

EXPLANATORY MEMORANDUM TO
THE NAGOYA PROTOCOL (COMPLIANCE) (AMENDMENT) REGULATIONS 2015

2015 No. 1691

1. This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Purpose of the instrument**

- 2.1 This statutory instrument amends the Nagoya Protocol (Compliance) Regulations 2015 (SI 2015 No.821, “the Implementing Regulations”) to correct a drafting error that there is no provision providing a penalty for an offence under regulation 14 (obstruction of an inspector).

- 2.2. The Implementing Regulations put in place the measures needed for the UK to implement the EU Regulation and those elements of the Nagoya Protocol, which is a legally binding international agreement, which are not covered by the EU Regulation.

- 3. Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1. As this instrument is being made due to a defect in S.I. 21015/821 it is being issued free of charge to all known recipients of that instrument.

- 4. Legislative Context**

- 4.1 This statutory instrument amends the Implementing Regulations which:

- (1) enforce Regulation (EU) No. 511/2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (“the EU Regulation”).
- (2) implement, within the UK, those elements of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation (“the Protocol”) that relate to traditional knowledge which are not covered by the EU Regulation. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization is an international treaty under the Convention on Biological Diversity and was signed by the UK on 23 June 2011.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 Because of a drafting error in the Implementing Regulations there was no provision providing a penalty for an offence under regulation 14 (obstruction of an inspector). This error was detected only after the Implementing Regulations had been signed and laid.

7.2 Making this amendment to the Implementing Regulations before they come into force will ensure there is no period during which there is no penalty for the offence.

7.3 The amendment ensures that there is a penalty associated with the offence of obstruction of an inspector who exercises a power under the Implementing Regulations.

8. Consultation outcome

8.1 This instrument simply corrects a drafting error in the Implementing Regulations and a consultation has not been carried out.

9. Guidance

9.1 The enforcement agency (the National Measurement and Regulation Office) will create guidance on the details of the sanctions regime set out in the Implementing Regulations including the penalty for obstructing an inspector (this amendment).

10. Impact

10.1. An impact assessment has not been produced for these Regulations as no significant impact on the costs of business or the voluntary sector is foreseen as a result of them.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

- 12.1 The Implementing Regulations include a sunset clause. This requires the Secretary of State to review them and assess the extent to which their objectives have been met, the extent to which they remain appropriate and the extent to which they could be achieved in a less burdensome way. A first report setting out the conclusions must be published within five years of them coming into force and further reports must be published subsequently at intervals not exceeding five years.

13. Contact

For any queries regarding this instrument please contact Julian Jackson at the Department for Environment, Food and Rural Affairs. Tel: 0207 238 6813 or email: julian.jackson@defra.gsi.gov.uk