its plans for this area. More detail is required on what is envisaged. What will be the policy basis for what the White Paper refers to as "levelling up"?

These paragraphs generate the following questions:

1. What criteria will be applied in relation to the exercise of the proposed spending power?
2. What consultation will be conducted before exercising spending powers?

Part 2: Mutual recognition and non-discrimination

Paragraphs 49, 50, 51 and 129-137 set out the principles of mutual recognition and non-discrimination which will apply across both goods and services.

The Government asks the following question on the application of the principles of mutual recognition and non-discrimination:

Question 2: What areas do you think should be covered by non-discrimination but not mutual recognition?

Our comments

We acknowledge that the aim of the mutual recognition provisions is to ensure that goods produced in one part of the United Kingdom will be able to be sold in another part of the United Kingdom without complying with additional requirements. What are the "additional requirements" which are envisaged not to apply? The Government should explain in greater detail what its intention is in relation to these matters.

We note paragraphs 50 and 138 regarding "exclusions" from the system of mutual recognition. The exclusions are areas outside scope when the system comes into force. Paragraph 50 states "This has been a feature of the UK Internal Market since 1707 (such as legal systems). Any exclusions will need to be agreed at the outset..." which is reinforced by paragraph 138, 'there have always been areas out of scope of the UK Internal Market, such as the Scottish legal system'.

We agree that the legal systems should be outside the scope of the mutual recognition system in order to comply with the provisions of [Article XIX of the Union with England Act 1707](#) and the Union with Scotland Act 1706 <https://www.legislation.gov.uk/aep/Ann/6/11/part/12>.

We interpret the 'legal system' as described in Art XIX as meaning the Court of Session, the College of Justice and the High Court of Justiciary. The College of Justice comprises the Court of Session, the Faculty of Advocates and the Society of Writers to Her Majesty's Signet and therefore comprises not only

the Court but also the two branches of the legal profession, advocates and solicitors. We conclude from these paragraphs that the legal profession is also excluded from the scope of the internal market.

We note that the mutual recognition system “will be combined with a non-discrimination principle”. It is proposed that this will operate on the basis that an authority must regulate to avoid differential and unfavourable treatment to goods or services from elsewhere in the UK to that applied to goods or services from the authority’s part of the UK.

The White Paper states: “The focus of the non-discrimination principle will be on ensuring that any discriminatory barriers are addressed (e.g. regulating against goods from a specified nation within the UK), while mutual recognition will aim to reduce the overall regulatory burden a business might face as a result of diversity in regulation affecting goods and services”.

We agree that there should be no discrimination by way of regulating in one part of the UK against goods from another part of the UK unless this can be objectively justified for example on public health grounds. However, in terms of the distinction between direct and indirect discrimination we recommend that the Government consult on draft clauses in respect of these concepts before introducing a bill.

Paragraph 133 provides further detail on how the principle of mutual recognition will apply to the regulation of goods, professional qualifications and services:

- a) Mutual recognition of goods means that goods which can be lawfully sold in one part of the UK, can be lawfully sold in another without having to comply with requirements imposed in that other part. Mutual recognition is envisaged to apply to production methods, composition, quality, packaging or labelling. Some requirements will be excluded e.g. conditions on transport, disposal or the manner of sale of goods.
- b) Mutual recognition of professional qualifications ensures that professionals regulated in one part of the UK will be able to seek recognition of their qualifications in another, allowing them to provide services. In addition, other profession- specific regulatory requirements needed to practice the profession will be included as part of this process.
- c) Mutual recognition is already in place for most services in the UK through [the Provision of Services Regulations 2009](#). These regulations have broad application but some areas out of scope of the regulations are also out of scope of the UKIM proposals. The Regulations will be brought into the Internal Market system in the Internal Market Bill. The non-discrimination principle will be used to preventing unnecessary barriers to service provision

For professional qualifications, the UK Government plans to review the objectives for regulating professions and recognising international qualifications. The Government wants to make sure that professional qualifications support a productive economy and help maintain workforce supply after the end of the Transition Period. It is intended that these findings will be implemented alongside, and will work together with, the approach to professional qualifications in the UK Internal Market. We urge the Government to engage at an early stage with professional bodies affected by the proposed review in order

to be ready for the end of the Transition Period. The principle of non-discrimination could apply in certain areas of professional regulation that are excluded from the above approach.

In relation to the question the Government asked:

Question 2: What areas do you think should be covered by non-discrimination but not mutual recognition?

We have no empirical evidence upon which to answer this question. Each area should be dealt with on a case by case basis.

Part 3: Governance, independent advice, and monitoring

Paragraphs 152-167 cover governance, independent advice and monitoring. The White Paper states that “Intergovernmental arrangements will have to be expanded to account for Internal Market legislation” which will be “supported by “two independently undertaken functions”:

1. regular ongoing monitoring of, and reporting on, the health of the UK Internal Market. This will include monitoring impacts across sectors or regions and detecting emerging trends; and
2. proactively gather business, professional, and consumer views to strengthen the evidence-base needed for independent advice and monitoring.

Paragraphs 166 and 167 confirm that the Government believes these functions are best located in the same body.

Paragraph 167 sets out the range of potential vehicles including:

1. an independent body with close links to the UK Parliament and devolved legislatures;
2. an expert committee; or
3. a body accountable directly to the UK Parliament.

The Government asks the following questions about the body to carry out the independent advice and monitoring:

Question 3: What would be the most effective way of implementing the two functions outlined above? Should particular aspects be delivered through existing vehicles or through bespoke arrangements?

Question 4: How should the Government best ensure that these functions are carried out independently, help the smooth functioning of the internal market and are fully representative of the interests of businesses and consumers across the whole of the UK?

Our comments

New inter-governmental structures could include new “an independent body with close links to the UK Parliament and devolved legislatures, whilst working to enhance inter-governmental arrangements building on JMC-type committees in areas where common frameworks are created.

Not only is there a need for more systematic intergovernmental dialogue but also for increased inter-Parliamentary contact. Parliamentary scrutiny (in all the legislatures in the UK) of the activities of the JMC and any Frameworks which are created will be essential if the actions of all the Governments throughout the UK are to be fully accountable.

We urge the UK Government to take note of recommendation 25 of the Public Administration and Constitutional Affairs Committee report entitled *Devolution and Exiting the EU: reconciling differences and building strong relationships* “25. The absence of formal and effective inter-governmental relations mechanisms has been the missing part of the devolution settlement ever since devolution was established in 1998. The process of the UK leaving the EU has provided the opportunity for the Government to re-think and redesign inter-governmental relations in order to put them on a better footing. Once the UK has left the EU, and UK Common Frameworks are established, the present lack of intergovernmental institutions for the underpinning of trusting relationships and consent will no longer be sustainable. We recommend that the Government take the opportunity provided by Brexit to seek to develop, in conjunction with the devolved Administrations, a new system of inter-governmental machinery and ensure it is given a statutory footing. Doing this will make clear that inter-governmental relations are as important a part of the devolution settlement as the powers held by the devolved institutions. (Paragraph 132)”.

Such a development should include adequate dispute settlement provisions. here given the potential importance of such provisions post-Transition.

We look forward to the publication of the Inter-Governmental Relations Review and hope that the principle of cooperation between UK and Scottish Ministers which is the basis of the current Memorandum of Understanding will serve as a basis for arrangements which will apply under the Future Relationship with the EU and Trade Agreements with Third Countries.

In relation to the questions the Government asked:

Question 3: What would be the most effective way of implementing the two functions outlined above? Should particular aspects be delivered through existing vehicles or through bespoke arrangements?

Question 4: How should the Government best ensure that these functions are carried out independently, help the smooth functioning of the internal market and are fully representative of the interests of businesses and consumers across the whole of the UK?

Our response to questions 3 and 4

In order to deliver these functions in an independent way there are a number of options. We favour a new statutory body which should meet stringent requirements of independence, accountability and transparency. There are some precedents which could serve as models: for example the National Audit Office established under the Budget Responsibility and National Audit Act 2011 or the Climate Change

Committee established under the Climate Change Act 2008. Accordingly, an Internal Market Independent Monitoring and Advisory Committee could be set up under statute whose members will be selected by the National Authorities (such as the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Northern Ireland Executive) after an open competition, appointed by Her Majesty The Queen whilst being accountable to Parliament and the Devolved Legislatures.

Part 4: Subsidy control

Paragraphs 55, 56 and 168-174 set out the UK Government's proposals to "work with the devolved administrations to determine how subsidies should be given in a coherent way across the UK". The Government's objectives are to protect the coherence of the Internal Market, and to ensure the devolved administrations can continue to control their own spending decisions.

The Government's view is that this should be reserved (or excepted, in Northern Ireland).

Paragraph 175 states "The devolved administrations will remain responsible for their own spending decisions on subsidies (how much, to whom and for what) within the architecture of any future subsidy control mechanism. We will continue to work closely with all the devolved administrations to seek to agree the shape of a UK-wide domestic subsidy control regime".

Our comments

In January 2019, the previous Government published the draft State Aid (EU Exit) Regulations <https://www.legislation.gov.uk/ukdsi/2019/9780111178768> which would have established a domestic regime to be in place in the event that the UK left the EU without a Withdrawal Agreement being in place. The Regulations sought to transpose existing EU State aid legislation into UK legislation and would have created a domestic State aid regime consistent with the EU State aid regime.

Although the Regulations were debated in both Houses, they were not enacted. There was some debate about whether State Aids is a reserved or a devolved matter and the UK and Scottish Governments do not agree with each other on this point. The White Paper in paragraph 173 makes it clear that the Government now intends to legislate to reserve this area of the law and place the matter beyond debate so as to "guarantee that a single, unified subsidy control regime could be legislated for in the future".

The White Paper states in paragraph 171 that the Government will move "away from the EU's State Aid rules to create our own, sovereign subsidy control regime. This will build on our obligations under the WTO and other trade agreements".

Paragraph 172 states that the Government will set out their "policy for this new domestic regime separately in due course, but remain committed to developing an open, fair, and transparent subsidy control mechanism". We recommend that the Government should consult on a pre-legislative basis on the draft clauses for the single, unified subsidy control regime as soon as possible.

These proposals generate a number of questions:

1. Why depart from the EU State aid rules which have a significant body of detailed EU State aid jurisprudence developed by the EU courts?
2. Why adopt the WTO anti-subsidy rules as the jurisprudence under the WTO anti-subsidy rules remains relatively undeveloped?
3. How will a regime under which the devolved administrations will have freedom to grant State aid be compatible with ensuring the integrity of the Internal Market?
4. When will the proposals for single, unified subsidy control regime be published?

APPENDIX

Appendix on Common Frameworks

21 policy areas that are subject to more detailed discussion to explore whether legislative common framework agreements might be needed, in whole or in part – as per Cabinet Office, Revised Frameworks Analysis, April 2019¹

The European Union (Withdrawal) Act and Common Frameworks Reports are available [here](#).

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information	Status of common framework/legislation
		NI	S	W		
DEFRA	Agricultural support	x	x	x	<p>Policies and Regulations under the EU Common Agricultural Policy covering Pillar 1 (income and market support); Pillar 2 (rural growth, agri-environment, agricultural productivity grants or services and organic conversion and maintenance grants); and cross-cutting issues, including compliance, finance, & controls.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>Direct Payments Regulation 1307/201/EU, which establishes direct payments to farmers under Support Schemes within the framework of the Common Agricultural Policy.</p>	<p>Temporary framework established by Direct Payments to Farmers (Legislative Continuity) Act 2020 and associated secondary legislation.</p> <p>High level framework (regulation making powers for Scottish Ministers) set out for Scotland under Agriculture (Retained EU Law and Data) (Scotland) Bill. Our comments are available here.</p>

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/792738/20190404-FrameworksAnalysis.pdf



			<p>https://ec.europa.eu/agriculture/direct-support_en</p> <p><u>Scottish Law</u></p> <p>Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015</p> <p>Scotland will receive €4.6 billion to implement the Common Agricultural Policy (CAP) in Scotland until 2020. CAP provides funding for Scotland's farmers and landowners, along with a range of other support schemes. €3.7 billion is in direct payments to farmers, with just over €840 million per the Scotland Rural Development Programme (SRDP). The SRDP funds a wide variety of projects across Scotland to help rural communities, protect and enhance the environment, develop rural businesses and support the forestry and farming sectors.</p> <p><u>UK Government Technical Notices</u></p> <p>Farm payments if there's no Brexit deal, 23 August 2018- https://www.gov.uk/government/publications/farm-payments-if-theres-no-brexit-deal</p> <p>Receiving rural development funding if there's no Brexit deal, 23 August 2018- https://www.gov.uk/government/publications/receiving-rural-development-funding-if-theres-no-brexit-deal</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 http://www.legislation.gov.uk/uksi/2019/207/contents/made</p> <p>Common Agricultural Policy (Rules for Direct Payments) (Amendment) (EU Exit) Regulations 2019 http://www.legislation.gov.uk/uksi/2019/208/made</p>	<p>Interaction with UK Agriculture Bill, Part 6 concerning compliance with WTO Agreement on Agriculture. Our comments are available here.</p> <p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to two meetings with officials having taken place on agricultural Support (16 August 2018 and 29 May 2019).</p>
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				<p>Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/763/contents/made</p> <p>Common Agricultural Policy (Financing, Management and Monitoring Supplementary Provisions) (Miscellaneous Amendments) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/765/contents/made</p> <p>Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/828/contents/made</p> <p>The Food and Farming (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/759/contents/made</p> <p>Scottish Law</p> <p>Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 http://www.legislation.gov.uk/ssi/2019/60/contents/made</p> <p>The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019</p> <p>https://www.legislation.gov.uk/ssi/2019/209/contents/made</p> <p>The Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019</p> <p>https://www.legislation.gov.uk/ssi/2019/289/contents/made</p> <p>The Agriculture Market Measures (EU Exit) (Scotland) (Amendment) Regulations 2019</p> <p>https://www.legislation.gov.uk/ssi/2019/73/contents/made</p> <p>The Agriculture Market Measures (EU Exit) (Scotland) (Amendment)</p>	
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					Amendment Regulations 2019 https://www.legislation.gov.uk/ssi/2019/89/contents/made	
DEFRA	Agriculture – fertiliser regulations	x	x	x	<p>Regulations providing common standards for compositional ingredients, labelling, packaging, sampling and analysis of fertilisers. The UK is also signed up to a number of international agreements (e.g. the Gothenburg Protocol) and EU agreements (the National Ceilings Directive related to fertiliser regulation).</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>Regulation (EC) No 2003/2003 relating to fertilisers consolidates all the EU rules that apply to fertilisers. The Regulation ensures that these technical requirements are implemented throughout the EU. This consolidated version is of documentary value only.</p> <p>The regulation applies to mineral fertilisers consisting of one or more plant nutrients. Other fertilisers are governed by EU countries’ national legislation.</p> <p>The regulation lists fertiliser types according to their specific characteristics. Once a fertiliser meets this designation it may bear the letters ‘EC’ which guarantees farmers that the fertilisers contain a minimum nutrient content and are safe to use. Information, including the manufacturer’s details and the fertiliser’s characteristics, must appear on packages, labelling and accompanying documents.</p> <p><u>English Law</u></p> <p>The EC Fertilisers (England and Wales) Regulations 2006</p> <p><u>Scottish Law</u></p> <p>The EC Fertilisers (Scotland) Regulations 2006</p> <p><u>UK Government Technical Notices</u></p> <p>Manufacturing and marketing fertilisers if there’s no Brexit deal, 24</p>	<p>Scottish Government has indicated that in relation to fertilisers, non-statutory frameworks have been proposed.</p> <p>Framework to be underpinned by UK Agriculture Bill, clause 31. Our comments are available here.</p> <p>The Scottish Government has recommended that the Scottish Parliament should be invited to give its consent by way of an Legislative Consent Memorandum to the provisions of the UK Bill relating to fertilisers.</p> <p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to two meetings with officials having taken place on Fertiliser Regulations (23 November 2018 and 21 February 2019) and a meeting of the Fertiliser Regulatory Committee to continue to develop proposals for framework (4 June 2019)</p>



					<p>September 2018-</p> <p>https://www.gov.uk/government/publications/manufacturing-and-marketing-fertilisers-if-theres-no-brex-it-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the Field of Fertilisers, 25 September 2018</p> <p>https://ec.europa.eu/info/sites/info/files/fertilisers_en.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/ukxi/2019/601/contents/made</p> <p><u>English Law</u></p> <p>The Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/ukxi/2019/306/contents/made</p> <p><u>Scottish Law</u></p> <p>The Fertilisers and Pesticides (EU Exit) (Scotland) (Miscellaneous Amendments etc.) Regulations 2019</p> <p>http://www.legislation.gov.uk/ssi/2019/25/introduction/made</p>	
DEFRA	Agriculture – GMO marketing and	x	x	x	<p>Standards for marketing and cultivation of genetically modified organisms.</p> <p><u>Law Society Scotland Comments</u></p>	Not clear what further work is required.



	civilisation			<p><u>EU Law</u></p> <p>Directive 2001/18/EC (Deliberate Release)</p> <p>Directive (EU) 2015/412 (Deliberate Release-possibility to restrict cultivation of GMOs in Member State's territory)</p> <p>Directive 2009/41/EC (Contained Use)</p> <p>Regulation 1829/2003 (Food and Feed)</p> <p>Regulation 1830/2003 (Traceability and Labelling)</p> <p>Regulation 1946/2003 (Transboundary Movements)</p> <p>Genetically Modified Organisms (GMO) technology is strictly regulated and the EU has had a legal framework since the 1990s.</p> <p>EU legislation establishes the conditions for the development, use or marketing of a GMO or a food/feed product derived from GMOs. EU legislation on GMOs has two main objectives:</p> <p>To protect health and the environment: a GMO or a food product derived from a GMO can only be put on the market in the EU after it has been authorised on the basis of a detailed EU procedure based on a scientific assessment of the risks to health and the environment and to ensure the free movement of safe and healthy GM products in the EU. GM authorisation in Europe adopts a precautionary, case-by-case approach where the scale of release is related to the level of risk.</p> <p>There are the following levels of authorisation:</p> <ol style="list-style-type: none">a. Contained use – This is GM research carried out in a contained environment, under Directive 2009/41/EC.b. Research releases - this is the deliberate release to the environment authorised under the Deliberate Release into the Environment of GMOs Directive, 2001/18/EC. These are small scale releases carried out under tight control.c. Commercial releases – is the deliberate release to the environment	
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				<p>authorised under Part C of the Deliberate Release into the Environment of GMOs Directive, 2001/18/EC, or under the Genetically Modified Food and Feed Regulation, 1829/2003. This type of authorisation covers import and use of a GMO for food or feed and non-food use and it can allow EU-wide commercial scale growing of a GM crop. The Food Standards Agency (FSA) is responsible for food safety issues whilst Defra and the devolved agriculture departments are responsible for assessing risks to the environment. All new crop varieties (GM and non GM) also have to be approved as suitable for agriculture via the National List trials route. The Traceability and Labelling Regulation 1830/2003/EC and Food and Feed Regulation 1830/2003/EC require the labelling of any intentional use of GM ingredients in food and feed. A GMO that has not been approved is not allowed in food and feed for sale in the EU.</p> <p><u>UK Law</u></p> <p>Environmental Protection Act 1990</p> <p>The Genetically Modified Organisms (Contained Use) Regulations 2014</p> <p>The competent authority responsible for the Regulations consists of the Health and Safety Executive (HSE) and the Secretary of State for the Environment, Food and Rural Affairs (Defra) in England and Wales www.gov.uk/government/organisations/department-for-environment-food-rural-affairs</p> <p>In Scotland, the HSE and the Scottish Government are the joint competent authority. The HSE considers the risk to the operator and the Scottish Government considers the risk to the environment from any GMO release.</p> <p><u>Scottish Law</u></p> <p>Enforcement in Scotland</p> <p>In Scotland there are four sets of regulations granting powers to authorised officers for enforcement, and creating penalties for non-compliance. Local authorities are responsible for the enforcement of traceability and labelling requirements and for sampling and testing food and feed for GMOs. The GM Inspectorate and Science and Advice for Scottish Agriculture (SASA) is responsible for ensuring compliance with</p>	
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				<p>the regulations governing the deliberate release into the environment of GMOs in Scotland.</p> <p>The Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002</p> <p>Genetically Modified Food (Scotland) Regulations 2004</p> <p>Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004</p> <p>Genetically Modified Organisms (Transboundary Movements) (Scotland) Regulations 2005</p> <p><u>UK Government Technical Notices</u></p> <p>Developing genetically modified organisms (GMOs) if there's no Brexit deal, 23 August 2018</p> <p>https://www.gov.uk/government/publications/developing-genetically-modified-organisms-gmos-if-theres-no-brexit-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Genetically Modified Food and Feed and the Deliberate Release of Genetically Modified Organisms into the Environment, 23 January 2018</p> <p>https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_gmo.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/90/contents/made</p> <p>Chemicals (Health and Safety) and Genetically Modified Organisms</p>	
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					<p>(Contained Use) (Amendment etc) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/720/contents/made</p> <p>Genetically Modified Food and Feed (Amendment etc) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/705/contents/made</p> <p>Animal health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/1229/contents/made</p> <p><u>English Law</u></p> <p>The Genetically Modified Organisms (Amendment) (England) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/88/contents/made</p> <p><u>Scottish Law</u></p> <p>Genetically Modified Organisms (EU Exit) (Scotland) (Amendment) Regulations 2019</p> <p>http://www.legislation.gov.uk/ssi/2019/57/contents/made</p>	
DEFRA	Agriculture – organic farming	x	x	x	<p>Regulations setting out standards for organic production certification.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>The Council Regulation 834/2007/EC sets out the principles, aims and overarching rules of organic production and defines how organic products are to be labelled.</p> <p>The regulation has the following aims:</p>	<p>Scottish Government has indicated that in relation to organic products, non-statutory frameworks have been proposed.</p> <p>Framework to be underpinned by UK Agriculture Bill, clauses 36 and 37. Our comments are available here.</p>



			<p>a. sustainable cultivation systems</p> <p>b. a variety of high-quality products</p> <p>c. greater emphasis on environmental protection</p> <p>d. more attention to biodiversity</p> <p>e. higher standards of animal protection</p> <p>f. consumer confidence</p> <p>g. protecting consumer interests</p> <p>Synthetic resources may be permissible if there are no suitable alternatives. Such products, which must be scrutinised by the Commission and EU countries before authorisation, are listed in the annexes to the implementing regulation 889/2008/EC. 15</p> <p>Labelling organic foods</p> <p>Foods can be labelled "organic" if at least 95% of the agricultural ingredients meet the necessary standards. In non-organic foods, any ingredients which meet organic standards can be listed as organic.</p> <p>Organic production outlaws GMOs. However, the regulation on genetically modified food and feed sets a threshold (0.9%) under which a product's GMO content does not have to be indicated. Products with GMO content below this threshold can be labelled organic.</p> <p>Since 1 July 2010, EU producers of organic food have been required to use the EU organic logo.</p> <p><u>UK Law</u></p> <p>The Organic Products Regulations 2009 The power of the Secretary of State, as a designated Minister, to make regulations which extend to Scotland, Wales and Northern Ireland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (c. 46); article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I.1999/2788), and article 3(2) of the European Communities (Designation) (No. 3) Order</p>	<p>The Scottish Government has made no recommendation in its Legislative Consent Memorandum of May 2020 that the provisions on organics should be considered by the UK Parliament at the present time. A further Legislative Consent Motion may be brought forward in due course to cover organics.</p>
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					<p>2000(S.I. 2000/2812).</p> <p><u>UK Government Technical Notices</u></p> <p>Producing and processing organic food if there's no Brexit deal, 23 August 2018</p> <p>https://www.gov.uk/government/publications/producing-and-processing-organic-food-if-theres-no-brexit-deal</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Organic Production and Control (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/693/contents/made</p> <p>Organic Products (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/109/made</p> <p>The Organic Production (Control of Imports) (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/692/contents/made</p>	
DEFRA	Agriculture – zotech	x	x	x	<p>EU legislation providing a common framework of rules on breeding and trade in pedigree animals and germinal products in the EU and the treatment of imports from 3rd countries. Each of the UK regions has competent authorities in their areas for recognition of breed societies under this legislation.</p> <p><u>Our Comments</u></p> <p><u>EU Law</u></p> <p>https://ec.europa.eu/food/animals/zotechnics/legislation_en</p> <p>a. Decision 2007/371/EC as regards herd books for animals of the bovine</p>	Not clear what further work is required.



				<p>species</p> <p>b. Decision 2006/427/EC laying down performance monitoring methods and methods for assessing cattle's genetic value for pure-bred breeding animals of the bovine species</p> <p>c. Decision 2005/379/EC on pedigree certificates and particulars for pure-bred breeding animals of the bovine species, their semen, ova and embryos</p> <p>d. Decision 2005/375/EC on entering male sheep and goats in an annex to the flock book</p> <p>e. Directive 94/28/EC as amended by Directive 2008/73/EC on third country imports, which also requires Member States to publish up to date lists of approved breed societies and associations on the internet</p> <p><u>English Law</u></p> <p>The Zootechnical Standards (England) Regulations 2012</p> <p>https://www.gov.uk/government/publications/lists-of-recognised-animal-breeding-organisations</p> <p><u>Scottish Law</u></p> <p>The Zootechnical Standards Regulations 1992</p> <p>The Zootechnical Standards Amendment (Scotland) Regulations 2007</p> <p><u>UK Government Technical Notices</u></p> <p>Breeding animals if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/breeding-animals-if-theres-no-brex-it-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the field of breeding of animals, 23</p>	
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					<p>January 2018</p> <p>https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-breeding.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Animal Breeding (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/117/contents/made</p>	
DEFRA	Animal health and traceability	x	x	x	<p>EU rules and standards that aim to maintain animal health and allow their movement, including policies covering: prevention of disease (entering UK) control of disease (endemic and exotic, surveillance (for exotic disease) movement of livestock, pet passports and veterinary medicines.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>The Regulation on Transmissible Animal Diseases, the EU Animal Health Law provides:</p> <ol style="list-style-type: none"> a. Simpler rules to enable authorities to focus on preventing and eradicating disease b. Clearer responsibilities for farmers, vets and others dealing with animals c. Better surveillance of pathogens, electronic identification and registration of animals d. Earlier detection and control of animal diseases to reduce animal epidemics e. More flexibility to adjust rules to local circumstances <p>The Animal Health Law strengthens the enforcement of health and safety standards for the agri-food chain and is also a key output of the Animal</p>	<p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> • a meeting with officials having taken place on Animal Health and Welfare (26 September 2018) • a 'deep dive' on of future UK Biosecurity Office to complement wider framework development (17 June 2019) • multiple meetings between DEFRA officials and their counterparts in the devolved working group meetings, taking place at least monthly, including on Animal Health and Welfare.



				<p>Health Strategy 2007-2013 "Prevention is better than cure".</p> <p>Several delegated and implementing acts will be adopted by the EU until April 2019 to make the new rules applicable.</p> <p>Farmed Animals – Council Directive 98/58/EC concerning the protection of animals kept for farming purposes.</p> <p>Regulation 1/2005 on the Protection of Animals during Transport and related operations sets out minimum standards for the welfare of animals during transport. The Regulation applies to the transport of all live vertebrate animals for the purposes of economic activity, ie a business or trade.</p> <p><u>English Law</u></p> <p>The Animal Welfare Act 2006 (AWA) contains the general laws relating to animal welfare. It is an offence to cause unnecessary suffering to any animal. The AWA contains a Duty of Care to animals - anyone responsible for an animal must take reasonable steps to make sure the animal's needs are met.</p> <p>The welfare of farmed animals is additionally protected by The Welfare of Farmed Animals (England) Regulations 2007, which are made under the AWA.</p> <p>The Welfare of Animals at Markets Order 1990 (WAMO) covers treatment of animals in markets to ensure they are not caused injury or unnecessary suffering. The order sets out arrangements for penning, food and water and the care of young animals. Responsibility for enforcing WAMO rests with local councils.</p> <p>The Welfare of Animals (Transport) (England) Order 2006</p> <p>The welfare of farmed animals is additionally protected by the Welfare of Farmed Animals (England) Regulations 2007, which are made under the AWA.</p> <p>Welfare of Farmed Animals (England) Regulations 2007</p>	
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				<p>Welfare of Farmed Animals (England) (Amendment) Regulations 2010</p> <p>These regulations implement EU directives on the welfare of calves, pigs, laying hens, conventionally reared meat chickens and a general welfare framework directive, which sets down minimum standards for the protection of all farmed livestock.</p> <p>The regulations cover all farmed animals. Schedule 1 contains requirements for inspections, record keeping, freedom of movement, buildings, equipment and the feeding and watering of animals. Guidance has been prepared to accompany the regulations.</p> <p><u>Scottish Law</u></p> <p>The Animal Health and Welfare (Scotland) Act 2006</p> <p>The Welfare of Farmed Animals (Scotland) Regulations 2010</p> <p>The Welfare of Animals (Transport) (Scotland) Regulations 2006</p> <p>The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.</p> <p>http://www.gov.scot/Topics/farmingrural/Agriculture/animal-welfare/policies/Legislation</p> <p>http://www.gov.scot/Resource/0051/00512255.pdf</p> <p>The Animal Health and Welfare Framework has been introduced to recognise the importance of central and local government working together. It is a partnership between the Scottish Government, the Convention of Scottish Local Authorities (COSLA), the Society of Chief Officers of Trading Standards in Scotland (SCOTSS), the Society of the Chief Officers of Environmental Health in Scotland (SOCOEHS) and the Animal and Plant Health Agency (APHA). The Framework also helps to address the requirements of Regulation 882/2004/EC on Official Feed and Food Controls, in ensuring verification of compliance with animal health and welfare rules. This regulation aims to improve the consistency and</p>	
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				<p>effectiveness of official controls within Member States and across the EC.</p> <p>The Food Hygiene (Scotland) Regulations 2006</p> <p>The Meat (Official Controls Charges) (Scotland) Regulations 2009</p> <p>The Animal By-Products (Enforcement) (Scotland) Regulations 2013</p> <p><u>UK Government Technical Notices</u></p> <p>Accessing animal medicine IT systems if there's no Brexit deal, 24 September 2018</p> <p>https://www.gov.uk/government/publications/accessing-animal-medicine-it-systems-if-theres-no-brex-it-deal</p> <p>Registration of veterinary medicines if there's no Brexit deal, 24 September 2018</p> <p>https://www.gov.uk/government/publications/registration-of-veterinary-medicines-if-theres-no-brex-it-deal</p> <p>Regulation of veterinary medicines if there's no Brexit deal, 24 September 2018</p> <p>https://www.gov.uk/government/publications/regulation-of-veterinary-medicines-if-theres-no-brex-it-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>Notice to marketing authorisation holders of centrally authorised medicinal products for human and veterinary use, 23 January 2018</p> <p>https://ec.europa.eu/health/sites/health/files/files/documents/ec_ema_notice_communication_brexit.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment)</p>	
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				<p>(EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/809/contents/made</p> <p>Official Controls for Feed, Food and Animal Health and Welfare (Amendment etc.) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/665/contents/made</p> <p>The Farriers and Animal Health (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/457/contents/made</p> <p>The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/1220/made</p> <p>The Animal Health, Alien Species in Aquaculture and Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/813/contents/made</p> <p>Animal health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/1229/contents/made</p> <p><u>Scottish Law</u></p> <p>The Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019</p> <p>https://www.legislation.gov.uk/ssi/2019/71/contents/made</p> <p>The Aquatic Animal Health and Alien Species in Aquaculture (EU Exit) (Scotland) (Amendment) Regulations 2019</p> <p>https://www.legislation.gov.uk/ssi/2019/9/contents/made</p> <p>The Animal Health and Welfare and Official Controls (Animals, Feed and</p>	
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					Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 https://www.legislation.gov.uk/ssi/2019/288/contents/made	
DEFRA	Animal welfare	x	x	x	<p>EU rules relating to aspects of animal welfare including on-farm issues, movement of livestock and slaughter.</p> <p><u>UK Government Technical Notices</u></p> <p>Exporting animals and animal products if there's no Brexit deal, 24 September 2018 https://www.gov.uk/government/publications/exporting-animals-and-animal-products-if-theres-no-brexite-deal</p> <p>Importing animals and animal products if there's no Brexit deal, 24 September 2018 https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexite-deal</p> <p>Trading and moving endangered species protected by CITES if there's no Brexit deal, 12 October 2018 https://www.gov.uk/government/publications/trading-and-moving-endangered-species-protected-by-cites-if-theres-no-brexite-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on animal feed, 23 January 2018 https://ec.europa.eu/food/sites/food/files/safety/docs/brexit-notice_animal-feed.pdf</p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on animal health and welfare and public health related to the movement of live animals, 27 February 2018 https://ec.europa.eu/info/sites/info/files/file_import/movements_of_live_an</p>	<p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> • a meeting with officials having taken place on Animal Health and Welfare (26 September 2018) • a 'deep dive' on of future UK Biosecurity Office to complement wider framework development (17 June 2019) • multiple meetings between DEFRA officials and their counterparts in the devolved working group meetings, taking place at least monthly, including on Animal Health and Welfare.



				<p>mals_en.pdf</p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules for authorisations and certificates for transporters of live animals, drivers and attendants, 23 January 2018</p> <p>https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-transport.pdf</p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Certificates of competence pursuant to the requirements of Regulation (EC) NO 1099/2009 on the protection of animals at the time of killing, to slaughterhouse operators, 23 January 2018</p> <p>https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-killing.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Animals (Legislative Functions) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/588/contents/made</p> <p><u>English Law</u></p> <p>The Animal Welfare (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/802/made</p> <p>Animal Health and Welfare (Miscellaneous Amendments) (England) (EU Exit) Regulations 2018</p> <p>http://www.legislation.gov.uk/uksi/2018/1033/contents/made</p> <p><u>Scottish Law</u></p> <p>The Animal Welfare (EU Exit) (Scotland) (Amendment) Regulations 2019</p>	
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HSE and DERRA	Chemicals regulation (including pesticides)	*x	*x	*x	<p>EU regulations on the classification, labelling and packaging of substances and mixtures (CLP); the placing on the market and use of biocidal products (e.g. rodenticides); the export and import of hazardous chemicals; the registration, evaluation, authorisation and restriction of chemicals (REACH); and plant protection products (e.g. pesticides).</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>The Sustainable Use of Pesticides Directive 2009/128/EC</p> <p>The European Commission is responsible for the approval of active substances for use in pesticides in Member States. Approval is given after a rigorous assessment process involving the European Food Safety Authority, Member States and scientific experts.</p> <p>The Directive includes provisions aimed at reducing risks and impacts on human health and the environment, and to improve controls on distribution and use:</p> <ol style="list-style-type: none"> a. A National Action Plan b. compulsory testing of application equipment c. provision of training for and arrangements for the certification of operators, advisors and distributors d. a ban (subject to limited exceptions) on aerial spraying e. provisions to protect water, public spaces and conservation areas f. the minimisation of risks from handling, storage and disposal 	<p>High level framework in relation to REACH (regulation-making powers) enabled by UK Environment Bill, clause 125 and schedule 19. Our comments are available here.</p> <p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> • meetings with officials having taken place on Chemicals and Pesticides (2 October 2018, 21 November 2018 and 22 January 2019) • Multiple meetings between DEFRA officials and their counterparts in the devolved working group meetings, taking place at least monthly, including on Chemicals and Pesticides.



				<p>g. the promotion of low input regimes</p> <p><u>UK Law</u></p> <p>The Food and Environmental Protection Act 1985 as amended by the Pesticides Act 1998.</p> <p>When an active substance is approved by the EU, companies can apply to the regulatory authority in each Member State for permission to place their product on the market. In the UK this is the Chemicals Regulation Division (CRD) of the Health and Safety Executive. The CRD publishes guidance on the Health and Safety Executive website.</p> <p>Code of Practice for Using Plant Protection Products in Scotland: http://www.gov.scot/resource/doc/161422/0043816.pdf</p> <p>The Code of Practice reflects the Scottish Government's policy to reduce the effect of pesticide use on people and on the environment while controlling pests, diseases and weeds.</p> <p>The Plant Protection Products (Sustainable Use) Regulations 2012 are UK regulations which implement Directive 2009/128/EC.</p> <p>The power of the Secretary of State, as designated Minister, to make Regulations that extend to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1998.</p> <p><u>UK Government Technical Notices</u></p> <p>Regulating chemicals (REACH) if there's no Brexit deal, 24 September 2018</p> <p>https://www.gov.uk/government/publications/regulating-chemicals-reach-if-theres-no-brex-it-deal</p> <p>Regulating pesticides if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/regulating-pesticides-if-theres-no-brex-it-deal</p>	
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				<p>Regulating biocidal products if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/regulating-biocidal-products-if-theres-no-brexit-deal</p> <p>Classifying, labelling and packaging chemicals if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/classifying-labelling-and-packaging-chemicals-if-theres-no-brexit-deal</p> <p>Export and import of hazardous chemicals if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/export-and-import-of-hazardous-chemicals-if-theres-no-brexit-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>Questions and answers related to the United Kingdom's withdrawal from the European Union with regards to plant protection products and pesticides residues, 2 October 2018</p> <p>https://ec.europa.eu/info/sites/info/files/qa-plant-protection-products_en_0.pdf</p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on plant protection products</p> <p>https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_pesticides.pdf</p> <p>Withdrawal of the United Kingdom and EU Rules on Biocidal Products, 23 January 2018</p> <p>https://ec.europa.eu/info/sites/info/files/file_import/biocidal-product_en.pdf</p> <p>Withdrawal of the United Kingdom and EU legislation in the field of supplementary protections certificates for medicinal products and plant protection products, 27 April 2018</p>	
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				<p>https://ec.europa.eu/info/sites/info/files/file_import/supplementary_protection_certificates_en.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/720/contents/made</p> <p>The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/556/contents/made</p> <p>The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/601/contents/made</p> <p>Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/557/contents/made</p> <p><u>English Law</u></p> <p>The Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/306/contents/made</p> <p><u>Scottish Law</u></p> <p>The Fertilisers and Pesticides (EU Exit) (Scotland) (Miscellaneous Amendments etc.) Regulations 2019</p> <p>http://www.legislation.gov.uk/ssi/2019/25/introduction/made</p>	
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DHSC	Elements of reciprocal healthcare	*x	*x	*x	<p>Regulations 1408/71 and 883/2004 are the main pieces of EU legislation providing for reciprocal healthcare.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>Directive 2011/24/EC on EEA Patients' Rights</p> <p>Regulations 1408/71/EEC and 883/2004/EC</p> <p>There are a number of healthcare arrangements that apply in the EU, the EEA and Switzerland. These arrangements are administered through programmes to which individuals must subscribe to exercise their right to reciprocal healthcare. There are four principal schemes, the EHIC (European Healthcare Insurance Card), S1, S2, and S3 schemes. These arrangements apply equally across the UK and are managed and funded centrally by the UK government.</p> <p>Eligibility for these schemes is based on residence and economic status, not nationality.</p> <p>The S1 scheme enables individuals from one nation to get health and social care in another, with the costs of that care met by the state that they would either ordinarily reside in or that provides their exportable benefit.</p> <p>The S2 scheme enables individuals to travel to another EU or EEA country or Switzerland to access specific healthcare treatments, with the cost of that treatment met by their country of residence.</p> <p>The S3 scheme provides a certificate of entitlement that enables individuals to access healthcare in a country in which they were previously employed.</p> <p><u>English Law</u></p> <p>The National Health Service (Cross-Border Healthcare) Regulations 2013 (2269)</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data</p>	<p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to a meeting with officials having taken place on Public Health (7 February 2019), a Public Health common framework workshop with representatives from the UK Government, the devolved administrations and all four public health agencies (Public Health England, Health Protection Scotland, Public Health Wales and the Public Health Agency in Northern Ireland) on 9 October 2019, and a meeting between Reciprocal Healthcare policy teams from the UK Government and the devolved administrations to discuss the common framework and accompanying Memorandum of Understanding (date unconfirmed – between 26 December 2019 to 25 March 2020).</p>
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					<p>/file/252944/NHS_cross_border_regulations_2013.pdf</p> <p><u>Scottish Law</u></p> <p>The National Health Service (Cross-Border Health Care) (Scotland) Regulations 2013 292 http://www.legislation.gov.uk/ssi/2013/292/contents/made</p> <p><u>EU Law</u></p> <p>A valid European Health Insurance Card gives EEA nationals the right to access state-provided healthcare during a temporary stay in another European Economic Area (EEA) country or Switzerland:</p> <p>Anyone insured for healthcare in another EEA member state or Switzerland and who, for medically necessary treatment, presents either a European Health Insurance Card (EHIC) from that member state or a Provisional Replacement Certificate (PRC) for that card, or, for elective treatment, presents an S2 document for that treatment. The spouse/civil partner and children under 18 of the above are also exempt when lawfully visiting the UK with them.</p>	
DEFRA	Environmental quality – chemicals	*x	*x	*x	<p>Regulation of the manufacture, authorisation and sale and use of chemical products primarily through the REACH regulation but also including: Persistent Organic Pollutants (POP's), Polychlorinated Biphenyls (PCBs) and Minamata.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law and Policy</u></p> <p>EU REACH (registration, evaluation, authorisation and restriction of chemicals) Regulation 1907/2006/EC: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006R1907-20140410</p> <p>REACH provides a single regulatory framework for the control of chemicals, replacing the previous patchwork of controls. It ensures that information on the properties of chemicals is transmitted down the supply chain, so they can be safely handled.</p> <p>The Water Framework Directive 2000/60/EC: http://eur-</p>	<p>High level framework in relation to REACH (regulation-making powers) enabled by UK Environment Bill, clause 125 and schedule 19. Our comments are available here.</p> <p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> meetings with officials having taken place on Chemicals and Pesticides (2 October 2018, 21 November 2018 and 22 January 2019) Multiple meetings between DEFRA officials and their counterparts in the devolved



			<p>lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0060 established provision for a list of Priority Substances (Annex X of the Directive). Decision 2455/2001/EC: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001D2455 established the First list, and Directive 2008/105/EC, the Environmental Quality Standards Directive – EQSD: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0105, set the quality standards as required by Article 16(8) of the Water Framework Directive. Annex II to the EQSD replaced Annex X of the Water Framework Directive.</p> <p>Member States are required to take actions to meet the quality standards in the EQSD by 2015 as part of chemical status (Water Framework Directive Article 4 and Annex V point 1.4.3). Community policy concerning dangerous or hazardous substances in European waters was introduced in 1976 by Council Directive on pollution caused by discharges of certain dangerous substances (Directive 76/464/EEC, codified as 2006/11/EC). Several substances have been regulated in specific directives defining community-wide emission limit values and quality objectives in the surface and coastal waters. Directive 76/464/EEC was integrated into the Water Framework Directive: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0060 Commission Directive 2009/90/EC: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0090 on technical specifications for chemical analysis and monitoring of water came into effect on 21 August 2009. This Directive established common chemical analysis standards and monitoring of water, sediment and biota.</p> <p>Strategic approach to pharmaceuticals in the environment:</p> <p>The Commission is consulting a strategic approach to pharmaceuticals in the environment. This follows the provision in Article 8c of Directive 2008/105/EC as amended by Directive 2013/39/EU, which requires that the approach be followed by proposals for measures as appropriate.</p> <p><u>UK Law</u></p> <p>The REACH Enforcement Regulations 2008: http://www.legislation.gov.uk/uksi/2008/2852/contents/made Under the European Communities Act 1972 the power of the Minister to make regulations in relation to matters in or as regards Scotland is preserved by section 57(1) of the Scotland Act 1998. DEFRA have the policy lead on which REACH complements the Control of Substances Hazardous to</p>	<p>working group meetings, taking place at least monthly, including on Chemicals and Pesticides.</p>
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				<p>Health Regulations 2002 (COSHH). The Health and Safety Executive publishes http://www.hse.gov.uk/reach/. SEPA: https://www.sepa.org.uk is one of the enforcement authorities for chemical restrictions and bans under REACH.</p> <p><u>UK Government Technical Notices</u></p> <p>Upholding environmental standards if there's no Brexit deal, 13 September 2018</p> <p>https://www.gov.uk/government/publications/upholding-environmental-standards-if-theres-no-brexit-deal</p> <p>Regulating chemicals (REACH) if there's no Brexit deal, 24 September 2018</p> <p>https://www.gov.uk/government/publications/regulating-chemicals-reach-if-theres-no-brexit-deal</p> <p>Control on persistent organic pollutants if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/control-on-persistent-organic-pollutants-if-theres-no-brexit-deal</p> <p>Regulating biocidal products if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/regulating-biocidal-products-if-theres-no-brexit-deal</p> <p>Classifying, labelling and packaging chemicals if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/classifying-labelling-and-packaging-chemicals-if-theres-no-brexit-deal</p> <p>Export and import of hazardous chemicals if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/export-and-import-of-</p>	
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					<p>hazardous-chemicals-if-theres-no-brex-it-deal</p> <p>Control on mercury if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/control-on-mercury-if-theres-no-brex-it-deal</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/ukxi/2019/758/contents/made</p> <p>The REACH etc. (Amendment etc.) (EU Exit) (No. 2) Regulations 2019</p> <p>https://www.legislation.gov.uk/ukxi/2019/858/contents/made</p> <p>Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/ukxi/2019/720/contents/made</p>	
DEFRA	Environmental quality – ozone depleting substances and F-gases	x	x	x	<p>The UK has international obligations under the Montreal Protocol to phase out the use of ODS, phase down hydrofluorocarbons by 85% by 2036, licence imports and exports and report on usage to the UN. EU Regulations and institutions currently deliver these obligations through quota restrictions, licencing and reporting requirements. The EU Regulations also go further with product bans; leakage controls measures and certification requirements for technicians.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>Unofficial consolidated EU Emissions Trading Directive 2003/87/EC Directive 2009/29/EC (Phase III). This Directive amends Directive 2003/87/EC to improve and extend the EU's emission allowance trading scheme. The revised EU ETS Directive forms part of the EU 2020 Climate & Energy Package agreed in December 2008. Aviation Directive</p>	<p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> • Publication of joint consultation on the approach to UK carbon pricing following EU Exit (2 May 2019) • A number of workshops with officials from the UK Government and devolved administrations to develop the policy, operational structure and governance of the ETS framework (14 August 2019, 3-4 September 2019, 4 – 5 February 2020 and 10 March



			<p>2008/101/EC: This Directive amends the EU Emissions Trading Directive 2003/87/EC to include aviation from 2012.</p> <p>Linking Directive (2004/101/EC) : This Directive amends the EU Emissions Trading Directive 2003/87/EC to enable Member States to allow operators to use credits obtained through Kyoto Mechanisms (CERs - Certified Emissions Reductions and ERUs - Emission Reduction Units).</p> <p>EU Emissions Trading Directive 2003/87/EC : Monitoring, reporting and verification of greenhouse gas emissions in the EU ETS.</p> <p><u>UK Law</u></p> <p>The Greenhouse Gas Emissions Trading Scheme Regulations 2012</p> <p>Under section 57 of the Scotland Act 1998 (c. 46), despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under Community law in respect of devolved matters, any function of the Secretary of State in relation to any matter continues to be exercisable as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972. And similarly, under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32), despite the transfer to the Welsh Ministers of functions under section 2 of the 1999 Act so far as exercisable in relation to Wales (except in relation to offshore oil and gas exploration and exploitation), those functions continue to be exercisable by the Secretary of State in relation to Wales for such purposes.</p> <p><u>UK Government Technical Notices</u></p> <p>Upholding environmental standards if there's no Brexit deal, 13 September 2018</p> <p>https://www.gov.uk/government/publications/upholding-environmental-standards-if-theres-no-brex-it-deal</p> <p>Using and trading in fluorinated gases and ozone depleting substances if there's no Brexit deal, 13 September 2018</p> <p>https://www.gov.uk/government/publications/using-and-trading-in-</p>	<p>2020)</p> <ul style="list-style-type: none"> • UK Government and the devolved administrations have progressed significant technical aspects of the Implementation of EU Emissions Trading Scheme (ETS) framework and ETS has now completed its Phase 2 Review, including technical stakeholder engagement. • Multiple meetings between DEFRA officials and their counterparts in the devolved working group meetings, taking place at least monthly, including on Fluorinated Greenhouse Gases and Ozone Depleting Substances.
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					<p>fluorinated-gases-and-ozone-depleting-substances-if-theres-no-brexite-deal</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/107/contents/made</p> <p>The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/583/contents/made</p>	
DEFRA	Environmental quality – pesticides	x	*x	*x	<p>Regulations governing the authorisation and use of pesticides products and the maximum residue levels in food, and framework for action on sustainable use of pesticides.</p> <p><u>UK Government Technical Notices</u></p> <p>Upholding environmental standards if there’s no Brexit deal, 13 September 2018</p> <p>https://www.gov.uk/government/publications/upholding-environmental-standards-if-theres-no-brexite-deal</p> <p>Regulating pesticides if there’s no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/regulating-pesticides-if-theres-no-brexite-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>Questions and answers related to the United Kingdom’s withdrawal from the European Union with regards to plant protection products and pesticides residues, 2 October 2018</p> <p>https://ec.europa.eu/info/sites/info/files/qa-plant-protection-</p>	<p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> meetings with officials having taken place on Chemicals and Pesticides (2 October 2018, 21 November 2018 and 22 January 2019) Multiple meetings between DEFRA officials and their counterparts in the devolved working group meetings, taking place at least monthly, including on Chemicals and Pesticides.



					<p>products_en_0.pdf</p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on plant protection products</p> <p>https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_pesticides.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019 http://www.legislation.gov.uk/uksi/2019/556/contents/made</p> <p>The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019 https://www.legislation.gov.uk/uksi/2019/601/contents/made</p> <p>Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019 http://www.legislation.gov.uk/uksi/2019/557/contents/made</p> <p><u>English Law</u></p> <p>The Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019 http://www.legislation.gov.uk/uksi/2019/306/contents/made</p> <p><u>Scottish Law</u></p> <p>The Fertilisers and Pesticides (EU Exit) (Scotland) (Miscellaneous Amendments etc.) Regulations 2019 http://www.legislation.gov.uk/ssi/2019/25/introduction/made</p>	
DEFRA	Environmental quality – waste	x	x	x	<p>Policies and Regulations that aim to meet certain essential product requirements and set product standards including for packaging (e.g. POHS in Electrical and Electronic Equipment, Batteries and Vehicles) in</p>	<p>Joint consultation between UK Government and devolved administrations on reforming the</p>



	<p>packaging and product regulations</p>			<p>order to manage waste.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>Directive 94/62/EC on Packaging and Packaging Waste (consolidated version)</p> <p>Amending laws:</p> <ol style="list-style-type: none"> a. Directive 2004/12/EC amending Directive 94/62/EC on packaging" and packaging waste. b. Directive 2005/20/EC amending Directive 94/62/EC on packaging and packaging waste (extension of deadlines for the attainment of the recycling and recovery targets for the Member States acceding the EU in 2004) c. Commission Directive 2013/2/EU amending Annex I to Directive 94/62/EC on packaging and packaging waste. d. Directive (EU) 2015/720 amending Directive 94/62/EC as regards the consumption of lightweight plastic carrier bags. e. The Waste Framework Directive 2008/98/EC sets the basic concepts and definitions related to waste management, including definitions of waste, recycling, recovery. It explains when waste ceases to be waste and becomes a secondary raw material (end-of-waste criteria), and how to distinguish between waste and by-products. <p>The Directive lays down some basic waste management principles: that waste be managed without a. endangering human health and harming the environment, b. risk to water, air, soil, plants or animals, c. causing a nuisance through noise or odours, and d. adversely affecting the countryside. The Directive introduced the "polluter pays" principle and "extended producer responsibility". It incorporated provisions on hazardous waste and waste oil and requires that Member States adopt waste management plans and waste prevention programmes.</p>	<p>UK packaging producer responsibility system undertaken February 2019. Our response is available here.</p> <p>High level framework in relation to producer responsibility set out in UK Environment Bill (Clauses 47 – 48 and Schedules 4 – 5). Our comments are available here.</p> <p>It is not known if further legislative measures are planned.</p> <p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> • a meeting with officials having taken place on Waste (17 July 2019) – “the discussion centred on the frameworks’ interaction with international obligations and trade” • Multiple meetings between DEFRA officials and their counterparts in the devolved working group meetings, taking place at least monthly, including on Waste • a ‘deep dive’ session on Waste on 26 February 2020.
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				<p><u>UK Law</u></p> <p>Producer Responsibility Obligations (Packaging Waste) Regulations 2007</p> <p>These Regulations are made by the Secretary of State for Environment, Food and Rural Affairs as respects England, Scotland and Wales in exercise of the powers conferred upon him by section 2(2) of the European Communities Act 1972 and sections 93 – 95 of the Environment Act 1995. Under section 57 of the Scotland Act 1998, despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Community law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by him as regards Scotland.</p> <p>Environmental Protection Act 1990 http://www.legislation.gov.uk/ukpga/1990/43/contents Part II, Waste on Land</p> <p>Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015: http://www.legislation.gov.uk/uksi/2015/426/contents/made</p> <p><u>Scottish Law</u></p> <p>Waste Management Licensing (Scotland) Regulations 2011: https://www.legislation.gov.uk/ssi/2011/228/contents/made</p> <p>Safeguarding Scotland's Resources: Blueprint For A More Resource Efficient and Circular Economy: http://www.gov.scot/Publications/2013/10/6262/0</p> <p><u>UK Government Technical Notices</u></p> <p>Upholding environmental standards if there's no Brexit deal, 13 September 2018</p> <p>https://www.gov.uk/government/publications/upholding-environmental-standards-if-theres-no-brexite-deal</p>	
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DEFRA	Fisheries management & support	x	x	x	<p>Policies and Regulations relating to rules relating to the sustainability of fisheries (quotas), access to waters, conservation measures, enforcement and financial support.</p>	<p>High level framework established by UK Fisheries Bill. Our comments are available</p>



			<p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>Article 3(1) (d) TFEU provides that the EU has “exclusive competence” in the “conservation of marine biological resources under the Common Fisheries Policy” (CFP). The CFP is a set of rules for managing European fishing fleets and for conserving fish stocks. It gives all European fishing fleets equal access to EU waters and fishing grounds. EU countries have taken action to ensure the European fishing industry is sustainable and does not threaten the fish population size and productivity over the long term.</p> <p>The CFP was first introduced in the 1970s and went through successive updates, the most recent of which took effect on 1 January 2014. The EU maintains that CFP aims to ensure that fishing and aquaculture are environmentally, economically and socially sustainable and that they provide a source of healthy food for EU citizens. Its goal is to foster a dynamic fishing industry and ensure a fair standard of living for fishing communities.</p> <p>The current policy stipulates that between 2015 and 2020 catch limits should be set that are sustainable and maintain fish stocks in the long term.</p> <p>The reform also changed the way in which the CFP is managed, giving EU countries greater control at national and regional level.</p> <p>The CFP has 4 main policy areas detailed in these links:</p> <p>Fisheries management, International policy, Market and trade policy and Funding of the policy</p> <p>The CFP also includes rules on aquaculture and stakeholder involvement</p> <p>The new Common Fisheries Policy: sustainability in depth</p> <p>The international dimension of the EU Common Fisheries Policy</p> <p>The European Maritime and Fisheries Fund 2014-2020</p>	<p>here.</p> <p>Non-legislative framework expected to sit alongside Bill.</p> <p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to</p> <ul style="list-style-type: none"> • meetings between officials on Fisheries Management and Support (28 and 29 August 2018) • a meeting of the Science Working Group to develop content of non-legislative MoU (29 May 2019) • Multiple meetings between DEFRA officials and their counterparts in the devolved working group meetings, taking place at least monthly, including on Fisheries.
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				<p>Regulation (EU) No 1380/2013 on the Common Fisheries Policy</p> <p><u>Scottish Law</u></p> <p>The Scotland Act 1998 schedule 5 paragraph C6 provides that the regulation of sea fishing outside the Scottish Zone is reserved to the UK. Therefore the Scottish Parliament has legislative competence over sea fishing within the Scottish zone, subject to the EU competence:</p> <p>Aquaculture and Fisheries (Scotland) Acts 2007 and 2013.</p> <p><u>UK Government Technical Notices</u></p> <p>Getting an exemption from maritime security notifications if there's no Brexit deal, 13 September 2018</p> <p>https://www.gov.uk/government/publications/getting-an-exemption-from-maritime-security-notifications-if-theres-no-brex-it-deal</p> <p>Recognition of seafarer certificates of competency if there's no Brexit deal, 13 September 2018</p> <p>https://www.gov.uk/government/publications/recognition-of-seafarer-certificates-of-competency-if-theres-no-brex-it-deal</p> <p>Commercial fishing if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/commercial-fishing-if-theres-no-brex-it-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>Withdrawal of the United Kingdom and EU Rules in the field of maritime transport, 27 February 2018</p> <p>https://ec.europa.eu/info/sites/info/files/file_import/maritime_transport_en.pdf</p> <p>Withdrawal of the United Kingdom and EU Rules in the field of inland waterways, 7 March 2018</p>	
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Food Standards Agency	Food and feed safety and hygiene law (food and feed safety and hygiene law, and the controls and verify compliance with food and feed law (official controls))	x	x	x	<p>EU regulations laying down the general principles and requirements of food and feed safety and hygiene; food and feed law enforcement (official controls); food safety labelling; risk analysis; and incident handling. The regulations set out an overarching and coherent framework for the development of food and feed legislations and lay down general principles, requirements and procedures that underpin decision making in matters of food and feed safety, covering all stages of food and feed production.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>See the extensive EU law in this area in the Food and Feed Guide in the section on Scottish Law.</p> <p><u>UK Law (exc. Scotland)</u></p> <p>Feed and food safety and standards are devolved in the UK. The Food</p>	<p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> • Five Food and Feed Safety and Hygiene official-level meetings having taken place • A cross-government meeting on food frameworks held on 11 February 2020, ensuring coordination between different frameworks in this area (Nutrition Health Claims, Composition and Labelling, and Food and Feed Safety and Hygiene).



				<p>Standards Agency (FSA) has responsibility for feed and food safety law in England, Wales and Northern Ireland. Following changes in 2010, FSA responsibilities for food law across England, Wales and Northern Ireland are no longer harmonised.</p> <p>In England, Defra is responsible for food labelling, other than for matters of food safety such as 'Use By' dates and allergens labelling. The Department of Health has central government responsibility for nutrition-related food legislation in England.</p> <p>In Wales, the FSA retains responsibility for general food labelling. The Welsh Government is responsible for nutrition related to food legislation.</p> <p>In Northern Ireland, the FSA retains responsibility for general food labelling and nutrition related to food legislation in Northern Ireland.</p> <p><i>Food Standards Agency Food and Feed Law Guide</i></p> <p>https://www.food.gov.uk/sites/default/files/food_feed_law_guide_dec2016.pdf</p> <p><u>Scottish Law</u></p> <p>Food Standards Scotland (FSS) was established 1 April 2015 as the national food body for Scotland, with responsibility for central Government functions previously carried out by the FSA in Scotland. The FSS has published a Food and Feed Law Guide which sets out the EU Law and Scottish implementing regulations. The Guide can be found at:</p> <p>http://www.foodstandards.gov.scot/downloads/Scottish_Food_and_Feed_Law_Guide_-_August_2017_1.pdf</p> <p><u>UK Government Technical Notices</u></p> <p>Exporting GM food and animal feed products if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/exporting-gm-food-and-animal-feed-products-if-theres-no-brexit-deal</p> <p>Importing high-risk food and animal feed if there's no Brexit deal, 12</p>	
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				<p>October 2018</p> <p>https://www.gov.uk/government/publications/importing-high-risk-food-and-animal-feed-if-theres-no-brexite-deal--2</p> <p><u>European Commission Preparedness Notices</u></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on EU Food Law, 1 February 2018</p> <p>https://ec.europa.eu/info/sites/info/files/file_import/eu_food_law_en.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>Food (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/uksi/2019/529/contents/made</p> <p>The Food and Farming (Amendment) (EU Exit) Regulations 2019</p> <p>http://www.legislation.gov.uk/ukdsi/2019/9780111183274/contents</p> <p><u>The Specific Food Hygiene (Regulation (EC) No. 853/2004) (Amendment) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/1247/contents/made</p> <p><u>The Contaminants in Food (Amendment) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/639/contents/made</p> <p><u>The Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/640/contents/made</p> <p><u>The General Food Hygiene (Amendment) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/642/contents/made</p>	
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				<p><u>The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/664/contents/made</p> <p><u>The Official Controls for Feed, Food and Animal Health and Welfare (Amendment etc.) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/665/contents/made</p> <p><u>The Food and Feed (Chernobyl and Fukushima Restrictions) (Amendment) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/699/contents/made</p> <p><u>The Food and Feed (Maximum Permitted Levels of Radioactive Contamination) (Amendment) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/701/contents/made</p> <p><u>The Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/705/contents/made</p> <p><u>English Law</u></p> <p><u>The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/uksi/2019/1013/contents/made</p> <p><u>The Official Controls (Animals, Feed and Food) (England) (Amendment) (EU Exit) Regulations 2018</u></p> <p>https://www.legislation.gov.uk/uksi/2018/1241/contents/made</p> <p><u>Scotland</u></p> <p><u>The Food and Feed Safety and Hygiene (EU Exit) (Scotland) (Amendment) Regulations 2019</u></p>	
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					https://www.legislation.gov.uk/ssi/2019/52/contents/made	
DEFRA	Food composition standards	x	x	x	<p>Minimum standards for a range of specific food commodities such as sugars, coffee, honey, caseins, condensed milk, chocolate, jams fruit, juices and bottled water.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>Regulation 1169/2011/EU on the provision of food information to consumers</p> <p><u>English Law</u></p> <p>The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017</p> <p><u>Scottish Law</u></p> <p>The Food Information (Scotland) Regulations 2014</p> <p><u>European Commission Preparedness Notices</u></p> <p>Withdrawal of the United Kingdom and EU Rules in the field of Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters, undated</p> <p>https://ec.europa.eu/info/sites/info/files/file_import/natural_mineral_waters_en.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Food (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/529/contents/made</p> <p>The General Food Law (Amendment etc.) (EU Exit) Regulations 2019</p>	<p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> • A number of sessions on Nutrition Health Claims, Composition and Labelling throughout 2018 and 2019, including the UK Government and devolved administrations conducting an informal stakeholder engagement session to test provisional conclusions made within the frameworks outline (5 September 2019) • Peer review and ‘deep dive’ meetings were held on 8 January 2020, looking at the Nutrition Health Claims, Composition and Labelling framework • Risk analysis meetings on 19 February and 18 March 2020 • A cross-government meeting on food frameworks held on 11 February 2020, ensuring coordination between different frameworks in this area (Nutrition Health Claims, Composition and Labelling, and Food and Feed Safety and Hygiene) • Nutrition Health Claims, Composition and Labelling frameworks has undergone technical stakeholder engagement



					<p>https://www.legislation.gov.uk/ukSI/2019/641/contents/made</p> <p>The Novel Food (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/ukSI/2019/702/contents/made</p> <p>The Food and Farming (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/ukSI/2019/759/contents/made</p> <p><u>English Law</u></p> <p><u>The Food (Amendment) (England) (EU Exit) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/ukSI/2019/150/contents/made</p> <p><u>Scottish Law</u></p> <p>The Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019</p> <p>http://www.legislation.gov.uk/ssi/2019/53/contents/made</p>	<ul style="list-style-type: none"> The Nutrition Health Claims, Composition and Labelling framework was brought before the Food Standards Agency board on 21 January 2020, and received their endorsement and was approved by officials in the UK Government and devolved administrations at the Frameworks Board in Belfast on 30 January 2020.
DEFRA	Food labelling	x	x	x	<p>Regulations setting out requirements on provision of information to consumers on food labels.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u></p> <p>Regulation 1169/2011/EU on the provision of food information to consumers, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011R1169</p> <p><u>English Law</u></p> <p>The Food Information Regulations 2014</p> <p>http://www.legislation.gov.uk/ukSI/2014/1855/contents/made</p>	<p>The European Union (Withdrawal) Act and Common Frameworks Reports refer to:</p> <ul style="list-style-type: none"> A number of sessions on Nutrition Health Claims, Composition and Labelling throughout 2018 and 2019, including the UK Government and devolved administrations conducting an informal stakeholder engagement session to test provisional conclusions made within the frameworks outline (5 September 2019) Peer review and ‘deep dive’ meetings were held on 8



					<p><u>Scottish Law</u></p> <p>The Food Information (Scotland) Regulations 2014 https://www.legislation.gov.uk/ssi/2014/312/note/made UK Policy</p> <p><u>UK Policy</u></p> <p>http://www.foodstandards.gov.scot/publications-and-research/guide-to-creating-a-front-of-pack-nutrition-label-for-pre-packed-products-s - (joint UK and devolved guidance)</p> <p><u>UK Government Technical Notices</u></p> <p>Producing and labelling food if there's no Brexit deal, 24 September 2018 https://www.gov.uk/government/publications/producing-and-labelling-food-if-theres-no-brexit-deal</p> <p>Health marks on meat, fish and dairy products if there's no Brexit deal, 12 October 2018 https://www.gov.uk/government/publications/health-marks-on-meat-fish-and-dairy-products-if-theres-no-brexit-deal</p> <p><u>EU Exit Regulations</u></p> <p><u>Scottish Law</u></p> <p>The Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 http://www.legislation.gov.uk/ssi/2019/53/contents/made</p> <p>The Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 https://www.legislation.gov.uk/ssi/2019/285/contents/made</p>	<p>January 2020, looking at the Nutrition Health Claims, Composition and Labelling framework</p> <ul style="list-style-type: none"> • Risk analysis meetings on 19 February and 18 March 2020 • A cross-government meeting on food frameworks held on 11 February 2020, ensuring coordination between different frameworks in this area (Nutrition Health Claims, Composition and Labelling, and Food and Feed Safety and Hygiene) • Nutrition Health Claims, Composition and Labelling frameworks has undergone technical stakeholder engagement • The Nutrition Health Claims, Composition and Labelling framework was brought before the Food Standards Agency board on 21 January 2020, and received their endorsement and was approved by officials in the UK Government and devolved administrations at the Frameworks Board in Belfast on 30 January 2020.
BEIS	Implementati on of EU Emissions	x	x	x	<p>Directives 2003/87/EC establishes the European Union Emissions Trading Scheme for greenhouse gas. The Scheme sets a maximum amount of greenhouse gas that can be emitted by all participating installations and</p>	<p>The European Union (Withdrawal) Act and Common</p>



	Trading System			<p>aircrafts these operators then monitor, verify and report their emissions, and must surrender allowances equivalent to their emissions annually. Allowances are issued either by being sold at auction or allocated for free to some operators, and can be traded. With the price determined by the market.</p> <p><u>Scottish Policy and Law</u></p> <p><u>EU Law</u></p> <p>The EU emissions trading system or carbon market (EU ETS) is designed to combat climate change and reduce greenhouse gas emissions.</p> <p>The EU ETS works on the 'cap and trade' principle. A cap is set on the total amount of greenhouse gases that can be emitted by installations in the system. The cap is reduced over time so that total emissions fall. Within the cap, companies receive or buy emission allowances which they can trade with one another as needed. They can also buy limited amounts of international credits from emission-saving projects globally.</p> <p>Each year a company must surrender enough allowances to cover all its emissions. If a company reduces its emissions, it can keep the allowances to cover its future needs or sell them to another company that is short of allowances.</p> <p>Consolidated version of Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC</p> <p>EU Policy and law: https://ec.europa.eu/clima/policies/lowcarbon/ccs/directive_en Directive on the Geological Storage of Carbon Dioxide (2009/31/EC): http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0031</p> <p><u>UK Law</u></p> <p>The Greenhouse Gas Emissions Trading System Regulations 2012 require operators that carry out an activity covered by the EU ETS to hold an emissions permit which is a licence to operate and emit greenhouse gases under EU ETS see: Annex I to the EU ETS Directive.</p>	<p>Frameworks Reports refer to:</p> <ul style="list-style-type: none"> • Publication of joint consultation on the approach to UK carbon pricing following EU Exit (2 May 2019) • A number of workshops with officials from the UK Government and devolved administrations to develop the policy, operational structure and governance of the ETS framework (14 August 2019, 3-4 September 2019, 4 – 5 February 2020 and 10 March 2020) • UK Government and the devolved administrations have progressed significant technical aspects of the Implementation of EU Emissions Trading Scheme (ETS) framework and ETS has now completed its Phase 2 Review, including technical stakeholder engagement.
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				<p>The EU ETS Regulators enforce compliance with the EU ETS Regulations, such as granting and maintaining permits and emissions plans (for aviation), monitoring and reporting (including monitoring plans), assessing verified emission reports (and tonne-kilometre reports), assessing applications to the NER, determining reductions in allocations as a result of changes in capacity or cessation of activities, exchanging information with UKAS on verifier activities.</p> <p>Regulators include: the Environment Agency, https://www.gov.uk/government/organisations/environment-agency , Scottish Environment Protection Agency (SEPA), Northern Ireland Environment Agency (NIEA), Natural Resources Wales, and the Department for Business, Energy & Industrial Strategy (BEIS) https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy for offshore installations.</p> <p><u>UK Regulatory Regime</u></p> <p>The Energy Act 2008: https://www.legislation.gov.uk/ukpga/2008/32/contents provides a licensing regime that governs offshore storage of carbon dioxide. The regime applies to storage in the offshore area comprising both UK territorial sea and beyond.</p> <p>The Secretary of State for BEIS is the licensing authority for offshore storage except within the territorial sea adjacent to Scotland, where it is Scottish Ministers.</p> <p><u>Scottish Policy and Law</u></p> <p>http://www.gov.scot/Topics/Business-Industry/Energy/Energy-sources/traditional-fuels/new-technologies/SGactionCCS</p> <p>SEPA supervised the transposition of Directive (2009/31/EC):</p> <p>The Energy Act 2008 (Storage of Carbon Dioxide) (Scotland) Regulations 2011:</p> <p>http://www.legislation.gov.uk/sdsi/2011/9780111011911/introduction</p> <p>The Storage of Carbon Dioxide (Licensing etc) (Scotland) Regulations</p>	
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					<p>2011:</p> <p>http://www.legislation.gov.uk/ssi/2011/24/contents/made</p> <p>The Environmental Liability (Scotland) Amendment Regulations 2011:</p> <p>http://www.legislation.gov.uk/ssi/2011/116/contents/made</p> <p>These regulations flow from the Energy Act 2008, which designates the Scottish Ministers as the competent authority under the Directive for CO2 storage in Scotland.</p> <p><u>UK Government Technical Notices</u></p> <p>Meeting climate change requirements if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/meeting-climate-change-requirements-if-theres-no-brex-it-deal</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Greenhouse Gas Emissions Trading Scheme (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/107/contents/made</p>	
DEIS (DHSC MHCLG, DEFRA, DfE and MoJ also have interest)	Mutual recognition of professional qualifications	x	x	x	<p>Directives that create systems for the recognition for professional qualifications and professional experience throughout the EU. Allowing EU professionals to work in regulated professions in other EU states on either a permanent or temporary basis.</p> <p><u>Scottish Policy and Law</u></p> <p><u>EU Law</u></p> <p>Professionals in the EU can move across borders and practice their occupation or provide services abroad. Recognition of professional qualifications in practice The recognition of professional qualifications in</p>	Michael, are you aware as to the position on this?



				<p>Directive 2005/36/EC enables the free movement of professionals such as doctors or architects within the EU. This directive has now been amended by Directive 2013/55/EU. Other professions, such as lawyers or sailors, fall under the scope of different legislation. In January 2016, the Commission introduced an EU-wide digital procedure for the recognition of professional qualifications – the European Professional Card (EPC). The procedure makes it easier for nurses, physiotherapists, pharmacists, real estate agents and mountain guides to work across the UK.</p> <p><u>UK Law (England and Wales and Scotland)</u></p> <p>In order to implement Directive 2005/36/EC into UK law, it was necessary to transpose the Directive in UK statutory regulations: European Union (Recognition of Professional Qualifications) Regulations 2015</p> <p>The relevant sections of these regulations have now been incorporated into the Medical Act 1983 under The European Qualifications (Health and Social Care Professions) Regulations 2016. Under section 57(1) of the Scotland Act 1998 despite the transfer to Scottish Ministers of functions in relation to implementation obligations under Union Law in relation to certain matters by virtue of section 53 of that Act, the function of the Secretary of State in relation to any matter continues to be exercisable by him as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972. The regulation of certain professions eg Architects and Auditors is reserved under the Scotland Act 1988.</p> <p><u>UK Government Technical Notices</u></p> <p>Providing services including those of a qualified professional if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/providing-services-including-those-of-a-qualified-professional-if-theres-no-brexit-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>Withdrawal of the United Kingdom and EU Rules in the field of regulation professions and the recognition of professional qualifications, 21 June 2018</p> <p>https://ec.europa.eu/info/sites/info/files/file_import/professional_qualificatio</p>	
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DEFRA	Plant health, seed and propagating material	*x	*x	*x	<p>Requirements in relation to the import and internal EU movement of plants and plant products, risk assessment of new plant pests and outbreak management. Assurance and auditing of policies across the UK to protect plant biosecurity. Requirements for plant variety rights, registration of plant varieties and quality assurance of marketed seed and propagating material.</p> <p><u>Scottish Policy and Law</u></p> <p><u>EU Law</u></p> <p>a. EU marketing requirements, including rules for specific seeds</p> <p>b. Directives related to Conservation Varieties</p> <p>c. Lists of implementing measures related to marketing of specific seeds</p> <p>d. Review of EU legislation on the marketing of seed and plant propagating material</p> <p><u>English Law</u></p> <p>The Plant Health (England) Order 2005</p> <p>Protecting Plant Health: A Plant Biosecurity Strategy for Great Britain: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307355/pb14168-plant-health-strategy.pdf</p> <p><u>Scottish Law</u></p> <p>The Plant Health (Scotland) Order 2005 http://www.gov.scot/Topics/farmingrural/Agriculture/plant/PlantHealth/PolicyAndLegislation</p> <p><u>UK Government Technical Notices</u></p> <p>Importing and exporting plants if there's no Brexit deal, 24 September 2018</p>	The European Union (Withdrawal) Act and Common Frameworks Reports refer to meetings with officials on Plant Health, Seeds and Propagating Material (4 October 2018 and 12 February 2019)



				<p>https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brex-it-deal</p> <p>Plant variety rights and marketing of seed and propagating material if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/plant-variety-rights-and-marketing-of-seed-and-propagating-material-if-theres-no-brex-it-deal</p> <p>Trading and moving endangered species protected by CITES if there's no Brexit deal, 12 October 2018</p> <p>https://www.gov.uk/government/publications/trading-and-moving-endangered-species-protected-by-cites-if-theres-no-brex-it-deal</p> <p><u>European Commission Preparedness Notices</u></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Plant Health, 21 March 2018</p> <p>https://ec.europa.eu/info/sites/info/files/file_import/plant_health_en.pdf</p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Plant Variety Rights, 23 January 2018</p> <p>https://ec.europa.eu/food/sites/food/files/plant/docs/brex-it-notice_plant-variety-rights.pdf</p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the field of marketing of seeds and other plant reproductive propagating material, undated</p> <p>https://ec.europa.eu/info/sites/info/files/file_import/plant_reproductive_material_en.pdf</p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Trade in Protected Species of Wild Fauna and Flora, 7 March 2018</p> <p>https://ec.europa.eu/info/sites/info/files/notice_to_stakeholders_brex-it_prot</p>	
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				<p>ected_species.pdf</p> <p><u>EU Exit Regulations</u></p> <p><u>UK Law</u></p> <p>The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/809/contents/made</p> <p>Aquatic Animal Health and Plant Health (Legislative Functions) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/817/contents/made</p> <p>The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/1220/contents/made</p> <p>The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/162/contents/made</p> <p>The Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/204/contents/made</p> <p><u>English Law</u></p> <p>The Plant Health (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/787/contents/made</p> <p>Plant Health (Amendment) (England) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/786/contents/made</p> <p>The Marketing of Seeds and Plant Propagating Material (Amendment)</p>	
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					<p>(England and Wales) (EU Exit) Regulations 2019</p> <p>https://www.legislation.gov.uk/uksi/2019/131/contents/made</p> <p><u>Scottish Law</u></p> <p>The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019</p> <p>https://www.legislation.gov.uk/ssi/2019/124/contents/made</p> <p>Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019</p> <p>http://www.legislation.gov.uk/ssi/2019/59/contents/made</p> <p>The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019</p> <p>https://www.legislation.gov.uk/ssi/2019/190/contents/made</p> <p><u>The Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019</u></p> <p>https://www.legislation.gov.uk/ssi/2019/289/contents/made</p>	
BEIS	Services Directive	*x	*x	x*	<p>Directive that seeks to realise the full potential of services markets in Europe by removing legal and administrative barriers to trade by increasing transparency and making it easier for businesses and consumers to provide or sue services in the EU Single Market.</p> <p><u>Scottish Policy and Law</u></p> <p><u>EU Law</u></p> <p>Directive 2006/123/EC on services in the internal market (OJ No. L 376, 27.12.2006, p.36).</p> <p><u>UK Law</u></p> <p>The Provision of Services Regulations 2009</p>	Michael, are you aware as to the position on this?



				<p>http://www.legislation.gov.uk/ukxi/2009/2999/contents/made Under s. 57(1) of the Scotland Act 1998 (c. 46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Community law in relation to devolved matters, the function of the Secretary of State in relation to implementing these obligations continues to be exercisable by him as regards Scotland.</p>	
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