

EXPLANATORY MEMORANDUM TO
THE HORIZON 2020 FRAMEWORK PROGRAMME FOR RESEARCH AND
INNOVATION (EU EXIT) REGULATIONS 2019

2019 No. 21

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Act.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These Regulations revoke provisions deriving from EU legislation for the EU's Horizon 2020 Framework Programme for Research and Innovation which have been retained in domestic law as retained EU law under the European Union (Withdrawal) Act 2018 ("the Act").
- 2.2 The amendments address deficiencies in this retained EU law arising from the UK's withdrawal from the European Union.

Explanations

What did any relevant EU law do before exit day?

- 2.3 The EU law relates to the setting up and operation of the Horizon 2020 programme.

Why is it being changed?

- 2.4 These Regulations revoke retained EU law deriving from three EU instruments¹ in order to address deficiencies in this retained EU law as a result of the withdrawal of the UK from the EU. The deficiencies arise as a result of the provisions in question being redundant or concerning arrangements relating to the EU which are no longer appropriate after exit day. This is because if there were no UK-EU Withdrawal Agreement (a "no deal outcome") the UK would be a third country in relation to Horizon 2020 programme from exit day and the revocations reflect this position.

What will it now do?

- 2.5 The Horizon 2020 Programme will continue to operate in the EU. UK engagement with this Programme will be subject to the applicable provisions of the Programme after exit. This instrument will not affect that. The instrument will not affect the UK's engagement with the proposed successor programme Horizon Europe.

¹ Regulation (EU) No. 1290/2013 laying down the rules for participation and dissemination in Horizon 2020—the Framework Programme for Research and Innovation (2014-2020); Regulation (EU) No. 1291/2013 establishing Horizon 2020—the Framework Programme for Research and Innovation (2014 – 2020); Council Decision 2013/743/EU establishing the specific programme implementing Horizon 2020—the Framework Programme for Research and Innovation (2014– 2020).

3. Matters of special interest to Parliament

Matters of special interest to the ‘Joint Committee on Statutory Instruments’

- 3.1 This statutory instrument (SI) was laid for sifting on 26 November 2018 under the European (Withdrawal) Act 2018. Subsequently, the House of Commons European Statutory Instruments Committee (ESIC) recommended that the appropriate procedure for the SI is for it to be subject to the negative procedure on 11 December 2018. The House of Lords Secondary Legislation Scrutiny Committee (SLSC) made no recommendation to upgrade the SI to the affirmative procedure.

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)

- 3.2 As the 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 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 The Minister of State for Universities, Science, Research and Innovation has made the following statement regarding Human Rights:

“In my view the provisions of *The Horizon 2020 Framework Programme for Research and Innovation (EU Exit) Regulations 2019* are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 8(1) of the Act provides for the Secretary of State to deal with deficiencies in retained EU law arising from withdrawal of the United Kingdom from the EU. This includes law which continues to form part of domestic law under sections 2 and 3 (namely, saving for EU-derived domestic legislation and the incorporation of direct EU legislation).

7. Policy background

What is being done and why?

- 7.1 This instrument does not implement new policy. It revokes the provisions in retained EU law deriving from the EU instruments relating to the setting up and operation of Horizon 2020, the EU’s current Framework Programme for research and innovation for the reason given at 2.4 above.

What the Horizon 2020 programme does

- 7.2 It is the EU’s main funding instrument for transnational collaborative scientific research and innovation. It is operating for seven years from 2014-2020 with a budget of about EUR 75 billion. It provides support across the innovation chain, from fundamental scientific research to close-to-market innovation and technology. Horizon funding is competitive – individual researchers, organisations and businesses

submit bids to the Commission for funding of specific research proposals, usually as part of a consortium with other member States. The guiding principle is quality and excellence in science and research, acting in those areas where there is genuine added value.

- 7.3 Horizon 2020 is structured around 3 strategic objectives: Excellent Science – which aims to reinforce and extend the excellence of the EU’s science base; Industrial Leadership – which aims to maintain and build Europe’s leadership in enabling technologies, space research and innovation; and Societal Challenges – which aims to use research and innovation to address major societal concerns.
- 7.4 The research and innovation programme accounts for the third largest share of the EU budget (behind Agriculture and the Structural Funds). At the end of 2020, Horizon 2020 will wind down. Its successor programme, Horizon Europe, will run from 2021-2027.

Significance to UK

- 7.5 As of September 2018, EU statistics show UK share of total participations in Horizon 2020 at 12.3%, with the share of funding at 14.3%. In each case, the UK is ranked 2nd behind Germany. This amounts to 10,200 participations by UK organisations in Horizon 2020, and €5.1 bn in agreed research funding.

8. European Union (Withdrawal) Act

- 8.1 This instrument is being made using powers in section 8 of the European Union (Withdrawal) Act 2018 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. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of Annex A to this Explanatory Memorandum.

9. Consolidation

- 9.1 Not applicable.

10. Consultation outcome

- 10.1 Consultation was not viewed as necessary because this instrument makes purely technical changes to retained EU law and is policy neutral. There are no policy options to be discussed with stakeholders and the changes the SI makes does not affect stakeholder participation in Horizon 2020 after exit day.

11. Guidance

- 11.1 Not Applicable.

12. Impact

- 12.1 This statutory instrument does not represent a policy change and will have no impact on business, charities, voluntary bodies, or the public sector. Businesses will experience no change resulting from the regulatory modification and will therefore face negligible direct cost.

- 12.2 This statutory instrument does not represent a policy change and will result in no wider impacts or transfers and will not affect consumers, wider society, the environment, or the rest of the economy.
- 12.3 A *De Minimis* Self Certification has been prepared for the instrument and not a full Impact Assessment because of the reasons at 12.1 and 12.2.

13. Regulating small business

- 13.1 The provisions relating to the operation of the EU Horizon 2020 Framework Programme applies to activities that are undertaken by small businesses, but the revocations made by this statutory instrument will represent no policy change and will result in no changes for small businesses, including micro entities.

14. Monitoring & review

- 14.1 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

15. Contact

- 15.1 Raegan Hiles at the Department for Business, Energy and Industrial Strategy Telephone: 020 7215 5839. Email: raegan.hiles@beis.gov.uk can answer any queries regarding the instrument.
- 15.2 Sarah Redwood, Deputy Director for European Programmes, International Science and Innovation Directorate, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Chris Skidmore, Minister of State for Universities, Science, Research and Innovation at the Department for Business, Energy and Industrial Strategy 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 SI	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 SI 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 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	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
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 SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	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 The Minister of State for Universities, Science, Research and Innovation has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

1.2 “In my view *The Horizon 2020 Framework Programme for Research and Innovation (EU Exit) Regulations 2018* should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure).”

1.3 This is the case because: in addressing the deficiencies in retained EU law the instrument makes changes of a technical nature and does not make policy changes.

2. Appropriateness statement

2.1 The Minister of State for Universities, Science, Research and Innovation has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

2.2 “In my view *The Horizon 2020 Framework Programme for Research and Innovation (EU Exit) Regulations 2018* do no more than is appropriate to prevent, remedy or mitigate deficiencies in retained EU law arising from the withdrawal of the UK from the EU.”

3. Good reasons

3.1 The Minister of State for Universities, Science, Research and Innovation 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 reasons are set out above at sections 2.4 in the main Explanatory Memorandum document.

4. Equalities

4.1 The Minister of State for Universities, Science, Research and Innovation has made the following statements regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“This 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 The Minister of State for Universities, Science, Research and Innovation has made the following statements regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to these Regulations, I, Chris Skidmore, 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 sections 2.3, 2.4 and 2.5 of the main body of this Explanatory Memorandum.