

These notes relate to the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (asp 4) which received Royal Assent on 29 January 2021

UK WITHDRAWAL FROM THE EUROPEAN UNION (CONTINUITY) (SCOTLAND) ACT 2021

EXPLANATORY NOTES

OVERVIEW AND BACKGROUND

Part 1 – Alignment With Eu Law

Section 6 – Policy statement on the section 1(1) power

45. Subsection (1) requires that Scottish Ministers must publish a statement of their policy on the approach to be taken, the factors to be taken into account, and the process to be followed when considering whether to use the power under section 1(1). It is for the Scottish Ministers to determine the most appropriate manner of publication.
46. Subsection (2) makes provision for the Scottish Ministers, at their discretion, to revise the policy statement and publish it accordingly.
47. Subsection (3) provides, with reference to section 9(9), that when the Scottish Ministers have laid an instrument or draft before the Scottish Parliament which contains provision that involves using the power under section 1(1) in a way that is not in accordance with the current published policy statement, then Ministers must review the policy statement and either publish a revised version, or lay a document before the Scottish Parliament explaining why, in their opinion, it is not necessary to revise it.
48. Subsection (5) makes clear that the use of the power under section 1(1) is not dependent on such a policy statement having first been published. This means that the Scottish Ministers can use that power before the policy statement is published.