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

<table>
<thead>
<tr>
<th>Responsible UK Government Department</th>
<th>Area of EU Law (Policy Area)</th>
<th>Devolution Intersect</th>
<th>Additional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEFRA</td>
<td>Agricultural support</td>
<td>x</td>
<td>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-gutting issues, including compliance, finance, &amp; controls.</td>
</tr>
</tbody>
</table>

**Law Society Scotland Comments**

**EU Law**
Direct Payments Regulation 1307/201/EU, which establishes direct payments to farmers under Support Schemes within the framework of the Common Agricultural Policy.

[https://ec.europa.eu/agriculture/direct-support_en](https://ec.europa.eu/agriculture/direct-support_en)

**Scottish Law**
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.

**UK Government Technical Notices**
Farm payments if there’s no Brexit deal, 23 August 2018-

Receiving rural development funding if there’s no Brexit deal, 23 August 2018-
| DEFRA | Agriculture – fertiliser regulations | x | x | x | 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 |

**EU Law**

| Regulation (EC) No 2003/2003 relating to fertilisers consolidates all the EU rules that apply to fertilisers. |

**Law Society Scotland Comments**
fertilisers. The Regulation ensures that these technical requirements are implemented throughout the EU. This consolidated version is of documentary value only.

The regulation applies to mineral fertilisers consisting of one or more plant nutrients. Other fertilisers are governed by EU countries’ national legislation.

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.

**English Law**
The EC Fertilisers (England and Wales) Regulations 2006

**Scottish Law**
The EC Fertilisers (Scotland) Regulations 2006

**UK Government Technical Notices**

**European Commission Preparedness Notices**

**EU Exit Regulations**

**UK Law**

**English Law**
<table>
<thead>
<tr>
<th>DEFRA</th>
<th>Agriculture – GMO marketing and cultivation</th>
<th>x</th>
<th>x</th>
<th>x</th>
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</thead>
</table>

Scottish Law
The Fertilisers and Pesticides (EU Exit) (Scotland) (Miscellaneous Amendments etc.) Regulations 2019

**Law Society Scotland Comments**

**EU Law**
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.

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:
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.

There are the following levels of authorisation:

**Contained use** – This is GM research carried out in a contained environment, under Directive 2009/41/EC.

**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.
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.

UK Law
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 www.gov.uk/government/organisations/department-for-environment-food-rural-affairs

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.

Scottish Law
Enforcement in Scotland

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.

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
<table>
<thead>
<tr>
<th>DEFRA</th>
<th>Agriculture – organic farming</th>
<th>x</th>
<th>x</th>
<th>x</th>
<th>Regulations setting out standards for organic production certification.</th>
</tr>
</thead>
</table>
|  |  |  |  |  | **UK Government Technical Notices**
|  |  |  |  | Developing genetically modified organisms (GMOs) if there's no Brexit deal, 23 August 2018
|  |  |  |  | **European Commission Preparedness Notices**
|  |  |  |  | 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
|  |  |  |  | **EU Exit Regulations**
|  |  |  |  | **UK Law**
|  |  |  |  | The Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019
|  |  |  |  | Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc) (EU Exit) Regulations 2019 (draft)
|  |  |  |  | Genetically Modified Food and Feed (Amendment etc) (EU Exit) Regulations 2019 (draft)
|  |  |  |  | **English Law**
|  |  |  |  | The Genetically Modified Organisms (Amendment) (England) (EU Exit) Regulations 2019
|  |  |  |  | **Scottish Law**
|  |  |  |  | Genetically Modified Organisms (EU Exit) (Scotland) (Amendment) Regulations 2019
|  |  |  |  | **Law Society Scotland Comments**
EU Law
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.

The regulation has the following aims:

a. sustainable cultivation systems
b. a variety of high-quality products
c. greater emphasis on environmental protection
d. more attention to biodiversity
e. higher standards of animal protection
f. consumer confidence
g. protecting consumer interests

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.

Labelling organic foods
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.

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.

Since 1 July 2010, EU producers of organic food have been required to use the EU organic logo.

UK Law
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).

UK Government Technical Notices
Producing and processing organic food if there's no Brexit deal, 23 August 2018
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<tr>
<th>DEFRA</th>
<th>Agriculture – zootech</th>
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<td><strong>EU Exit Regulations</strong></td>
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<tr>
<td><strong>Our Comments</strong></td>
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<tr>
<td>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.</td>
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<td><strong>EU Law</strong></td>
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<td><a href="https://ec.europa.eu/food/animals/zootechnics/legislation_en">https://ec.europa.eu/food/animals/zootechnics/legislation_en</a></td>
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<td>a. Decision 2007/371/EC as regards herd books for animals of the bovine species</td>
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<tr>
<td>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</td>
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<td>c. Decision 2005/379/EC on pedigree certificates and particulars for pure-bred breeding animals of the bovine species, their semen, ova and embryos</td>
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<tr>
<td>d. Decision 2005/375/EC on entering male sheep and goats in an annex to the flock book</td>
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<td>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</td>
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<tr>
<td><strong>English Law</strong></td>
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<tr>
<td>DEFRA</td>
<td>Animal health and traceability</td>
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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.

**Law Society Scotland Comments**

**EU Law**

The Regulation on Transmissible Animal Diseases, the EU Animal Health Law provides:

a. Simpler rules to enable authorities to focus on preventing and eradicating disease

b. Clearer responsibilities for farmers, vets and others dealing with animals

c. Better surveillance of pathogens, electronic identification and registration of animals

d. Earlier detection and control of animal diseases to reduce animal epidemics

e. More flexibility to adjust rules to local circumstances

The Animal Health Law strengthens the enforcement of health and safety standards for the agri-

**Scottish Law**

The Zootechnical Standards Regulations 1992
The Zootechnical Standards Amendment (Scotland) Regulations 2007

**European Commission Preparedness Notices**

The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the field of breeding of animals, 23 January 2018

**EU Exit Regulations**

**UK Law**

The Animal Breeding (Amendment) (EU Exit) Regulations 2019
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.

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.

English Law
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.

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.

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.
Scottish Law
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.

http://www.gov.scot/Topics/farmingrural/Agriculture/animal-welfare/policies/Legislation

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

UK Government Technical Notices
Registration of veterinary medicines if there’s no Brexit deal, 24 September 2018

Regulation of veterinary medicines if there’s no Brexit deal, 24 September 2018

European Commission Preparedness Notices
Notice to marketing authorisation holders of centrally authorised medicinal products for human and veterinary use, 23 January 2018
<table>
<thead>
<tr>
<th>DEFRA</th>
<th>Animal welfare</th>
<th>x</th>
<th>x</th>
<th>x</th>
</tr>
</thead>
</table>

**EU Exit Regulations**

**UK Law**

The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019 (draft)

Official Controls for Feed, Food and Animal Health and Welfare (Amendment etc.) (EU Exit) Regulations 2019 (draft)

The Farriers and Animal Health (Amendment) (EU Exit) Regulations 2019

**Scottish Law**

The Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019

**UK Government Technical Notices**

Exporting animals and animal products if there’s no Brexit deal, 24 September 2018

Importing animals and animal products if there’s no Brexit deal, 24 September 2018

**European Commission Preparedness Notices**

The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on animal feed, 23 January 2018

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
<table>
<thead>
<tr>
<th>HSE and DERRA</th>
<th>Chemicals regulation (including pesticides)</th>
<th>*x</th>
<th>*x</th>
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</table>

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)

**Law Society Scotland Comments**

EU Law
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. The Directive includes provisions aimed at reducing risks and impacts on human health and the environment, and to improve controls on distribution and use:

- a. A National Action Plan
- b. compulsory testing of application equipment
- c. provision of training for and arrangements for the certification of operators, advisors and distributors
- d. a ban (subject to limited exceptions) on aerial spraying
- e. provisions to protect water, public spaces and conservation areas
- f. the minimisation of risks from handling, storage and disposal
- g. the promotion of low input regimes

UK Law

The Food and Environmental Protection Act 1985 as amended by the Pesticides Act 1998.

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.

Code of Practice for Using Plant Protection Products in Scotland:

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.

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.

European Commission Preparedness Notices

Questions and answers related to the United Kingdom’s withdrawal from the European Union with
<table>
<thead>
<tr>
<th>Agency</th>
<th>Environment</th>
<th>Regulations</th>
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<tbody>
<tr>
<td>DEFRA</td>
<td>Environmental quality – pesticides</td>
<td>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.</td>
</tr>
<tr>
<td>DEFRA</td>
<td>Food and feed safety and hygiene law (food)</td>
<td>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</td>
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<td></td>
<td>Food Standards</td>
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| Agency and feed safely and hygiene law, and the controls and verify compliance with food and feed law (official controls) | 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.  

**Law Society Scotland Comments**  
**EU Law**  
See the extensive EU law in this area in the Food and Feed Guide in the section on Scottish Law.  
**UK Law (exc. Scotland)**  
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.

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.

In Wales, the FSA retains responsibility for general food labelling. The Welsh Government is responsible for nutrition related to food legislation.

In Northern Ireland, the FSA retains responsibility for general food labelling and nutrition related to food legislation in Northern Ireland.

**Food Standards Agency Food and Feed Law Guide**  
**Scottish Law**  
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: [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)
<table>
<thead>
<tr>
<th>DEFRA</th>
<th>Food compositional standards</th>
<th>x</th>
<th>x</th>
<th>x</th>
<th>Minimum standards for a range of specific food commodities such as sugars, coffee, honey, caseins, condensed milk, chocolate, jams fruit, juices and bottled water.</th>
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<tbody>
<tr>
<td></td>
<td>UK Law</td>
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<td>Law Society Scotland Comments</td>
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<tr>
<td></td>
<td>EU Law</td>
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<td>Regulation 1169/2011/EU on the provision of food information to consumers</td>
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<tr>
<td></td>
<td>English Law</td>
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<td></td>
<td>The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017</td>
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<td></td>
<td>Scottish Law</td>
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<td>The Food Information (Scotland) Regulations 2014</td>
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<td>EU Exit Regulations</td>
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<td></td>
<td>Scottish Law</td>
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<td></td>
<td>The Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations</td>
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<tr>
<td>DEFRA</td>
<td><strong>Food labelling</strong></td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>Regulations setting out requirements on provision of information to consumers on food labels.</td>
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<td><strong>EU Law</strong></td>
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<td><strong>Scottish Law</strong></td>
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<td><strong>UK Policy</strong></td>
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<td><strong>EU Exit Regulations</strong></td>
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<td><strong>Scottish Law</strong></td>
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<tr>
<td><strong>DEFRA</strong></td>
<td><strong>Plant health, seed and propagating material</strong></td>
<td><em>x</em></td>
<td><em>x</em></td>
<td><em>x</em></td>
<td>Requirements in relation to the import and internal EU movement of plants and plant products, risk assessment of new pant 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.</td>
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<tr>
<td><strong>EU Law</strong></td>
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<tr>
<td>a.EU marketing requirements, including rules for specific seeds</td>
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<td>b.</td>
<td>Directives related to Conservation Varieties</td>
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<tr>
<td>c.</td>
<td>Lists of implementing measures related to marketing of specific seeds</td>
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<tr>
<td>d.</td>
<td>Review of EU legislation on the marketing of see and plant propagating material</td>
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**English Law**

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The Plant Health (Scotland) Order 2005
[http://www.gov.scot/Topics/farmingrural/Agriculture/plant/PlantHealth/PolicyAndLegislation](http://www.gov.scot/Topics/farmingrural/Agriculture/plant/PlantHealth/PolicyAndLegislation)

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The European Commission Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Plant Health, 21 March 2018

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**EU Exit Regulations**
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