

## EXPLANATORY NOTE

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

Under section 43F of the Employment Rights Act 1996, whistleblowers may qualify for employment protections if they disclose information to a “prescribed person”. The list of prescribed persons is in the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014.

The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017 specify requirements for relevant prescribed persons to report annually on disclosures of information that they receive from workers. Regulation 2 of the 2017 Regulations defines “relevant prescribed person” as a person prescribed for the purposes of section 43F of the Employment Rights Act 1996, with the exception of particular listed prescribed persons.

The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2022, which will come into force at the same time as this instrument, makes members of the Scottish Parliament prescribed persons. Regulation 2 of this instrument adds members of the Scottish Parliament to the list of prescribed persons which do not fall within the definition of “relevant prescribed persons” in the 2017 Regulations. This means that members of the Scottish Parliament will not be required to report annually on the disclosures of information that they receive.

The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2022 also removes the European Securities and Markets Authority from the list of prescribed persons. Regulation 2 of this instrument therefore removes reference to the European Securities and Markets Authority from the definition of “relevant prescribed person” in the 2017 Regulations.

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