

EXPLANATORY MEMORANDUM TO
THE EU AGENCIES (REVOCATIONS) REGULATIONS 2022

2022 No. 1241

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument revokes direct EU legislative provisions relating to the following EU agencies: the European Centre for the Development of Vocational Training (Cedefop); and the European Training Foundation (ETF).
- 2.2 It is necessary to revoke the legislative provisions because they have no practical application as a result of the withdrawal of the UK from the EU to ensure the UK's statute book remains coherent and tidy.
- 2.3 The UK's ability to participate in these agencies automatically ceased upon the end of the implementation period (31 December 2020) irrespective of this instrument.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument was sent to the sifting Committees on 18 July 2022. The sifting committees were content for the instrument be laid subject to the negative procedure.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The EU legislative provisions relating to each of the two Agencies are listed at paragraph 7.3.
- 6.2 By virtue of section 3 of the European Union (Withdrawal) Act 2018 ("the Withdrawal Act") the EU measures became part of UK domestic law on and after the implementation period completion day (ie 11.00 pm on 31 December 2020).

However, the UK left each of the Agencies on 31 December 2020 upon the end of the implementation period as it is no longer a member of the EU.

- 6.3 As such, the instrument revokes direct EU legislative provisions which ceased to have any practical application following the UK's exit from the EU and the expiry of the implementation period.
- 6.4 Participation in international agreements is negotiated at the UK level. The policies affected by these EU measures are a reserved matter of international relations but touch on the devolved fields of education, youth, sport and training.

7. Policy background

What is being done and why?

- 7.1 The primary purpose of the instrument is to revoke redundant legislation and provide legal certainty to the United Kingdom.
- 7.2 The UK's participation in Cedefop and ETF (as outlined at 7.3 to 7.5) ceased as a result of exiting the European Union.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.3 The United Kingdom, as a Member State, participated in the following European Union Agencies –
- The European Centre for the Development of Vocational Training (known as “Cedefop”). This is given legal effect by Regulation (EU) 2019/128 of the European Parliament and of the Council of 16 January 2019 repealing Council Regulation (EEC) No 337/75.
 - The European Training Foundation (or ETF). This is given legal effect by Regulation (EC) No 1339/2008 of the European Parliament and of the Council of 16 December 2008.
- 7.4 Cedefop is an EU agency that provides a reference centre for vocational education and training, supporting development of European vocational education and training (VET) policies and contributing to their implementation. Cedefop provides a source of information on VET policies, comparative analyses and expertise gathered through research and networking. It contributes to analysis conducted when developing domestic VET policies and benchmarking against policies in other countries.
- 7.5 The European Training Foundation (ETF) is a decentralised agency of the European Union based in Turin, Italy. ETF supports countries surrounding the European Union to reform their education, training and labour market systems to harness the potential of their human capital in the context of the EU's external relations policy. ETF currently works with 29 partner countries neighbouring the EU including the countries preparing for accession to the EU. The UK funded ETF as a Member State through its contribution to the EU budget.

Why is it being changed?

- 7.6 The UK no longer participates in these Agencies as the UK has left the EU. Once the implementation period expired, the EU regulations and EU Council decisions relating

to these framework agreements ceased to apply to it, as the UK is no longer a member state.

7.7 Section 3 of the European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) incorporated these EU measures as direct EU legislation into the UK statute book on the implementation period completion day.

7.8 This instrument will therefore revoke these EU measures as they ceased to have any practical application on the UK leaving the EU.

What will it now do?

7.9 The EU measures ceased to have effect in the UK when the implementation period expired. The instrument will remove redundant legislation and provide legal certainty to the UK statute book. The UK is no longer obliged to fund or participate in the Agencies.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

9.1 No consolidation is necessary for this instrument.

10. Consultation outcome

10.1 No formal consultation has taken place as this instrument is procedural in purpose, which is to revoke legislation that would otherwise have no practical application in the UK following the UK’s exit from the EU and the expiry of the implementation period.

10.2 A copy of the draft instrument has been shared with the Devolved Administrations. The Devolved Administrations have consented to Parliament legislating on behalf of the UK as a whole.

11. Guidance

11.1 No guidance is required for this statutory instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because there will be little to no impact.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 There are no plans to monitor or review this instrument as it is for revocation only.
- 14.2 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

15. Contact

- 15.1 Colin Attrill at the Department for Education Telephone: +44 (0) 20 4534 1662 or email: colin.attrill@education.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Oscar Tapp-Scotting, Deputy Director for International Education at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Robert Halfon MP, Minister for Skills, Apprenticeships and Higher Education at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1A

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-------------------|---|--|--|
| Sifting | Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7 | Ministers of the Crown exercising sections 8(1) or 23(1) to make a Negative SI | Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 | Explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 | Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010. |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs | Explain the instrument, identify the relevant law before IP completion day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 to create | Set out the 'good reasons' for creating a criminal offence, and the penalty attached. |

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| | | a criminal offence | |
| Sub-delegation | Paragraph 30, Schedule 7 | Ministers of the Crown exercising section 8 or part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument. | State why it is appropriate to create such a sub-delegated power. |
| Urgency | Paragraph 34, Schedule 7 | Ministers of the Crown using the urgent procedure in paragraphs 5 or 19, Schedule 7. | Statement of the reasons for the Minister's opinion that the SI is urgent. |
| Scrutiny statement where amending regulations under 2(2) ECA 1972 | Paragraph 14, Schedule 8 | Anybody making an SI after IP completion day under powers conferred before the start of the 2017-19 session of Parliament which modifies subordinate legislation made under s. 2(2) ECA | Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid. |
| Explanations where amending regulations under 2(2) ECA 1972 | Paragraph 15, Schedule 8 | Anybody making an SI after IP completion day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA | Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before IP completion day, and explaining the instrument's effect on retained EU law. |

Part 2

Statements required under the European Union (Withdrawal) 2018 Act or the European Union (Future Relationship) Act 2020

1. Sifting statement(s)

1.1 The Secretary of State for Education, James Cleverly MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the EU Agencies (Revocations) Regulations 2022 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure).”.

1.2 This is the case because: the instrument simply revokes direct EU legislative provisions which ceased to have any practical application following the UK’s exit from the EU and the expiry of the implementation period. Moreover, the instrument contains no provisions falling within the scope of paragraph 1(2) of Schedule 7 to the European Union (Withdrawal) Act 2018, such that it would be required to be approved by a resolution of each House of Parliament.

1.3 It does not affect the provisions of any Act of Parliament.

1.4 There are no financial obligations or implications to this instrument.

1.5 The instrument has no implications on criminal law and is not of special importance.

2. Appropriateness statement

2.1 The Secretary of State for Education, James Cleverly MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the EU Agencies (Revocations) Regulations 2022 does no more than is appropriate.”.

2.2 This is the case because: the instrument simply revokes direct EU legislative provisions which ceased to have any practical application following the UK’s exit from the EU and the expiry of the implementation period. It will ensure the statute book is clear and coherent.

3. Good reasons

3.1 The Secretary of State for Education, James Cleverly MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in the EU Agencies (Revocations) Regulations 2022, and I have concluded they are a reasonable course of action”.

3.2 These are: the revocation of direct EU legislative provisions which ceased to have any practical application following the UK’s exit from the EU and the expiry of the implementation period.

4. Equalities

4.1 The Secretary of State for Education, James Cleverly MP, has made the following statement(s):

“The instrument does 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.”.

4.2 The Secretary of State for Education, James Cleverly MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, James Cleverly MP , Secretary of State for Education, 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.”.

4.3 The instrument has no impact on equalities because it is the UK’s withdrawal from the EU which will have any impact – the instrument simply revokes direct EU legislative provisions which ceased to have any practical application following the UK’s exit from the EU and the expiry of the implementation period.

5. Explanations

5.1 The explanations statement has been made in section 7 of the main body of this explanatory memorandum.