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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**CONSTITUTIONAL LAW**

**DEVOLUTION, SCOTLAND**

**ENVIRONMENTAL PROTECTION**

**The UK Withdrawal from the European Union (Continuity)  
(Scotland) Act 2021 (Consequential Provisions and  
Modifications) Order 2021**

*Made* - - - - - 2021

*Coming into force in accordance with article 1(2)*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1), 113(5) and 114(1) of the Scotland Act 1998(a);

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act, a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

**Citation and commencement**

1.—(1) This Order may be cited as the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (Consequential Provisions and Modifications) Order 2021.

(2) This Order comes into force on the same day as section 19 (Environmental Standards Scotland) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021(b) comes into force for any purpose.

**Status of Environmental Standards Scotland as part of the Scottish Administration**

2. Environmental Standards Scotland(c) is part of the Scottish Administration(d).

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(a) 1998 c. 46.

(b) 2021 asp. 4.

(c) Environmental Standards Scotland is established by section 19 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

(d) Scottish Administration is defined in section 126(6) of the Scotland Act 1998.

**Construction of references to an office-holder in the Scottish Administration**

3.—(1) Unless the context otherwise requires, references in the Scotland Act 1998 and any other enactment (except the Crown Suits (Scotland) Act 1857(a)) to an office-holder in the Scottish Administration are to be taken to include a reference to Environmental Standards Scotland.

(2) Paragraph (1) applies whether or not the enactment defines the expression “office-holder in the Scottish Administration” by reference to the Scotland Act 1998 or any specific provision of that Act.

**House of Commons Disqualification Act 1975**

4. In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975(b) (bodies of which all members are disqualified), insert the following entry at the appropriate place—

“Environmental Standards Scotland”

Dover House,  
London  
Date

*Name*  
Secretary of State  
Office of the Secretary of State for Scotland

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(a) 1857 c. 44.

(b) 1975 c. 24. There are amendments to Part 2 of Schedule 1 which are not relevant to this Order.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes provision consequential on the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (“the Act”). The Act establishes Environmental Standards Scotland (“ESS”) and makes provision about its functions. ESS is known as Ìrean Àrainneachdail na h-Alba in Gaelic.

Articles 2 and 3 make ESS part of the Scottish Administration. Accordingly, ESS will be a Non-Ministerial Office accountable to the Scottish Parliament.

Article 3 provides that the Crown Suits (Scotland) Act 1857 does not apply to ESS with the effect that the Lord Advocate cannot be sued in place of ESS.

Article 4 inserts a reference to ESS into the House of Commons Disqualification Act 1975 to disqualify members of the ESS from being members of the House of Commons.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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