

POLICY NOTE

The Environment (EU Exit) (Miscellaneous Amendments) (Scotland) Regulations 2019

SSI 2019/175

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and paragraph 1(1) and (3) of Schedule 2 to the European Union (Withdrawal) Act 2018. The instrument is subject to [negative procedure].

Purpose of the instrument.

To make corrections to the Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 and the Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019.

Policy Objectives

The instrument makes a number of minor corrections to environmental legislation made in connection with EU exit.

Explanation of the law being amended by the regulations

The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 made amendments to legislation required as a result of updates to EU law.

The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 addressed deficiencies in environmental legislation arising from the withdrawal of the United Kingdom from the European Union.

Reasons for and effect of the proposed change or changes on retained EU law

The instrument makes some corrections to the Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 and the Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019, recently made in connection with EU exit. Scottish Government has undertaken to the Parliament to make these corrections before the start of the recess on 30 June 2019.

Statements required by European Union (Withdrawal) Act 2018

The following statements apply to Part 3 of the instrument only.

Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

The Cabinet Secretary of the Environment, Climate Change and Land Reform, Roseanna Cunningham, has made the following statement “In my view the Environment (EU Exit) (Miscellaneous Amendments) (Scotland) Regulations 2019 do no more than is appropriate.”.

This is the case because they make minor corrections in fulfilment of an undertaking given to the Scottish Parliament and do not introduce policy change.

Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

The Cabinet Secretary of the Environment, Climate Change and Land Reform, Roseanna Cunningham, has made the following statement “In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”. These are the delivery of a commitment given to the Scottish Parliament.

Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

The Cabinet Secretary of the Environment, Climate Change and Land Reform, Roseanna Cunningham, has made the following statement “In my view the Environment (EU Exit) (Miscellaneous Amendments) (Scotland) Regulations 2019 do 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.”.

Statement that Scottish Ministers have, in preparing the regulations, 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

The Cabinet Secretary of the Environment, Climate Change and Land Reform, Roseanna Cunningham, has made the following statement “In my view the Environment (EU Exit) (Miscellaneous Amendments) (Scotland) Regulations 2019 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.”.

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

The Cabinet Secretary of the Environment, Climate Change and Land Reform, Roseanna Cunningham, has made the following statement “In my view the Environment (EU Exit) (Miscellaneous Amendments) (Scotland) Regulations 2019 have had due regard to the need to the guiding principles on the environment and animal welfare as derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union.”.

Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

This heading is not applicable.

An indication of how the regulations should be categorised in relation to the significance of the change proposed.

Low – The amendments are technical in nature to allow continuity of law and do not amount to a change in policy.

Statement setting out the Scottish Ministers’ reasons for their choice of procedure

Negative procedure is considered appropriate as these minor and technical amendments do no more than is necessary to ensure that the legislation continues to operate effectively following the UK’s exit from the EU. The regulations do not include provisions which fall within paragraph 1 (2) of schedule 7 of the European Union (Withdrawal) Act 2018.

Further information

Consultation

No consultation has been carried out for this instrument. The amendments are minor corrections which do not amount to a change in policy and are being made in response to an undertaking given to the Scottish Parliament.

Impact Assessments

Full impact assessments have not been prepared for this instrument because The amendments are minor corrections which do not amount to a change in policy and are being made in response to an undertaking given to the Scottish Parliament. The amendments do not alter Scottish Government’s current environmental policies and priorities and, therefore, do not have a significant impact on the environment .

Financial Effects

The Cabinet Secretary of the Environment, Climate Change and Land Reform, Roseanna Cunningham confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Environment & Forestry
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