

EXPLANATORY MEMORANDUM TO

THE ANIMAL HEALTH, INVASIVE ALIEN SPECIES, PLANT BREEDERS' RIGHTS AND SEEDS (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

2019 No. 1220

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This Explanatory Memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Instrument

- 2.1 This instrument makes a number of technical changes to existing instruments and takes into account recent changes to EU legislation which could not be included in earlier EU Exit instruments. It will ensure that retained EU law continues to operate effectively after the UK leaves the EU. It covers animal health, invasive non-native species and plant varieties and seeds policy areas.

Explanations

What did any relevant EU law do before exit day?

- 2.2 Regulation (EU) No 1143/2014 of the European Parliament and the Council laid down rules on the prevention and management of the introduction and spread of invasive non-native (‘alien’) species across the EU. The Regulation places an obligation on Member States to put in place provisions on penalties applicable to infringements of the Regulation and to take all the necessary measures to ensure that they are applied. The Invasive Alien Species (Enforcement and Permitting) Order 2019 (“the 2019 Order”) fulfils this obligation by providing enforcement provisions, prescribing the offences and penalties and introducing permitting and licensing provisions. The 2019 Order also contains a number of consequential changes and provisions to resolve or remove overlaps between existing legislation, such as the Wildlife and Countryside Act 1981, and the controls set out in Regulation (EU) No 1143/2014.
- 2.3 Council Directive 2008/72/EC and Council Directive 2008/90/EC (“the Fruit Directive”) prescribe marketing standards for vegetable plant material and fruit plant propagating material to ensure minimum quality standards and traceability. They allow each Member State to authorise in respect of its territory the marketing of planting material produced in countries outside the European Union which the Member State considers to have equivalent production standards. These Directives are transposed by the Marketing of Vegetable Plant Material Regulations 1995 (“the 1995 Regulations”) and the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017.
- 2.4 Transmissible Spongiform Encephalopathies (“TSEs”) and Animal By-Products (“ABPs”): the relevant five pieces of direct EU legislation below were first put in place as a result of the Bovine Spongiform Encephalopathy (“BSE”) epidemic in the late 1980s and early 1990s. They have been updated frequently to reflect the

development and decline of the epidemic. Animal by-products legislation is relevant to TSE controls because scientific evidence has demonstrated that infectivity is concentrated in certain organs which are classified as Specified Risk Material (SRM) and are destroyed to prevent their entry into the food chain. However, in addition, the legislation controls the use and disposal of ABPs to protect public and animal health against the spread of other diseases.

- (i) Regulation (EC) No. 999/2001 of the European Parliament and the Council lays down rules for the prevention, control and eradication of certain TSEs, including BSE in cattle and scrapie in sheep and goats. Related Decisions subject to minor technical operability amendments are:
- (ii) Commission Decision 2007/453 establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk, and
- (iii) Commission Decision 2009/719 authorising certain Member States to revise their annual BSE monitoring programmes.
- (iv) Regulation (EC) No. 1069/2009 of the European Parliament and the Council lays down health rules as regards animal by-products and derived products not intended for human consumption.
- (v) Commission Regulation (EU) No. 142/2011 implements Regulation (EC) No. 1069/2009 of the European Parliament and the Council, which lays down health rules as regards animal by-products and derived products not intended for human consumption.

2.5 Plant breeders' rights ("PBR") are regulated across the EU by Council Regulation (EC) 2100/94 on Community plant variety rights and implementing regulations. These set out a unitary system of intellectual property rights for new varieties of plants in the EU. The Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/204) make provision for and amendments to legislation in the area of plant variety rights as part of the exit preparations of the UK from the EU. Those regulations provide for existing Community plant variety rights ("CPVR") from a specified date to have effect in the UK as if such rights were granted in accordance with the Plant Varieties Act 1997 (the "1997 Act"). After EU Exit, an application for plant breeders' rights must be made under the 1997 Act. Regulation 10 of the Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019 provides that an application for UK PBR for a variety which is the subject of an unresolved CPVR application [on exit day] be made within 6 months of exit day. Regulations 11 to 13 apply to such an application with adaptations to the rules regarding priority, novelty and reasonable compensation in relation to the period between application for and granting of rights.

Why is it being changed?

2.6 The provisions for invasive non-native species will make operability amendments to the 2019 Order with effect from exit day. These amendments were not made by the Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019 because those Regulations were made prior to the Order (nor in the Order itself, as that was not an Exit SI). Additionally Defra is correcting the provision in the 2019 Order which sets the maximum penalties upon criminal conviction for an offence under the Order. We are ensuring that these amendments are made before the 2019 Order enters into force on 1 October 2019. This will ensure that the permitting and enforcement provisions required under Regulation (EU) No 1143/2014 operate as intended.

- 2.7 The EU directive for fruit plant propagating material and vegetable plant material allow a Member State, during a specified period, to authorise in respect of their territory the marketing of plant material produced in countries outside the EU which that Member State considers to have equivalent production standards. The Marketing of Fruit Plant and Propagating Material (England) Regulations 2017 transposed this provision which was time limited. That limit has been extended by Commission Decision (EU) 2019/120. This instrument transposes Article 16(2) of Council Directive 2008/72/EC and Commission Decision 2013/166/EU into the 1995 Regulations for vegetable plant material, provides for the new EU timeframe relating to the Fruit Directive and makes EU Exit deficiency amendments with regards to references to the European Union.
- 2.8 The amendments made by regulation 5 of this instrument ensure that the law on TSEs and ABPs functions correctly after the UK has left the EU by including recent amendments to EU law which were not made in earlier EU Exit legislation. The most important is last year's amendment to Regulation (EC) No. 999/2001 that enables Member States to approve a different method to dentition for estimating whether a lamb or kid is aged over twelve months for the purpose of removing the skull and spinal cord at slaughter. We are also making further technical/operability changes to ensure that all deficiencies have been fully addressed. These include a requirement for the pre-notification of imports of certain higher risk ABPs from the EU 27 to provide equivalent controls on traceability of consignments to those which apply for existing intra- community movements. This instrument also addresses drafting issues identified by the Joint Committee on Statutory Instruments in the Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/170). It adds a definition of "devolved authority" to regulation 5 of those Regulations so that its meaning can be more easily understood.
- 2.9 The Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019 allow an application relating to a variety which is the subject of an unresolved CPVR application at EU Exit to benefit from regulations 11 to 13 if made within 6 months of exit day. These Regulations will be amended to allow an application linked to an unresolved CPVR application [on exit day] to be made after that 6 month period, but without the benefit of regulations 11 to 13. The provisions will also amend some cross references.

What will it now do?

- 2.10 The provisions for invasive non-native species correct technical operability issues including those relating to references to the "list of species of Union concern", "member state" and the "Union". References to the "competent authority" are being amended to the "appropriate authority" to ensure consistency between the 2019 Order and the Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019. The "appropriate authority" means: the Secretary of State in relation to England, the offshore marine area or the regulation of imports into, and exports from, the United Kingdom; the Welsh Ministers in relation to Wales; and the Department of Agriculture, Environment and Rural Affairs in relation to Northern Ireland. The amendments to the Wildlife and Countryside Act 1981 correct cross-references to the "list of species Union concern". This instrument also amends article 20 of the 2019 Order, by substituting article 20(1), which will ensure that the maximum custodial sentence on summary conviction is three months imprisonment, in accordance with Schedule 2 to the European Communities Act 1972, only increasing to six months in

England and Wales at such time as paragraph 3 of Schedule 27 to the Criminal Justice Act 2003 enters into force. The amendment to article 20 also ensures that, in Scotland and Northern Ireland, the maximum fine which may be imposed following conviction on indictment is unlimited, again in accordance with Schedule 2 to the European Communities Act 1972.

- 2.11 In respect of the marketing of fruit plant propagating material, this instrument will enable the Secretary of State to authorise the marketing, in England, of plant material from any country outside of the EU if satisfied the plant material has been produced under conditions equivalent to those required in domestic legislation. In respect of the marketing of vegetable plant material this instrument will enable the Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, to authorise the marketing of plant material from any country outside of the EU if satisfied the plant material has been produced under conditions equivalent to those required in domestic legislation. Those provisions are then amended for the purposes of exit from the EU. The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019 will be amended to revoke retained EU Decisions 2013/166, 2019/119 and 2019/120 which will be redundant on EU Exit.
- 2.12 The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019 (the 2019 Regulations) made amendments to Regulation (EC) No. 999/2001, Regulation (EC) No. 1069/2009 and Regulation (EU) No. 142/2011 to ensure that retained direct EU legislation will remain operable after the UK has left the EU. This instrument amends the 2019 Regulations to include recent amendments to EU law and makes corrections which were recommended by the JCSI to the drafting of the 2019 Regulations. The key change, as described in paragraph 2.8 above, will enable the UK to introduce an alternative method for estimating whether a lamb is aged over twelve months for the purpose of removing the skull and spinal cord for rendering and disposal as specified risk material. We are also using the opportunity presented by the extended exit date to include an amendment to require importers to pre-notify the import of certain high risk animal by-products into the UK from the EU. This will enhance the traceability of imports of such consignments in a way which has an equivalent effect to that which currently applies for existing intra- community movements.
- 2.13 Amendments are being made to the Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019 to allow an applicant with an unresolved application for EU rights [on exit day] to make an application for UK PBR more than 6 months after EU Exit but without benefiting from the provisions of regulations 11 to 13 (which adapt the dates for priority, novelty and reasonable compensation during the application process). For such applications, the provisions of the 1997 Act will be applicable. This instrument also amends some cross references and substitutes the term 'holder of the right' with the term 'proprietor of the registered trademark' for consistency with the Trade Marks Act 1994.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 On 16 July 2019 the Sifting Committee agreed with the Government that this instrument does not have to have a debate in parliament though one may still occur. The instrument will therefore remain subject to the negative resolution procedure.

- 3.2 In its fifty-second report of session 2017-19, the Joint Committee on Statutory Instruments reported the Department for defective drafting in respect of regulations 2(4), 2(40) and 6(20) (b) of the Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/170). This instrument contains amendments to address these points. It also corrects errors in the Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/204) and the 2019 Order (S.I. 2019/527). In consequence, this instrument is being issued free of charge to recipients of S.I. 2019/170, 204 and 527.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 In Part 2 of this instrument, regulation 2 has the same extent and application as the provisions it amends. This means that it extends and applies to England and Wales. It extends and applies to Scotland and Northern Ireland only in so far as it amends provisions which relate to controls on imports into and exports from the UK, or the offshore marine area.
- 4.2 The amendment to article 20 of the Invasive Alien Species (Enforcement and Permitting) Order 2019, made under section 2(2) of the European Communities Act 1972, insofar as it extends and applies to Wales, partially relates to an area within Welsh devolved competence. However, the power of the Secretary of State, as a designated Minister in relation to the environment, to make regulations that apply in Wales as regards the prevention and remedy of environmental damage remains exercisable by virtue of article 5(1) of the European Communities (Designation) (No. 2) Order 2014 (S.I. 2014/1890).
- 4.3 In Part 3 of this instrument, regulation 3 extends and applies to England and Wales; and regulation 4 extends to England and Wales but applies to England only.
- 4.4 Part 4 of this instrument extends to the United Kingdom and applies to England, Scotland, Wales and Northern Ireland.
- 4.5 In Part 5 of this instrument, regulations 6 and 7 have the same extent and application as the provisions they amend. This means that regulation 6 extends and applies to England and Wales. Regulation 7 extends and applies to England and Wales, and to Scotland and Northern Ireland only in so far as the provisions it amends relate to controls on imports into and exports from the UK, or the offshore marine area.
- 4.6 Part 6 of this instrument extends and applies to the whole of the United Kingdom.
- 4.7 In Part 7 of this instrument, regulation 9 extends and applies to England and Wales except for regulation 9(3) which applies to England only; and regulation 10 extends and applies to the whole of the United Kingdom.

5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble has made the following statement regarding Human Rights:

“In my view the provisions of the Animal Health, Invasive Alien Species, Plant Breeders’ Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This instrument makes amendments to domestic legislation implementing certain EU Directives and Regulations and to EU Exit legislation to ensure that in the fields of animal health, invasive non-native species, plant breeders’ rights and the marketing of seeds and plant propagating material, domestic legislation and EU Exit legislation remains operable and functions appropriately after the UK has left the European Union.
- 6.2 This instrument uses powers under section 2(2) of the European Communities Act 1972 to:
- (i) amend the Invasive Alien Species (Enforcement and Permitting) Order 2019 in order to correct the provision setting maximum penalties upon criminal conviction for an offence under the Order before that Order enters into force.
 - (ii) amend the Marketing of Vegetable Plant Material Regulations 1995 to provide that the Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, may authorise the marketing of plant material from any country outside of the EU if satisfied that the plant material has been produced under conditions equivalent to those required in domestic legislation.
 - (iii) amend the Marketing of Fruit Plant and Plant Propagating Material (England) Regulations 2017 to provide that the Secretary of State may authorise the marketing of plant material from countries outside of the EU where production standards are equivalent to domestic standards.
- 6.3 This instrument is also made under the European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) to:
- (i) amend the Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019, as described in paragraph 2.12, in order to enable the UK to introduce an alternative method for estimating whether a lamb is aged over twelve months for the purpose of removing the skull and spinal cord. We are also making further technical/operability changes to ensure that all deficiencies have been fully addressed. These include a requirement for pre-notification of imports of certain higher risk animal by-products from the EU 27 to provide equivalent controls on traceability of consignments to those which apply for existing intra- community movements. This instrument also addresses comments made by the Joint Committee on Statutory Instruments on various provisions in those Regulations.
 - (ii) amend the Invasive Alien Species (Enforcement and Permitting) Order 2019 and the Wildlife and Countryside Act 1981. These corrections will ensure that, post-Exit, the permitting and enforcement provisions in the Order and related provisions in the 1981 Act will work in alignment with Regulation (EU) No. 1143/2014, as amended post-Exit, and operate as intended.
 - (iii) amend the Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2019 regarding some cross references and address a deficiency resulting from the UK’s withdrawal from the European Union.

- (iv) address deficiencies in the domestic regulations listed in sections 6.2 (ii) and (iii) above and amend the Schedule of revoked direct EU legislation in the Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/162) to include Commission Implementing Decisions 2013/166, 2019/119 and 2019/120.

7. Policy background

What is being done and why?

- 7.1 This instrument is being made to maintain the effectiveness and continuity of UK legislation and retained direct EU legislation that would otherwise be left partially inoperable following the withdrawal of the United Kingdom from the European Union. It also transposes EU legislation which was recently agreed or did not need to be transposed while the UK was a member of the EU and makes corrections to earlier EU Exit SIs.
- 7.2 This instrument makes only amendments which are legally necessary to achieve its objectives. It does not represent any changes of policy and it will not produce any impact on businesses or the public.
- 7.3 No change is being made to policy for invasive non-native species. This instrument amends the 2019 Order to correct technical operability issues which will exist after Exit and the provision relating to penalties to ensure that the permitting and enforcement provisions required under Regulation (EU) No 1143/2014 operate as intended.
- 7.4 No change is being made to policy for the marketing of fruit plant propagating material and vegetable plant material. This instrument transposes EU legislation and corrects technical operability issues which will exist after EU Exit.
- 7.5 No change is being made to policy for transmissible spongiform encephalopathies and animal by-products. This instrument corrects technical operability issues, transposes recent changes to EU law, and addresses comments made by the Joint Committee on Statutory Instruments.
- 7.6 No change is being made to policy for plant breeders' rights. This instrument makes corrections to the earlier EU Exit SI.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. This instrument is also being made under paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (which includes the power to modify retained EU law and to make supplementary, incidental or consequential provision). In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

- 9.1 There are no plans for consolidation.

10. Consultation outcome

- 10.1 This instrument was not subject to formal consultation.
- 10.2 Defra has engaged with both the Devolved Administrations, who have supported these proposed changes, and the main industry representative organisations who raised no matters of concern.

11. Guidance

- 11.1 Whilst no specific guidance will be provided about the provisions in this instrument relating to invasive non-native species, guidance about the 2019 Order will be published in due course.
- 11.2 None in respect of the marketing of seed and plant propagating material and Plant Breeders' Rights.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because this instrument relates to the maintenance of existing regulatory standards.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 This instrument largely maintains the status quo, or corrects identified errors, and therefore does not introduce new duties or burdens on business.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is through the course of normal departmental business as no substantive changes to current practices are being introduced.
- 14.2 For the amendments in this instrument made under the European Union (Withdrawal Act) 2018, no review clause is required. This instrument does not include a statutory review clause in respect of the amendments being made under Section 2(2) of the European Communities Act 1972. The Marketing of Fruit Plant and Propagating Material (England) Regulations 2017 and the Invasive Alien Species (Enforcement and Permitting) Order 2019 already contain review clauses.
- 14.3 The Marketing of Vegetable Plant Material Regulations 1995 does not contain a statutory review clause but in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, has made the following statement:

“The amendments to the Marketing of Vegetable Plant Material Regulations 1995 being made in this instrument have no significant annualised net impact on business and it would not therefore be appropriate to undertake a review given the costs of doing so.”

15. Contact

- 15.1 Trine Andresen at the Department for Environment, Food and Rural Affairs email: trine.andresen@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Nicola Spence, Deputy Director for Plant Health, Bee Health and Seeds at the Department for Environment, Food and Rural Affairs, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative instrument.	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees.
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	A statement that the instrument does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA 2018 SIs.	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence.	Set out the ‘good reasons’ for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister’s opinion that the instrument is urgent.
Explanations where amending regulations under s.2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an instrument after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA 1972, identifying the relevant law before exit day, and explaining the instrument’s effect on retained EU law.
Scrutiny statement where amending regulations under s. 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an instrument after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority’s response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

- 1.1 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Animal Health, Invasive Alien Species, Plant Breeders’ Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.

- 1.2 This is the case because in so far as the instrument uses the power in the European Union (Withdrawal) Act 2018, it contains changes not affecting current standards or procedures and as such would not normally be expected to be debated in Parliament.

2. Appropriateness statement

- 2.1 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Animal Health, Invasive Alien Species, Plant Breeders’ Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019 does no more than is appropriate”.

- 2.2 This is the case because in so far as the instrument uses the power in the European Union (Withdrawal) Act 2018, the instrument contains changes not affecting current standards and procedures.

3. Good reasons

- 3.1 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

- 3.2 These are set out in section 7 in the main body of this Explanatory Memorandum.

4. Equalities

- 4.1 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement(s):

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

- 4.2 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

5. Explanations

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