



Law Society  
of Scotland

# Stage 3 Briefing

## Agriculture (Retained EU Law and Data) (Scotland) Bill

August 2020



## Introduction

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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.

The Agriculture (Retained EU Law and Data) (Scotland) Bill<sup>1</sup> was introduced by the Cabinet Secretary for the Rural Economy, Fergus Ewing MSP, on 6 November 2019. The Rural Economy and Connectivity Committee conducted an inquiry on the Bill to which we submitted written evidence<sup>2</sup>. The Stage 1 Report of the Delegated Powers and Law Reform Committee was published on 6 February 2020<sup>3</sup> and the Report of the Rural Economy and Connectivity Committee was published on 4 March 2020<sup>4</sup>. We have a number of observations to make on the Bill ahead of the stage 3 debate on 26 August 2020.

## General remarks

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Much of the Bill is a high-level framework, providing powers for the Scottish Ministers to introduce regulations on several matters. The Bill will facilitate the continuity of agricultural payments following the UK's withdrawal from the EU. We consider that engagement and consultation with a wide variety of stakeholder groups is important in the context of those regulations being developed and introduced.

### Commons frameworks

We note that the October 2017 memorandum from the JMC(EN) acknowledged the need for common frameworks to be in place and noted that such frameworks will recognise devolution in Scotland, Wales and Northern Ireland. Areas in which common frameworks are anticipated comprise highly regulated areas of policy implemented by EU Directives, Regulations and Decisions and transposed by UK Acts and

<sup>1</sup> <https://www.parliament.scot/parliamentarybusiness/Bills/113288.aspx>

<sup>2</sup> <https://www.lawscot.org.uk/media/368104/20-01-03-written-evidence-agriculture-retained-eu-law-and-data-scotland-bill.pdf>

<sup>3</sup> <https://digitalpublications.parliament.scot/Committees/Report/DPLR/2020/2/6/Agriculture--Retained-EU-Law-and-Data---Scotland--Bill--Stage-1#Introduction>

<sup>4</sup> <https://digitalpublications.parliament.scot/Committees/Report/REC/2020/3/3/Stage-1-Report-on-the-Agriculture--Retained-EU-Law-and-Data---Scotland--Bill>

subordinate legislation, Scottish Acts and Scottish subordinate legislation; as well as a number of administrative, non-statutory arrangements.

The memorandum agreed by the JMC(EN) requires to take into account the *White Paper on Legislating for the Withdrawal Agreement between the United Kingdom and the European Union* (Cm 9674) (paragraph 67) and also the *White Paper on the Future Relationship between the United Kingdom and the European Union* (Cm 9593) (paragraph 56), while recognising the recommendations of the Public Administration and Constitutional Affairs Committee's report *Devolution and Exiting the EU: Reconciling Differences and Building Strong Relationships* (HC1485). In addition, the memorandum requires to be amended to take account of the changes which were made to the European Union Withdrawal Bill as it progressed through Parliament. The Bill received Royal Assent on 26 June 2018 and is now the European Union (Withdrawal) Act 2018.

The Cabinet Office published in late 2017 a list of 111 points where EU law intersects with devolved matters in Scotland. 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*<sup>5</sup> on 9 March 2018. 24 of the policy areas in question were identified as being subject to more detailed discussion to explore whether legislative common framework arrangements might be needed, in whole or in part. The Cabinet Office published in April 2019 a *Revised Frameworks Analysis: Breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland*<sup>6</sup>. This revised analysis has reduced the number of policy areas where legislative common frameworks may be required to 21 and includes a number of matters relating to agriculture.

In order to add further information to the debate, we offer a survey of those policy areas relevant to agricultural matters (annexed to this paper) which includes details of the EU law concerned and the implementing legislation for Scotland and, where appropriate, for the UK (occasionally on a GB basis) and for England and Wales.

The details of the majority of proposed common frameworks are not yet known, however, we continue to monitor the reported progress<sup>7</sup>. It is important that the Bill is able to accommodate any agreements reached in due course in respect of common frameworks. We note that, to date, the Scottish Government

<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/686991/20180307\\_FINAL\\_Frameworks\\_analysis\\_for\\_publication\\_on\\_9\\_March\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686991/20180307_FINAL_Frameworks_analysis_for_publication_on_9_March_2018.pdf)

<sup>6</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/792738/20190404-FrameworksAnalysis.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/792738/20190404-FrameworksAnalysis.pdf)

<sup>7</sup> The European Union (Withdrawal) Act and Common Frameworks Reports can be accessed here: <https://www.gov.uk/search/policy-papers-and-consultations?parent=%2Ftransition&topic=d6c2de5d-ef90-45d1-82d4-5f2438369eea>. We note the comments made in the Scottish Government's paper: *UK internal market: initial assessment of UK Government proposals*, 12 August 2020, that "It is now anticipated that seven frameworks, six of which relate to Scotland, will be fully developed, agreed and implemented by the end of December 2020, with provisional frameworks being established in the 25 remaining policy areas before being finalised for agreement as full frameworks after 2020" (at paragraph 16).

has consented to regulations on a variety of agricultural matters which have been laid in the UK Parliament in preparation for the UK's EU exit.<sup>8</sup>

Given the significance of agriculture in relation to food and the environment, and the potential impacts of having differing policy and legislation across jurisdictional borders, strong collaboration between Defra and the devolved administrations is of considerable importance. This may be of particular relevance in relation to producer organisations, marketing standards, and carcass classification, as a result of existing production and marketing practices.

## Comments on the Bill

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### Part 1 – Retained EU law

Given the stated intentions of the Scottish Government that this is a transition Bill with work ongoing in relation to future policy<sup>9</sup>, we previously noted that we considered that the powers under the sections in this part, in particular those powers in sections 2 – 4, should be time-limited. We therefore welcome the introduction during stage 2 proceedings of section 4A which provides that regulations may not be made under sections 2(1), 3(1) or 4(1) after 7 May 2026. We consider it appropriate that the powers in the Bill are time limited as they could be used by any future Government which may not be done in line with the intentions of the current Government.

We consider that it would be appropriate for Scottish Ministers to consult with relevant parties before laying the regulations under sections 2 – 6. Consultation with relevant parties would enhance the opportunity for scrutiny. While it would be preferable for provisions to be set out on the face of the Bill, we welcome the commitments by Scottish Government to consult on regulations<sup>10</sup>.

Given the potential scope of modifications which could be made by regulations under these sections, we have previously suggested that regulations under sections 2, 5 and 6 should be subject to the affirmative procedure to enhance the scrutiny of the regulations by the Parliament. We continue to consider that affirmative procedure is most appropriate given the potential nature of modifications which could be made. We note the recommendations from both the Delegated Powers and Law Reform Committee<sup>11</sup> and Rural

<sup>8</sup> Further information about the Scottish Parliament's consideration of these instruments can be found here: <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/109366.aspx> and <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/110153.aspx>

<sup>9</sup> Policy Memorandum, paragraphs 35-38.

<sup>10</sup> Letter from the Scottish Government Bill Team dated 6 December 2019 to the Rural Economy and Connectivity Committee regarding the follow up information from the Committee's meeting of 20 November 2019, [https://www.parliament.scot/S5\\_Social\\_Security/General%20Documents/Letter\\_to\\_Convener\\_-\\_RECC\\_Follow\\_up\\_Response\\_\\_06\\_December\\_2019.pdf](https://www.parliament.scot/S5_Social_Security/General%20Documents/Letter_to_Convener_-_RECC_Follow_up_Response__06_December_2019.pdf) and SP OR REC 15 January 2020, col.22, 26.

<sup>11</sup> Stage 1 report, paragraphs 50-51.

Economy and Connectivity Committee<sup>12</sup> in relation to the procedure under section 2, and the comments by Fergus Ewing, Cabinet Secretary for Rural Economy and Tourism during stage 2 proceedings<sup>13</sup>.

## **Section 2**

Section 2 provides regulation making powers for Scottish Ministers to modify the main CAP legislation. The powers as currently framed are wide in scope, limited only to modifications that “would simplify or improve the operation of the provisions of the legislation”. While we recognise the merits of measures to simplify the existing arrangements and/or to make improvements, the exact meaning of the phrase “simplify or improve” is subjective and therefore, may lack clarity if differing interpretations are taken. We note the comments within the Rural Economy and Connectivity Committee’s Stage 1 report in relation to this matter<sup>14</sup>. We consider that the restrictions on the powers of Scottish Ministers should be clearly specified on the face of the Bill.

## **Sections 3 and 4**

We recognise the importance of certainty and consistency for businesses, particularly in terms of payments upon which farmers rely. It is important that businesses can plan ahead and guide their conduct in the knowledge of the legal framework within which they are operating. It would be appropriate therefore for any regulations under sections 3 and 4 to be made well in advance of any changes. The nature of the changes which could be made by Ministers under these regulation-making powers could be significant for recipients, for example to set a cap on payments or to adjust budgets between Pillar 1 and Pillar 2 payments.

## **Sections 5 and 6**

The CMO Regulation provides that CAP subsidies are exempt from the ordinary operation of state aid rules. We understand that a new state aid regime will be introduced following the UK’s withdrawal from the EU and any aid provision will need to comply with this new regime, which could allow for these exemptions to be replicated. Furthermore, any subsidies granted will still need to be given in accordance with the UK’s obligations under WTO rules.

Agricultural support programs are regulated by the WTO Agreement on Agriculture (AoA) and also disciplined by the WTO’s Subsidies and Countervailing Measures Agreement (SCM). A number of other matters covered by the Bill fall within the scope of the Technical Barriers to Trade Agreement (TBT), Sanitary and Phytosanitary Agreement (SPS), and the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) (Part 5). We note that the regulation of international trade is reserved under the Scotland Act 1998, Schedule 5, paragraph 7(1) but that the observation and implementation of international obligations, including those referred to above, is not reserved. Therefore, the Bill needs to take into account the provisions of the Scotland Act and the role which the Scottish Ministers and Parliament have to play under the law.

<sup>12</sup> Stage 1 report, paragraphs 53-57.

<sup>13</sup> SP OR REC 17 June 2020, col.6.

<sup>14</sup> Stage 1 report, paragraphs 46-52

As we refer to above, we also note that agricultural support has already been identified as a possible area for common frameworks. On a practical level it is difficult to know in advance what level of domestic support the UK will be able to grant given issues over our 'share' of amber box support.<sup>15</sup>

In respect of section 6(2), we refer to our comments above in relation to the use of the wording "simplify or improve".

## Section 8

We note that section 8(3) provides that regulations under this section may include provisions about enforcement. The specified powers listed in section 8(3) are very wide in scope.

Section 8(3)(g) concerns the creation of offences. Where the creation of criminal offences is contemplated, drafting of such offences must be clear and are more appropriately detailed on the face of the Bill, rather than in regulations. In the absence of offences being set out on the face of the Bill, we welcome the amendment to the Bill at stage 2 to provide that regulations under this section are subject to the affirmative procedure.

The public must be aware of what actions will amount to an offence in order that they may guide their conduct appropriately. Any offences (and associated penalties) should be proportionate and seek to balance the rights of the individual in relation to the regulatory needs of the state. This applies equally to any new civil penalties. If offences are created, it is important that an awareness raising campaign is undertaken so as to make relevant individuals aware of the offences and possible penalties.

We consider that it would be appropriate for powers relating to appeals to be detailed in a separate section of the Bill.

We note that there is no specified exclusion in relation to material which is subject to legal professional privilege.

## Section 9

We note that the sectors listed in section 9(1) mirror those which may be subject to marketing standards under the CMO Regulation<sup>16</sup>. Pig meat and sheep meat are not currently included in the list. If there is a desire to include these sectors, it would be preferable for them to be included on the face of the Bill rather than added by regulation at a later stage. We note the Rural Economy and Connectivity Committee's recommendation in relation to consultation in this regard<sup>17</sup>.

<sup>15</sup> 'Amber box' subsidies are all domestic support measures which are subject to caps under the WTO Agreement on Agriculture. They are generally those subsidies which are considered to distort trade most significantly, such as measures to support prices, or those directly related to production quantities. On the UK's departure from the EU, the EU's current overall limit on 'amber box' subsidies will have to be divided between the UK and the EU.'

<sup>16</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007

<sup>17</sup> Stage 1 report, paragraph 125.

### **Section 10**

Our comments in relation to section 10(2) – (4) mirror those above in relation to section 8(3) – (5). We would favour regulations under section 10 being subject to the affirmative procedure and note the comments made in this regard by Fergus Ewing, Cabinet Secretary for Rural Economy and Tourism, during stage 2 proceedings<sup>18</sup>.

## **Part 2 – Collection and processing of data**

### **Section 12**

We consider that there may be merit in any proposed change to the definition of “agricultural activity” under section 12(10) being subject to consultation.

### **Section 13 and 14**

We note that sections 13 and 14 do not contain a specified exclusion in relation to material which is subject to legal professional privilege.

As currently drafted, the wording of section 13(3) – (5) appears to lack clarity.

### **Section 18**

We consider that any regulations made under section 18 need to be widely publicised given the penalties which may be imposed. As referred to in our comments on section 8 above, we consider it appropriate that provisions related to appeals be detailed in a separate section of the Bill.

## **Part 3 - General**

We have no comments on this part.

### **For further information, please contact:**

Alison McNab

Policy Team

Law Society of Scotland

DD: 0131 476 8109

[AlisonMcNab@lawscot.org.uk](mailto:AlisonMcNab@lawscot.org.uk)

<sup>18</sup> SP OR REC 17 June 2020, col.13.

**ANNEX**

Policy areas relevant to agriculture that are subject to more detailed discussion to explore whether legislative common framework agreements might be needed, in whole or in part

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information
		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, &amp; controls.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u> 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><a href="https://ec.europa.eu/agriculture/direct-support_en">https://ec.europa.eu/agriculture/direct-support_en</a></p> <p><u>Scottish Law</u> Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 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> Farm payments if there's no Brexit deal, 23 August 2018- <a href="https://www.gov.uk/government/publications/farm-payments-if-theres-no-brexite-deal">https://www.gov.uk/government/publications/farm-payments-if-theres-no-brexite-deal</a></p> <p>Receiving rural development funding if there's no Brexit deal, 23 August 2018-</p>





				<p><a href="https://www.gov.uk/government/publications/receiving-rural-development-funding-if-theres-no-brexiteal">https://www.gov.uk/government/publications/receiving-rural-development-funding-if-theres-no-brexiteal</a></p> <p><u>EU Exit Regulations</u> <u>UK Law</u> The Common Agricultural Policy (Direct Payments to Farmers) (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/207/contents/made">http://www.legislation.gov.uk/uksi/2019/207/contents/made</a></p> <p><u>Common Agricultural Policy (Rules for Direct Payments) (Amendment) (EU Exit) Regulations 2019</u> <a href="http://www.legislation.gov.uk/uksi/2019/208/made">http://www.legislation.gov.uk/uksi/2019/208/made</a></p> <p><u>Common Agricultural Policy (Financing, Management and Monitoring) (Miscellaneous Amendments) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/763/contents/made">https://www.legislation.gov.uk/uksi/2019/763/contents/made</a></p> <p><u>Common Agricultural Policy (Financing, Management and Monitoring Supplementary Provisions) (Miscellaneous Amendments) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/765/contents/made">https://www.legislation.gov.uk/uksi/2019/765/contents/made</a></p> <p><u>Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/828/contents/made">https://www.legislation.gov.uk/uksi/2019/828/contents/made</a></p> <p>The Food and Farming (Amendment) (EU Exit) Regulations 2019 <a href="https://www.legislation.gov.uk/uksi/2019/759/contents/made">https://www.legislation.gov.uk/uksi/2019/759/contents/made</a></p> <p><u>Scottish Law</u> <u>Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019</u> <a href="http://www.legislation.gov.uk/ssi/2019/60/contents/made">http://www.legislation.gov.uk/ssi/2019/60/contents/made</a></p> <p><u>The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019</u> <a href="https://www.legislation.gov.uk/ssi/2019/209/contents/made">https://www.legislation.gov.uk/ssi/2019/209/contents/made</a></p> <p><u>The Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019</u> <a href="https://www.legislation.gov.uk/ssi/2019/289/contents/made">https://www.legislation.gov.uk/ssi/2019/289/contents/made</a></p> <p><u>The Agriculture Market Measures (EU Exit) (Scotland) (Amendment) Regulations 2019</u></p>
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					<p><a href="https://www.legislation.gov.uk/ssi/2019/73/contents/made">https://www.legislation.gov.uk/ssi/2019/73/contents/made</a></p> <p><a href="https://www.legislation.gov.uk/ssi/2019/89/contents/made">https://www.legislation.gov.uk/ssi/2019/89/contents/made</a></p> <p><u>The Agriculture Market Measures (EU Exit) (Scotland) (Amendment) Amendment Regulations 2019</u></p>
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> 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> The EC Fertilisers (England and Wales) Regulations 2006</p> <p><u>Scottish Law</u> The EC Fertilisers (Scotland) Regulations 2006</p> <p><u>UK Government Technical Notices</u> Manufacturing and marketing fertilisers if there's no Brexit deal, 24 September 2018- <a href="https://www.gov.uk/government/publications/manufacturing-and-marketing-fertilisers-if-theres-no-brex-it-deal">https://www.gov.uk/government/publications/manufacturing-and-marketing-fertilisers-if-theres-no-brex-it-deal</a></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  <a href="https://ec.europa.eu/info/sites/info/files/fertilisers_en.pdf">https://ec.europa.eu/info/sites/info/files/fertilisers_en.pdf</a></p> <p><u>EU Exit Regulations</u>  <u>UK Law</u>  The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019 (draft)  <a href="https://www.legislation.gov.uk/ukdsi/2019/9780111178577/contents">https://www.legislation.gov.uk/ukdsi/2019/9780111178577/contents</a></p> <p>The Pesticides (Amendment) (EU Exit) Regulations 2019 (draft)  <a href="http://www.legislation.gov.uk/ukdsi/2019/9780111188699/contents">http://www.legislation.gov.uk/ukdsi/2019/9780111188699/contents</a></p> <p><u>English Law</u>  The Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019  <a href="http://www.legislation.gov.uk/uksi/2019/306/contents/made">http://www.legislation.gov.uk/uksi/2019/306/contents/made</a></p> <p><u>Scottish Law</u>  The Fertilisers and Pesticides (EU Exit) (Scotland) (Miscellaneous Amendments etc.) Regulations 2019  <a href="http://www.legislation.gov.uk/ssi/2019/25/introduction/made">http://www.legislation.gov.uk/ssi/2019/25/introduction/made</a></p>
DEFRA	Agriculture – GMO marketing and cultivation	x	x	x	<p>Standards for marketing and cultivation of genetically modified organisms.</p> <p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u>  Directive 2001/18/EC (Deliberate Release)  Directive (EU) 2015/412 (Deliberate Release-possibility to restrict cultivation of GMOs in Member State's territory)  Directive 2009/41/EC (Contained Use)  Regulation 1829/2003 (Food and Feed)  Regulation 1830/2003 (Traceability and Labelling)  Regulation 1946/2003 (Transboundary Movements)  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> <p>Contained use – This is GM research carried out in a contained environment, under Directive 2009/41/EC.</p> <p>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.</p> <p>Commercial releases – is the deliberate release to the environment 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> Environmental Protection Act 1990 The Genetically Modified Organisms (Contained Use) Regulations 2014 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 <a href="http://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs">www.gov.uk/government/organisations/department-for-environment-food-rural-affairs</a></p>
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				<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> 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 the regulations governing the deliberate release into the environment of GMOs in Scotland.</p> <p>The Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002 Genetically Modified Food (Scotland) Regulations 2004 Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004 Genetically Modified Organisms (Transboundary Movements) (Scotland) Regulations 2005</p> <p><u>UK Government Technical Notices</u> Developing genetically modified organisms (GMOs) if there's no Brexit deal, 23 August 2018 <a href="https://www.gov.uk/government/publications/developing-genetically-modified-organisms-gmos-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/developing-genetically-modified-organisms-gmos-if-theres-no-brexit-deal</a></p> <p><u>European Commission Preparedness Notices</u> 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 <a href="https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_gmo.pdf">https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_gmo.pdf</a></p> <p><u>EU Exit Regulations</u> <u>UK Law</u> The Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/90/contents/made">http://www.legislation.gov.uk/uksi/2019/90/contents/made</a></p> <p>The Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/720/contents/made">http://www.legislation.gov.uk/uksi/2019/720/contents/made</a></p>
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					<p>Genetically Modified Food and Feed (Amendment etc) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/705/contents/made">http://www.legislation.gov.uk/uksi/2019/705/contents/made</a></p> <p>Animal health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/1229/contents/made">http://www.legislation.gov.uk/uksi/2019/1229/contents/made</a></p> <p><u>English Law</u> The Genetically Modified Organisms (Amendment) (England) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/88/contents/made">http://www.legislation.gov.uk/uksi/2019/88/contents/made</a></p> <p><u>Scottish Law</u> Genetically Modified Organisms (EU Exit) (Scotland) (Amendment) Regulations 2019 <a href="http://www.legislation.gov.uk/ssi/2019/57/contents/made">http://www.legislation.gov.uk/ssi/2019/57/contents/made</a></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> 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> <ol style="list-style-type: none"> <li>a. sustainable cultivation systems</li> <li>b. a variety of high-quality products</li> <li>c. greater emphasis on environmental protection</li> <li>d. more attention to biodiversity</li> <li>e. higher standards of animal protection</li> <li>f. consumer confidence</li> <li>g. protecting consumer interests</li> </ol> <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> 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 2000(S.I. 2000/2812).</p> <p><u>UK Government Technical Notices</u> Producing and processing organic food if there's no Brexit deal, 23 August 2018 <a href="https://www.gov.uk/government/publications/producing-and-processing-organic-food-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/producing-and-processing-organic-food-if-theres-no-brexit-deal</a></p> <p><u>EU Exit Regulations</u> <u>UK Law</u> The Organic Production and Control (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/ukdsi/2019/9780111181195/contents">http://www.legislation.gov.uk/ukdsi/2019/9780111181195/contents</a></p> <p>Organic Products (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/109/made">http://www.legislation.gov.uk/uksi/2019/109/made</a></p> <p><a href="https://www.legislation.gov.uk/uksi/2019/692/contents/made">The Organic Production (Control of Imports) (Amendment) (EU Exit) Regulations 2019</a> <a href="https://www.legislation.gov.uk/uksi/2019/692/contents/made">https://www.legislation.gov.uk/uksi/2019/692/contents/made</a></p>
DEFRA	Agriculture – zootech	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>  <a href="https://ec.europa.eu/food/animals/zootechnics/legislation_en">https://ec.europa.eu/food/animals/zootechnics/legislation_en</a></p> <p>a. Decision 2007/371/EC as regards herd books for animals of the bovine species  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  c. Decision 2005/379/EC on pedigree certificates and particulars for pure-bred breeding animals of the bovine species, their semen, ova and embryos  d. Decision 2005/375/EC on entering male sheep and goats in an annex to the flock book  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>  The Zootechnical Standards (England) Regulations 2012  <a href="https://www.gov.uk/government/publications/lists-of-recognised-animal-breeding-organisations">https://www.gov.uk/government/publications/lists-of-recognised-animal-breeding-organisations</a></p> <p><u>Scottish Law</u>  The Zootechnical Standards Regulations 1992  The Zootechnical Standards Amendment (Scotland) Regulations 2007</p> <p><u>European Commission Preparedness Notices</u>  The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the field of breeding of animals, 23 January 2018  <a href="https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-breeding.pdf">https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-breeding.pdf</a></p> <p><u>EU Exit Regulations</u>  <u>UK Law</u>  The Animal Breeding (Amendment) (EU Exit) Regulations 2019  <a href="http://www.legislation.gov.uk/uksi/2019/117/contents/made">http://www.legislation.gov.uk/uksi/2019/117/contents/made</a></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> The Regulation on Transmissible Animal Diseases, the EU Animal Health Law provides:</p> <ol style="list-style-type: none"><li>Simpler rules to enable authorities to focus on preventing and eradicating disease</li><li>Clearer responsibilities for farmers, vets and others dealing with animals</li><li>Better surveillance of pathogens, electronic identification and registration of animals</li><li>Earlier detection and control of animal diseases to reduce animal epidemics</li><li>More flexibility to adjust rules to local circumstances</li></ol> <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 Health Strategy 2007-2013 "Prevention is better than cure". 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. 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, i.e. a business or trade.</p> <p><u>English Law</u> 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. 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>
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				<p>The welfare of farmed animals is additionally protected by the Welfare of Farmed Animals (England) Regulations 2007, which are made under the AWA. Welfare of Farmed Animals (England) Regulations 2007 Welfare of Farmed Animals (England) (Amendment) Regulations 2010 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. 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> The Animal Health and Welfare (Scotland) Act 2006 The Welfare of Farmed Animals (Scotland) Regulations 2010 The Welfare of Animals (Transport) (Scotland) Regulations 2006 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. <a href="http://www.gov.scot/Topics/farmingrural/Agriculture/animal-welfare/policies/Legislation">http://www.gov.scot/Topics/farmingrural/Agriculture/animal-welfare/policies/Legislation</a> <a href="http://www.gov.scot/Resource/0051/00512255.pdf">http://www.gov.scot/Resource/0051/00512255.pdf</a> 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 effectiveness of official controls within Member States and across the EC. The Food Hygiene (Scotland) Regulations 2006 The Meat (Official Controls Charges) (Scotland) Regulations 2009 The Animal By-Products (Enforcement) (Scotland) Regulations 2013</p> <p><u>UK Government Technical Notices</u> Registration of veterinary medicines if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/registration-of-veterinary-medicines-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/registration-of-veterinary-medicines-if-theres-no-brexit-deal</a></p>
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				<p>Regulation of veterinary medicines if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/regulation-of-veterinary-medicines-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/regulation-of-veterinary-medicines-if-theres-no-brexit-deal</a></p> <p><u>European Commission Preparedness Notices</u> Notice to marketing authorisation holders of centrally authorised medicinal products for human and veterinary use, 23 January 2018 <a href="https://ec.europa.eu/health/sites/health/files/files/documents/ec_ema_notice_communication_brexit.pdf">https://ec.europa.eu/health/sites/health/files/files/documents/ec_ema_notice_communication_brexit.pdf</a></p> <p><u>EU Exit Regulations</u> <u>UK Law</u> The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019 (draft) <a href="http://www.legislation.gov.uk/ukdsi/2019/9780111183601/contents">http://www.legislation.gov.uk/ukdsi/2019/9780111183601/contents</a></p> <p>Official Controls for Feed, Food and Animal Health and Welfare (Amendment etc.) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/665/contents/made">http://www.legislation.gov.uk/uksi/2019/665/contents/made</a></p> <p>The Farriers and Animal Health (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/457/contents/made">http://www.legislation.gov.uk/uksi/2019/457/contents/made</a></p> <p>The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/1220/made">http://www.legislation.gov.uk/uksi/2019/1220/made</a></p> <p>The Animal Health, Alien Species in Aquaculture and Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/813/contents/made">http://www.legislation.gov.uk/uksi/2019/813/contents/made</a></p> <p>Animal health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/1229/contents/made">http://www.legislation.gov.uk/uksi/2019/1229/contents/made</a></p> <p><u>Scottish Law</u> The Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019 <a href="https://www.legislation.gov.uk/ssi/2019/71/contents/made">https://www.legislation.gov.uk/ssi/2019/71/contents/made</a></p>
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					<p>The Aquatic Animal Health and Alien Species in Aquaculture (EU Exit) (Scotland) (Amendment) Regulations 2019 <a href="https://www.legislation.gov.uk/ssi/2019/9/contents/made">https://www.legislation.gov.uk/ssi/2019/9/contents/made</a></p> <p>The Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019 <a href="https://www.legislation.gov.uk/ssi/2019/288/contents/made">https://www.legislation.gov.uk/ssi/2019/288/contents/made</a></p>
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> Exporting animals and animal products if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/exporting-animals-and-animal-products-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/exporting-animals-and-animal-products-if-theres-no-brexit-deal</a></p> <p>Importing animals and animal products if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexit-deal">https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexit-deal</a></p> <p><u>European Commission Preparedness Notices</u> The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on animal feed, 23 January 2018 <a href="https://ec.europa.eu/food/sites/food/files/safety/docs/brexit-notice_animal-feed.pdf">https://ec.europa.eu/food/sites/food/files/safety/docs/brexit-notice_animal-feed.pdf</a></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 <a href="https://ec.europa.eu/info/sites/info/files/file_import/movements_of_live_animals_en.pdf">https://ec.europa.eu/info/sites/info/files/file_import/movements_of_live_animals_en.pdf</a></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 <a href="https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-transport.pdf">https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-transport.pdf</a></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</p>

				<p>1099/2009 on the protection of animals at the time of killing, to slaughterhouse operators, 23 January 2018  <a href="https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-killing.pdf">https://ec.europa.eu/food/sites/food/files/animals/docs/brexit-notice_animal-killing.pdf</a></p> <p><u>EU Exit Regulations</u>  <u>UK Law</u>  The Animals (Legislative Functions) (EU Exit) Regulations 2019  <a href="http://www.legislation.gov.uk/uksi/2019/588/contents/made">http://www.legislation.gov.uk/uksi/2019/588/contents/made</a></p> <p><u>English Law</u>  The Animal Welfare (Amendment) (EU Exit) Regulations 2019  <a href="http://www.legislation.gov.uk/uksi/2019/802/made">http://www.legislation.gov.uk/uksi/2019/802/made</a></p> <p>Animal Health and Welfare (Miscellaneous Amendments) (England) (EU Exit) Regulations 2018  <a href="http://www.legislation.gov.uk/uksi/2018/1033/contents/made">http://www.legislation.gov.uk/uksi/2018/1033/contents/made</a></p> <p><u>Scottish Law</u>  The Animal Welfare (EU Exit) (Scotland) (Amendment) Regulations 2019  <a href="http://www.legislation.gov.uk/ssi/2019/34/made">http://www.legislation.gov.uk/ssi/2019/34/made</a></p> <p>The Animal Health and Welfare and Official Controls (Animals, Feed and Food) (EU Exit) (Scotland) (Amendment) Regulations 2019  <a href="https://www.legislation.gov.uk/ssi/2019/288/contents/made">https://www.legislation.gov.uk/ssi/2019/288/contents/made</a></p>	
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>  The Sustainable Use of Pesticides Directive 2009/128/EC  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"><li>A National Action Plan</li><li>compulsory testing of application equipment</li><li>provision of training for and arrangements for the certification of operators, advisors and distributors</li><li>a ban (subject to limited exceptions) on aerial spraying</li><li>provisions to protect water, public spaces and conservation areas</li><li>the minimisation of risks from handling, storage and disposal</li><li>the promotion of low input regimes</li></ol> <p><u>UK Law</u> 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: <a href="http://www.gov.scot/resource/doc/161422/0043816.pdf">http://www.gov.scot/resource/doc/161422/0043816.pdf</a></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. 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>European Commission Preparedness Notices</u> 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 <a href="https://ec.europa.eu/info/sites/info/files/qa-plant-protection-products_en_0.pdf">https://ec.europa.eu/info/sites/info/files/qa-plant-protection-products_en_0.pdf</a></p>
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DEFRA	Environmental quality – pesticides	x	*x	*x	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.
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	x	x	x	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.



	and feed law (official controls)		<p><u>Law Society Scotland Comments</u></p> <p><u>EU Law</u> 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> Feed and food safety and standards are devolved in the UK. The Food 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>Food Standards Agency Food and Feed Law Guide <a href="https://www.food.gov.uk/sites/default/files/food_feed_law_guide_dec2016.pdf">https://www.food.gov.uk/sites/default/files/food_feed_law_guide_dec2016.pdf</a></p> <p><u>Scottish Law</u> 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: <a href="http://www.foodstandards.gov.scot/downloads/Scottish_Food_and_Feed_Law_Guide_-_August_2017_1.pdf">http://www.foodstandards.gov.scot/downloads/Scottish_Food_and_Feed_Law_Guide_-_August_2017_1.pdf</a></p> <p><u>UK Government Technical Notices</u> Producing and labelling food if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/producing-and-labelling-food-if-theres-no-brexite-deal">https://www.gov.uk/government/publications/producing-and-labelling-food-if-theres-no-brexite-deal</a></p> <p><u>European Commission Preparedness Notices</u></p>
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				<p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on EU Food Law, 1 February 2018 <a href="https://ec.europa.eu/info/sites/info/files/file_import/eu_food_law_en.pdf">https://ec.europa.eu/info/sites/info/files/file_import/eu_food_law_en.pdf</a></p> <p><u>EU Exit Regulations</u> <u>UK Law</u> Food (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/uksi/2019/529/contents/made">http://www.legislation.gov.uk/uksi/2019/529/contents/made</a></p> <p>The Food and Farming (Amendment) (EU Exit) Regulations 2019 <a href="http://www.legislation.gov.uk/ukdsi/2019/9780111183274/contents">http://www.legislation.gov.uk/ukdsi/2019/9780111183274/contents</a></p> <p><u>The Specific Food Hygiene (Regulation (EC) No. 853/2004) (Amendment) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/1247/contents/made">https://www.legislation.gov.uk/uksi/2019/1247/contents/made</a></p> <p><u>The Contaminants in Food (Amendment) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/639/contents/made">https://www.legislation.gov.uk/uksi/2019/639/contents/made</a></p> <p><u>The Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/640/contents/made">https://www.legislation.gov.uk/uksi/2019/640/contents/made</a></p> <p><u>The General Food Hygiene (Amendment) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/642/contents/made">https://www.legislation.gov.uk/uksi/2019/642/contents/made</a></p> <p><u>The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/664/contents/made">https://www.legislation.gov.uk/uksi/2019/664/contents/made</a></p> <p><u>The Official Controls for Feed, Food and Animal Health and Welfare (Amendment etc.) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/665/contents/made">https://www.legislation.gov.uk/uksi/2019/665/contents/made</a></p> <p><u>The Food and Feed (Chernobyl and Fukushima Restrictions) (Amendment) (EU Exit) Regulations 2019</u> <a href="https://www.legislation.gov.uk/uksi/2019/699/contents/made">https://www.legislation.gov.uk/uksi/2019/699/contents/made</a></p>
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DEFRA	Food compositional 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>  Regulation 1169/2011/EU on the provision of food information to consumers</p> <p><u>English Law</u>  <u>The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017</u></p> <p><u>Scottish Law</u>  <u>The Food Information (Scotland) Regulations 2014</u></p> <p><u>EU Exit Regulations</u>  <u>UK Law</u>  <u>The Food (Amendment) (EU Exit) Regulations 2019</u>  <a href="https://www.legislation.gov.uk/uksi/2019/529/contents/made">https://www.legislation.gov.uk/uksi/2019/529/contents/made</a></p>



					<p>The General Food Law (Amendment etc.) (EU Exit) Regulations 2019 <a href="https://www.legislation.gov.uk/uksi/2019/641/contents/made">https://www.legislation.gov.uk/uksi/2019/641/contents/made</a></p> <p>The Novel Food (Amendment) (EU Exit) Regulations 2019 <a href="https://www.legislation.gov.uk/uksi/2019/702/contents/made">https://www.legislation.gov.uk/uksi/2019/702/contents/made</a></p> <p>The Food and Farming (Amendment) (EU Exit) Regulations 2019 <a href="https://www.legislation.gov.uk/uksi/2019/759/contents/made">https://www.legislation.gov.uk/uksi/2019/759/contents/made</a></p> <p><u>English Law</u> The Food (Amendment) (England) (EU Exit) Regulations 2019 <a href="https://www.legislation.gov.uk/uksi/2019/150/contents/made">https://www.legislation.gov.uk/uksi/2019/150/contents/made</a></p> <p><u>Scottish Law</u> The Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 <a href="http://www.legislation.gov.uk/ssi/2019/53/contents/made">http://www.legislation.gov.uk/ssi/2019/53/contents/made</a></p>
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> Regulation 1169/2011/EU on the provision of food information to consumers, <a href="http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011R1169">http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011R1169</a></p> <p><u>English Law</u> The Food Information Regulations 2014 <a href="http://www.legislation.gov.uk/uksi/2014/1855/contents/made">http://www.legislation.gov.uk/uksi/2014/1855/contents/made</a></p> <p><u>Scottish Law</u> The Food Information (Scotland) Regulations 2014 <a href="https://www.legislation.gov.uk/ssi/2014/312/note/made">https://www.legislation.gov.uk/ssi/2014/312/note/made</a> UK Policy</p> <p><u>UK Policy</u></p>



					<p><a href="http://www.foodstandards.gov.scot/publications-and-research/guide-to-creating-a-front-of-pack-nutrition-label-for-pre-packed-products-s">http://www.foodstandards.gov.scot/publications-and-research/guide-to-creating-a-front-of-pack-nutrition-label-for-pre-packed-products-s</a> - (joint UK and devolved guidance)</p> <p><u>EU Exit Regulations</u> <u>Scottish Law</u> The Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 <a href="http://www.legislation.gov.uk/ssi/2019/53/contents/made">http://www.legislation.gov.uk/ssi/2019/53/contents/made</a></p> <p>The Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 <a href="https://www.legislation.gov.uk/ssi/2019/285/contents/made">https://www.legislation.gov.uk/ssi/2019/285/contents/made</a></p>
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>EU Law</u> a. EU marketing requirements, including rules for specific seeds b. Directives related to Conservation Varieties c. Lists of implementing measures related to marketing of specific seeds d. Review of EU legislation on the marketing of seed and plant propagating material</p> <p><u>English Law</u> The Plant Health (England) Order 2005 Protecting Plant Health: A Plant Biosecurity Strategy for Great Britain: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307355/pb14168-plant-health-strategy.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307355/pb14168-plant-health-strategy.pdf</a></p> <p><u>Scottish Law</u> The Plant Health (Scotland) Order 2005 <a href="http://www.gov.scot/Topics/farmingrural/Agriculture/plant/PlantHealth/PolicyAndLegislation">http://www.gov.scot/Topics/farmingrural/Agriculture/plant/PlantHealth/PolicyAndLegislation</a></p> <p><u>UK Government Technical Notices</u> Importing and exporting plants if there's no Brexit deal, 24 September 2018 <a href="https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexite-deal">https://www.gov.uk/government/publications/importing-and-exporting-plants-if-theres-no-brexite-deal</a></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  <a href="https://ec.europa.eu/info/sites/info/files/file_import/plant_health_en.pdf">https://ec.europa.eu/info/sites/info/files/file_import/plant_health_en.pdf</a></p> <p>The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Plant Variety Rights, 23 January 2018  <a href="https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_plant-variety-rights.pdf">https://ec.europa.eu/food/sites/food/files/plant/docs/brexit-notice_plant-variety-rights.pdf</a></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  <a href="https://ec.europa.eu/info/sites/info/files/file_import/plant_reproductive_material_en.pdf">https://ec.europa.eu/info/sites/info/files/file_import/plant_reproductive_material_en.pdf</a></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  <a href="https://ec.europa.eu/info/sites/info/files/notice_to_stakeholders_brexit_protected_species.pdf">https://ec.europa.eu/info/sites/info/files/notice_to_stakeholders_brexit_protected_species.pdf</a></p> <p><u>EU Exit Regulations</u>  <u>UK Law</u>  The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019  <a href="https://www.legislation.gov.uk/uksi/2019/809/contents/made">https://www.legislation.gov.uk/uksi/2019/809/contents/made</a></p> <p>Aquatic Animal Health and Plant Health (Legislative Functions) (EU Exit) Regulations 2019  <a href="https://www.legislation.gov.uk/uksi/2019/817/contents/made">https://www.legislation.gov.uk/uksi/2019/817/contents/made</a></p> <p>The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019  <a href="https://www.legislation.gov.uk/uksi/2019/1220/contents/made">https://www.legislation.gov.uk/uksi/2019/1220/contents/made</a></p> <p>The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019  <a href="https://www.legislation.gov.uk/uksi/2019/162/contents/made">https://www.legislation.gov.uk/uksi/2019/162/contents/made</a></p> <p>The Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019  <a href="https://www.legislation.gov.uk/uksi/2019/204/contents/made">https://www.legislation.gov.uk/uksi/2019/204/contents/made</a></p>
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