
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enforce in respect of Northern Ireland Regulation (EU) No 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high risk areas (OJ No. L 130, 19.5.2017) (“the EU Regulation”). Article 5(4) of the Northern Ireland Protocol to the Withdrawal Agreement between the United Kingdom and the European Union (“the Northern Ireland Protocol”) provides that the EU regulations contained in Annex 2 to the Northern Ireland Protocol will apply to and in the UK, in respect of Northern Ireland. The EU Regulation is included in Annex 2. The EU Regulation aims to ensure that importers carry out supply chain due diligence to limit the acquisition of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high risk areas. It imposes obligations on importers: in respect of their supply chain management systems; to identify risks of adverse impacts in their mineral supply chains and develop and implement strategies to respond to those risks; to carry out third-party audits of their activities, processes and systems used to implement supply chain due diligence regarding minerals or metals; and disclose to competent authorities the results of those audits.

Part 2 of these Regulations sets out the Secretary of State's functions which are those of the competent authority in respect of Union importers into Northern Ireland, and of a Member State insofar as they relate to Northern Ireland, under the EU Regulation. It also provides that the Secretary of State may authorise any person to carry out the Secretary of State's functions as competent authority, and for the disclosure and exchange of information.

Part 3 deals with enforcement, and provides for the production of information, entering premises, and inspection of documents or information for the purposes of carrying out the Secretary of State's functions under these Regulations.

Part 4 and the Schedule provide for the Secretary of State to impose civil sanctions where Union importers fail to comply with a notice requiring the production of information or otherwise knowingly, recklessly or without reasonable excuse fail to cooperate with the Secretary of State in the exercise of the powers under Part 3.

Part 5 makes provision for the service of notices and requires the Secretary of State to review these Regulations within five years and at intervals of five years thereafter.

The Schedule also requires the Secretary of State to publish guidance about the use of civil sanctions under these Regulations.

An impact assessment has not been carried out for these Regulations as impact assessments are not required in respect of statutory instruments necessary to meet the terms of the Northern Ireland Protocol. However, a “de minimis” assessment was conducted to understand the impact of the Regulations on business and no significant costs to business or the voluntary sector are foreseen as a result of the Regulations. A full impact assessment of the EU Regulation was carried out at an EU level. A Justice Impact Assessment has been conducted with the Department of Justice for Northern Ireland. The Explanatory Memorandum is published alongside these Regulations on www.legislation.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Conflict Minerals (Compliance) (Northern Ireland) (EU Exit) Regulations 2020.