

Scotland and the Genetic Technology Act

What DEFRA Didn't Tell You

January 2025

The Genetic Technology (Precision Breeding) Act became law in March 2023. It establishes an exemption for certain genetically modified organisms (GMOs) produced using gene editing technologies. In the Act these are referred to as “precision-bred organisms” or PBOs, even though it defines them as the products of genetic modification processes.

This law, which applies solely to England, significantly simplifies the process for authorising the testing and marketing of PBOs compared to conventional GMO regulations.

Scotland has been opposed to the Act from the start, and has [stated](#) that it will block Westminster’s bid to impose PBOs on Scotland.

As agriculture is a devolved matter in the UK, Scotland, Wales and Northern Ireland retain authority over the cultivation of any kind of GMOs within their borders.

The sale of English GMO foods within Scottish borders, however, is a more complex picture. Westminster asserts that through the UK Internal Market Act (UKIMA), the sale of “precision-bred” food products which are legal in England cannot be prevented in Scotland. Scotland does not accept this position and has declared its wish to [remain aligned with the EU](#), where practicable, and therefore is closely monitoring the EU’s position on the issue.

Scotland’s objections to the Genetic Technology Act, as summed up in a [June 2022 letter to the UK government](#), from then Minister for Environment and Land Reform, Mairi McAllan MSP, are wide ranging and include:

- **Lack of Consultation** McAllan expressed disappointment that the invitation for Scotland to join the legislation came only the day before the Bill was introduced in the UK Parliament, and the draft was provided after it had already been shared by the media.
- **Lack of Labelling** McAllan also criticised the lack of labelling requirements in the Bill, arguing that it obstructs enforcement of Scotland’s devolved regulatory powers and denies consumers the right to know what they are consuming.
- **Trade Issues** The letter also stated that *“The UK Government’s refusal to commit to dynamic alignment with the EU has already led to very significant trade impacts for Scottish businesses.”*
- **Protecting the Green Scottish Brand** Scotland has historically opposed GMO use in farming to safeguard its £15 billion food and drink industry’s reputation for high environmental standards and clean, green products.

Undermining devolution

The Genetic Technology Act has sparked vigorous debate amongst the devolved nations about Westminster's overreach.

It is fundamental to the devolution settlement – set out in both the Scotland Act 1998 the Sewel Convention 1999 – that the powers of the Scottish Parliament and Government should not normally be changed without agreement.

The Scotland Act established the Scottish Parliament and Scottish Government. It also outlined the law-making process for Scotland.

The Sewel Convention applies when the UK Parliament wants to legislate on a matter within the devolved competence of the Scottish Parliament, the Welsh Senedd or the Northern Ireland Assembly.

Under the terms of the Convention, the UK Parliament [will “not normally” do so](#) without the relevant devolved institution having passed a legislative consent motion.

The convention [applies](#) when an Act of the UK parliament:

- Changes the law in a devolved area of competence
- Alters the legislative competence of a devolved legislature
- Alters the executive competence of devolved ministers or departments.

Rejection of the Genetic Technology Act

In December 2022 Scotland laid a [Legislative Consent Memorandum \(LCM\)](#) – a document prepared by the Scottish Government when the UK Parliament seeks to legislate on devolved matters – which recommended that the Scottish Government refuse consent to the draft Genetic Technology Act.

Amongst other things, it pointed out that the UK-wide public consultation on the regulation of genetic technologies failed to set out that powers would be taken that extend to Scotland.

The LCM also highlighted [clause 42 of the Genetic Technology Act](#) (entitled “Power to make consequential provision”). It noted that there is no requirement for Scottish Ministers to consent to secondary legislation, and that they are unlikely to be able to scrutinise such legislation. *“This is therefore a constitutional impingement which represents an erosion of devolved competence”*, it said.

In January 2023 the Scottish Parliament [debated and passed a motion rejecting the draft Genetic Technology Act](#) and calling for amendments to Clause 42. The vote was 93 in favour and 30 against (see more [here](#)).

UK Internal Market Act (UKIMA)

In Scotland, UKIMA has become integral to the country's ongoing considerations of the Genetic Technology Act. Brought in after the UK's departure from the European Union, its intention was to create a common framework for managing internal trade across the four nations of the UK post-Brexit.

Even before UKIMA was passed, the devolved nations expressed numerous objections to it.

Scotland [withdrew from the negotiations](#) in 2019 *“after it became clear that the Scottish Government's concerns regarding the project and the implications for devolution, and for the common frameworks process, were being ignored.”*

Of particular concern is the way UKIMA allows Westminster to make policy in devolved nations – not merely about trade but about the economy and structure of society – without consent, in a unilateral way that fundamentally alters the devolution settlement.

As such UKIMA has been rejected by the [Scottish Parliament](#), [Welsh Senedd](#) and [Northern Ireland Assembly](#).

It is, nevertheless, a law of the United Kingdom that must be reckoned with.

The Scottish Government's LCM did not object to the draft Genetic Technology Bill on the grounds of the UKIMA as there were [no provisions relating to it within the draft text](#). However, it recognised that under the UKIMA precision-bred products accepted for marketing in England may also be marketed in Scotland, and now that the Act is law, is "[considering how best to prevent those impacts](#)".

Public opinion

The Scottish Government has acknowledged the emotive and complex nature of genetic technologies, and the limited public awareness of the issues involved.

In 2023, Food Standards Scotland (FSS) conducted [consumer research](#) on gene editing – or what it called New Breeding Techniques (NBTs) – a description more commonly used in the European Union. Findings showed the importance of transparency, trustworthy legislation and labelling.

Nearly 30% of people remained opposed to NBTs throughout the process, but the majority were more accepting "*mainly due to a belief that systems and checks are in place to ensure that NBT produced foods will be safe to eat.*"

The report said that "*a great deal of education and information will need to be provided if consumers are to understand NBTs. Communications would need to be clear, simple, use non-technical language, avoid too much detail about the science, and, crucially, be presented in an impartial way which talks about cons as well as pros from a consumer perspective.*"

Labelling of these products was considered crucial by participants, particularly those with allergies and intolerances. Given that ingredients are on food labels, participants expected NBTs to be identifiable on the label. Researchers reported that "*people would be shocked if they felt this would not be the case*".

Future prospects

Some parts of the Scottish farming industry, for example the Agricultural Industries Confederation (AIC) Scotland and NFU potatoes are pressuring the Scottish Government to reconsider its approach to precision breeding.

But the Scottish Government "*remains [wholly opposed](#) to the imposition of the UK Internal Market Act and the constraint on the exercise of devolved powers imposed by that Act.*"

No recent statements have been made by the Scottish Government indicating any change of position. However, [as of December 2023](#), Food Standards Scotland officials are exploring regulatory options for Scotland, considering the UK Government's Act and the EU's evolving stance on these new GMOs.

More information

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