

## **POLICY NOTE**

### **THE REGULATORY REFORM (SPECIFICATION OF BASIC SAFETY STANDARDS DIRECTIVE) (SCOTLAND) ORDER 2018**

#### **SSI 2018/192**

The above instrument was made in exercise of the powers conferred by section 18 and paragraph 30 of Schedule 2 to the Regulatory Reform (Scotland) Act 2014 (“the 2014 Act”) and all other powers enabling them to do so. It is not subject to parliamentary procedure.

#### **Policy Objective**

Section 18 of the 2014 Act contains a power for the Scottish Ministers, by Regulations, to make provision for any of the purposes listed in Part I of schedule 2 of that Act. That power is to be exercised in making the Environmental Authorisations (Scotland) Regulations 2018, an affirmative instrument which was laid in the Scottish Parliament on 8 May 2018.

Paragraph 22(1)(b) of schedule 2 provides that one of the purposes for which regulations can be made is making provision which corresponds or is similar to any provision made or capable of being made under section 2(2) of the European Communities Act 1972 in connection with an EU obligation relating to protecting and improving the environment.

Paragraph 30 of schedule 2 provides that the Scottish Ministers may by order specify an EU instrument as one that is or contains an EU obligation mentioned in paragraph 22.

The Environmental Authorisations (Scotland) Regulations 2018 will implement parts of Council Directive 2013/59/EURATOM of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation (“the Basic Safety Standards Directive”).

The Basic Safety Standards Directive covers several different policy areas, including some which are reserved. The Environmental Authorisations (Scotland) Regulations 2018 will implement the parts of the Directive which relate to the regulation of radioactive material and radioactive waste. Since some of those provisions relate to the protection of human health and security measures as well as to environmental protection, the Scottish Ministers intend to use the power in paragraph 30 of schedule 2 of the 2014 Act to specify the Basic Safety Standards Directive as an EU instrument containing obligations relating to the environment.

The benefits of this approach are that the Environmental Authorisations (Scotland) Regulations 2018 can be made wholly under the powers conferred by section 18 and schedule 2 of the 2014 Act. The 2014 Act allows for more significant sentencing for offences than if parts of the Regulations had been made under section 2(2).

This Order is a necessary precursor to the making of the regulations wholly under powers conferred by section 18 and schedule 2 of the 2014 Act.

## **Consultation**

No consultation has taken place on this Order, as it has no direct effects. Consultation has been carried out in connection with the Environmental Authorisations (Scotland) Regulations 2018.

## **Impact Assessment**

No impact assessment has been prepared for this Order as no impact upon business, charities or voluntary bodies is foreseen.

## **Financial Effects**

This Order has no financial effects.

Scottish Government  
Directorate for Environment and Forestry  
Environmental Quality Division  
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