EXPLANATORY MEMORANDUM TO

CHEMICALS (HEALTH AND SAFETY) AND GENETICALLY MODIFIED ORGANISMS (CONTAINED USE) (AMENDMENT) (EU EXIT) REGULATIONS (NORTHERN IRELAND) 2026

S.R. 2026 No. 9

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for the Economy (DfE) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under powers conferred by Articles 2(5), 17(1) to (5), 40, 54 and 55(2) of, and paragraphs 1(1) to (5), 2, 3(1), 4, 5, 7(2), 8, 10, 12(1) and (3), 13, 14(1), 15, 16 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978 and sections 11 and 22 of, and paragraph 11M(1) of Part 1C of Schedule 2 to, and paragraph 21(b) of Part 3 of Schedule 7 to, the European Union (Withdrawal) Act 2018 and is subject to the negative resolution procedure.

1.3 The Rule is due to come into operation on 23rd February 2026.

2. Purpose

2.1 The Rule will amend the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013 (S.R. 2013 No. 206) ("the BPC Regulations") and the Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 339) ("the GMO (CU) Regulations").

2.2 The Rule will help ensure that obligations are met under the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement ("the Protocol")/Windsor Framework. This will be done by making changes to the BPC Regulations and the GMO (CU) Regulations, so they continue to properly implement EU law in Northern Ireland.

3. Background

Existing EU Law

3.1 The Protocol requires that the EU legislation listed in Annex 2 to that Protocol is implemented in Northern Ireland. Annex 2 includes Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ("the Biocides Regulation"; OJ No. L167, 27.06.12, p.1) and Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures ("the CLP Regulation"; OJ No. L353, 31.12.08, p.1).

3.2 The BPC Regulations provide for the appointment of competent authorities in relation to and for the enforcement of the Biocides Regulation and the CLP Regulation.

3.3 The GMO (CU) Regulations implement the Directive (EC) No 2009/41 ("the GMO Directive"; OJ No. L125 21.5.2009, p. 75) which lays down measures for the contained use of genetically modified micro-organisms with a view to protecting human health and the environment. Section 2(2) of the European Communities Act 1972 had been used to implement the aspects of the Directive which relate to protection of the environment.

3.4 The GMO Directive is not listed in Annex 2 of the Protocol.

Legislative Context

3.5 The BPC Regulations and GMO (CU) Regulations had been amended by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal from the European Union. However, in light of the Protocol, those amendments were revoked by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1567).

The BPC Regulations

3.6 Under the Protocol, the Biocides Regulation and the CLP Regulation continue to apply in Northern Ireland following the end of the Transition Period. The BPC Regulations provide for the appointment of competent authorities in relation to and for the enforcement of those EU Regulations.

3.7 Amendments need to be made to the BPC Regulations so that they continue to be properly implemented in Northern Ireland. These amendments ensure that references to "Member States" are replaced with an appropriate term that includes Northern Ireland (only) and the EEA states.

The GMO (CU) Regulations

3.8 Amendments need to be made to the GMO (CU) Regulations so that they continue to be properly implemented in Northern Ireland following the end of the Transition Period.

3.9 Regulation 3(2)(b) is amended to include reference to a medicinal product for veterinary use marketed in accordance with the Veterinary Medicines Regulations 2013 (S.I. 2013/2033).

3.10 Schedule 3, Part 2, paragraph (3)(dd) is newly inserted into the Regulations to ensure the consideration of relevant EU legislation when conducting a risk assessment.

What is being done and why

3.11 The relevant EU legislation that continues to apply in Northern Ireland is listed in Annex 2 of the Protocol and includes the Biocides Regulation and the CLP Regulation.

3.12 The purpose of this Statutory Rule is to ensure that international obligations are met under the Protocol/Windsor Framework by allowing for the proper implementation of the Biocides Regulation and the CLP Regulation in Northern Ireland following the end of the Transition Period.

3.13 The Rule amends the BPC Regulations so that the Protocol will be implemented in Northern Ireland in respect of the Biocides Regulation and the CLP Regulation. These amendments will ensure that the BPC Regulations are applied within an operable legal framework, while meeting Protocol obligations.

3.14 The Rule also amends the GMO (CU) Regulations so that they continue to be properly implemented in Northern Ireland following the end of the Transition Period.

3.15 The Rule does not make any policy changes beyond the intent of ensuring continued operability of the relevant legislation.

4. Consultation

4.1 The Department did not undertake a formal public Consultation as it is not a requirement of the European Union (Withdrawal) Act 2018. The Statutory Rule does not make any policy changes beyond the intent of ensuring continued operability of the relevant legislation.

5. Equality Impact

5.1 The Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

6. Regulatory Impact

6.1 A full Impact Assessment has not been prepared for this Statutory Rule because the impacts are expected to be low level for business.

7. Financial Implications

7.1 There is no, or no significant, impact on business, charities or voluntary bodies.

7.2 There is no, or no significant, impact on the public sector.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered the matter of Convention rights and is satisfied that there are no matters of concern.

9. EU Implications

9.1 This Statutory Rule is made using powers in the European Union (Withdrawal) Act 2018 to address deficiencies arising from the withdrawal from the European Union. This Rule amends the BPC Regulations and the GMO (CU) Regulations to ensure that legislation will continue to operate effectively in conjunction with the Protocol/Windsor Framework following the end of the Transition Period.

10. Parity of Replicatory Measure

10.1 There are no direct equivalent Great Britain Regulations due to differences arising as a result of the implementation of the Protocol. In GB the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506) and the Genetically Modified Organisms (Contained Use) Regulations 2014 (S.I. 2014/1663) were amended to address legislative inoperabilities and deficiencies in relation to the United Kingdom's exit from the EU. Those amendments can be found in the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) as amended by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1567).

11. Additional Information

11.1 Guidance on the UK's approach to the Protocol was published on 20 May 2020 and is available on the GOV.UK website https://www.gov.uk/government/publications/the-uks-approach-to-the-northern-ireland-protocol.

11.2 Guidance on "Biocides regulation: Northern Ireland" is available on the HSE website https://www.hse.gov.uk/biocides/northern-ireland.htm.

11.3 Guidance on "Duties of NI-based businesses directly supplying chemicals to Great Britain" is available on the HSE website Duties of NI-based businesses directly supplying chemicals to Great Britain - HSE.

11.4 Where the Department considers it appropriate to do so, it will provide Guidance on its website. The Department for the Economy is not producing any specific Guidance on the amendments provided for in this Rule.

Department for the Economy
20th January 2026