

EXPLANATORY MEMORANDUM TO
THE PRODUCT SAFETY, METROLOGY AND MUTUAL RECOGNITION
AGREEMENT (AMENDMENT) (EU EXIT) REGULATIONS 2019

2019 No. 1246

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes amendments to previous no deal legislation in light of the extension to exit day agreed under Article 50 of the Treaty on European Union. Additionally, it seeks to extend transitional provisions for imports from the EEA to imports from Switzerland and to ensure other provisions operate effectively and as intended. The instrument also amends certain EU-derived legislation, to expressly implement certain provisions of the mutual recognition agreement between the EU and Switzerland, related to importers and authorised representatives, and to make a small correction to legislation implementing the EU safety regime for pressure equipment.
- 2.2 The amendments relating to EU exit are (just as the measures they amend were) contingency measures to ensure the UK has a functioning statute book that will ensure continuity and certainty irrespective of the outcome of negotiations. In order to develop a future relationship with the EU that delivers in our national interest, the Department must take a responsible approach in preparing for all scenarios, including the outcome that we leave the EU without any deal.

Explanations

What did any relevant EU law do before exit day?

- 2.3 The EU exit-related provisions in this instrument affect product safety and metrology legislation for 17 types of product and for accreditation of conformity assessment bodies (by amending previous no deal amendments to this legislation). Four of the affected instruments are directly applicable EU law, and the rest of this legislation implements EU Directives or Regulations. The EU law sets a legislative framework to ensure that safe products are placed on the market and that action can be taken in respect of unsafe and non-compliant products or they can be ultimately removed from the EU market. Most of the instruments set out ‘essential requirements’ that products must meet, to ensure they are safe and accurate. They require economic operators (manufacturers and their authorised representatives, importers and distributors) to take certain actions, including labelling of products with manufacturers’ and importers’ details, and steps to ensure that they do not make non-compliant products available on the EU market; and to take action if they consider they may have done so. The products need to be assessed before placing on the market – either by manufacturers’

self-certification or by a third-party conformity assessment body. Generally, as the associated risk and product complexity increases the product is more likely to require third party assessment. The manufacturer then provides a declaration that the product meets the legislative requirements.

Why is it being changed?

2.4 The EU-derived law described above is being amended by *the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019* (“the Product Safety Regulations”). This is because the measures would otherwise cease to apply to the UK market and to function properly post-exit. This instrument amends the Product Safety Regulations to ensure that they function effectively and as intended. In particular, the extension to the date for the UK’s exit from the EU means that some provisions within the Product Safety Regulations concerning regulation of Personal Protective Equipment, which were drafted on the basis the UK was exiting on 29 March 2019, no longer work as intended, and also some provisions of the Product Safety Regulations concerning regulation of cosmetics provide for a different process from the EU for updating lists of banned or permitted chemicals, following developments at EU level since 29 March. A transitional provision relating to importers’ labelling obligations is being extended to cover products imported into the UK from Switzerland, in light of current recognition of Swiss and EU regulatory equivalence and of Swiss importers, under the EU’s mutual recognition agreement with Switzerland.

2.5 More detail on the purpose of the amendments is provided in section 7.

What will it now do?

2.6 The legislation described above, as amended by the Product Safety Regulations, will ensure that, in the event of the UK leaving the EU without a deal, products placed on the UK market will need to continue to meet substantially the same essential requirements. The Product Safety Regulations create an independent UK system for checking that products meet these requirements and create a framework for UK marking so that a manufacturer will indicate that the product is in conformity with the requirements of the relevant enactment. They also aim to ensure that the availability of products to consumers and other end-users is not diminished, by enabling products that meet the pre-exit EU (and UK) requirements to be able to continue to be placed on the market, and it is intended that this will be time-limited. This instrument will make suitable amendments to some provisions of the Product Safety Regulations before they come into force on EU exit. This will ensure that they are operable for a different exit date and that the EU-derived law functions effectively and as intended, which is to provide for substantially the same requirements to apply. More detail on these amendments is provided in section 7 of this explanatory memorandum.

2.7 The instrument also makes amendments to the Conformity Assessment (Mutual Recognition Agreements) Regulations 2019 (SI 2019/392) (“the Mutual Recognition Agreements Regulations”), to ensure that certain aspects of the agreement in relation to mutual recognition of conformity assessment between Switzerland and the EU are expressly implemented in the UK.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is subject to an affirmative resolution within 28 days of being made. It is laid using the urgent procedure as detailed in Schedule 7 paragraph 5 of the European Union (Withdrawal) Act 2018. A statement is made in Part 2 paragraph 5 of the Annex to this explanatory memorandum setting out why this procedure is being used.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The territorial application of this instrument varies between provisions. For the purposes of Standing Order No. 83P, this instrument does not apply to England only, or England and Wales only.

4. Extent and Territorial Application.

- 4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland, except where a more limited extent is inferred from regulation 5.
- 4.2 The territorial application of this instrument varies between provisions. For Part 1, the territorial application is England and Wales, Scotland and Northern Ireland. The amendments in Parts 2 and 3 have the same territorial application as the instruments they amend. The instruments amended by Part 2 and most of the provisions of the Product Safety Regulations (and the instruments amended by those Regulations) which are then being amended by Part 3, extend and apply to the whole of the United Kingdom; but there are schedules to the Product Safety Regulations that are being amended by regulation 5 of this instrument, that extend and apply to Northern Ireland or Great Britain only. Regulation 5 amends two provisions which extend and apply to Northern Ireland only and two provisions which extend and apply to England, Scotland and Wales only.
- 4.3 The provisions that extend and apply to Northern Ireland only are:
- (a) Schedule 31 to the Product Safety Regulations, amending the Making Available on the Market and Supervision of Transfers of Explosives Regulations (Northern Ireland) 2016 (S.R. 2016/366); and
 - (b) Schedule 32 to the Product Safety Regulations, amending the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017 (S.R. 2017/90).
- 4.4 The provisions that extend and apply to England, Scotland and Wales only are:
- (a) Schedule 16 to the Product Safety Regulations, amending the Explosives Regulations 2014 (S.I. 2014/1638); and
 - (b) Schedule 25 to the Product Safety Regulations, amending the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 2016 (S.I. 2016/1107).

5. European Convention on Human Rights

- 5.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement regarding Human Rights:

“In my view the provisions of the Product Safety, Metrology and Mutual Recognition Agreement (Amendment) (EU Exit) Regulations 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This instrument makes amendments relating to the United Kingdom’s exit from the European Union and amendments that do not result from exit. The latter amendments relate to implementation of certain EU obligations. The instrument amends the Mutual Recognition Agreements Regulations, which implement agreements for mutual recognition of conformity assessment between the European Union and third countries, including Switzerland. These amendments expressly implement certain provisions of the agreement between the EU and Switzerland. The instrument also makes a small correction to the Pressure Equipment (Safety) Regulations 2016 (S.I. 2016/1105), which transpose Directive 2014/68/EU of the European Parliament and of the Council of 15th May 2014 on the harmonisation of the laws of member States relating to the making available on the market of pressure equipment (recast) (OJ No L 189, 27.6.2014 p.164) (“the Directive”). The EU exit-related amendments are to the Product Safety Regulations (S.I. 2019/696), which themselves make amendments to correct deficiencies in product safety and metrology legislation, arising out of the United Kingdom’s withdrawal from the European Union.

7. Policy background

What is being done and why?

- 7.1 This instrument makes amendments to some provisions of an earlier no deal instrument, the Product Safety Regulations, and to two instruments which implement certain EU obligations.
- 7.2 Part 2 of this instrument makes amendments regarding implementation of EU obligations. Regulation 2 contains two amendments to the Mutual Recognition Agreements Regulations. The first amendment extends recognition of authorised representatives (persons appointed by a manufacturer to perform specified tasks) established in Switzerland to those appointed in relation to noise emissions from equipment used outdoors. The second amendment expressly implements provisions relating to recognition of importers established in Switzerland. Regulation 3 makes a small correction to the Pressure Equipment (Safety) Regulations 2016, to ensure a provision aligns with the Directive, by enabling information to be given on packaging or an accompanying document when it cannot be indicated on pressure equipment or an assembly (rather than on pressure equipment only).
- 7.3 Part 3 of this instrument makes amendments to the Product Safety Regulations, to ensure that they work effectively and as intended in a no deal scenario, including for a different exit date and to reflect the current EU legal framework.
- 7.4 Regulations 5, 6 and 7 relate to the obligation in certain product safety and metrology legislation, for importers to provide their contact information on (or with) a product to facilitate effective market surveillance.
- 7.5 Regulation 5 modifies that obligation across a range of product safety and metrology legislation so that importers, who must be based in the United Kingdom after exit, may for a limited time (18 months after exit) provide their details on a document accompanying the product rather than on the product itself, where they import

products from Switzerland. Currently, the Product Safety Regulations allow this for imports from the EEA; the amendment is in light of the current recognition of EU and Swiss regulatory equivalence and of Swiss importers in the Swiss agreement, for the purposes of labelling requirements.

- 7.6 Regulations 6 and 7 make small clarifications to the wording of that obligation in the Product Safety Regulations, in respect of toys, electromagnetic compatibility, pressure equipment, radio equipment and electrical equipment, to ensure that the provisions operate as intended.
- 7.7 Regulation 8 makes changes to regulations relating to cosmetics to ensure those regulations function effectively from exit day. This regulation clarifies the position in relation to the use of data arising from historic animal testing of cosmetics. It does not introduce a policy change but seeks to maintain and simplify the current position, to provide legal certainty for business. Regulation 8 also enables the Secretary of State to amend annexes to (rather than Articles of) the Cosmetics Regulation (once saved into domestic law), so that lists of permitted and banned chemicals can be updated by the same process as in the EU. This is in light of the EU's recent publication of the cosmetics 'Omnibus Act' (Regulation 2019/831), which references Carcinogenic, Mutagenic and Reprotoxic (CMRs) substances which are restricted or prohibited in cosmetics; there will be an annual publication specifying the newly banned/permitted chemicals from the past year, following scientific evidence. The power is transferred to the Secretary of State as a domestic equivalent to a power for the Commission to make amendments at European level to reflect this updated list of restricted substances, and in place of a power in the Product Safety Regulations enabling the Secretary of State to amend Article 15 of the Cosmetics Regulation. This amendment is to ensure domestic legislation can reflect the latest scientific advice, and to avoid risking products with banned chemicals being placed on the UK market, putting consumers at risk.
- 7.8 Regulation 9 makes changes to regulations relating to personal protective equipment (PPE) to ensure that certain savings provisions operate in logical order. If this change was not made then the extension to 'exit day' would have created potential confusion for the PPE industry over which regulations to follow, as a new EU Regulation came into force on 21st April 2018 but the previous regulations can still cover goods placed on the market before 21 April 2019, so the Product Safety Regulations included provisions which ceased to be operable, addressing the application of these regulations for the period between exit and 20 April 2019. These amendments are to provide legal clarity for the industry.
- 7.9 Regulations 10 to 17 amend provisions relating to equipment for use outdoors, machinery, civil explosives, simple pressure vessels, pressure equipment, measuring instruments, recreational craft, and accreditation respectively, and are made to ensure such provisions function effectively from exit day.
- 7.10 Regulation 10 provides, in relation to equipment for use outdoors, that authorised representatives established in the EU which are appointed before exit, continue to be recognised post-exit. This aligns with provisions for other sectors in the Product Safety Regulations.
- 7.11 Regulations 11, 12 and 13 make minor amendments relating to machinery, civil explosives, and simple pressure vessels to ensure that post exit the UK system of approved bodies would function effectively for these product areas from exit day.

- 7.12 Regulation 14 makes similar amendments in relation to approved bodies for pressure equipment and amends provisions relating to the certification of pressure equipment. This regulation also makes changes to restore the unintentional removal (by the Product Safety Regulations) of an option for materials manufacturers to have their manufacturing processes of base materials (such as steel) certified by a competent body. This change will reinstate the option, in respect of a UK body, ensuring continuity and certainty for business and ensuring the legislation functions as intended.
- 7.13 Regulation 15 amends provisions in respect of measuring instruments to delete an unintentional obligation for the Secretary of State to notify himself of any measures that present a risk.
- 7.14 Regulation 16 amends recreational craft provisions to make similar amendments in relation to approved bodies as those in regulations 11 to 14. It also makes amendments to allow Manufacturers Identification Codes issued by the UK body before EU exit to be treated as if it were issued by the UK body after exit and therefore to be accepted for the purpose of domestic requirements after exit, to ensure continuity and certainty for business.
- 7.15 Regulation 17 makes a minor amendment in respect of accreditation provisions to maintain the peer evaluation process for the national accreditation body UKAS, ensuring continuity.
- 7.16 Regulation 18 revokes regulation 6 of the Mutual Recognition Agreements Regulations, inserted by this instrument, which provides that Swiss importers are to be treated as EU importers. Post exit, the concept of EU importers will no longer exist and therefore regulation 6 will be redundant on exit and could cause confusion as to how the provisions on importers set out in regulation 5 of this instrument should be read. We are therefore revoking regulation 6 of the Mutual Recognition Agreements Regulations on exit day to avoid this confusion. Post exit, importers who must be based in the United Kingdom after exit, will be able to provide their details on a document accompanying the product, rather than on the product itself for a limited time (18 months after exit), where they import products from Switzerland or an EEA state.
- 7.17 The amendments in regulation 5 include changes to two provisions that concern a reserved or a transferred matter for Northern Ireland under the Northern Ireland Act 1998. Regulations 5(1) and 5(2)(l) amend a provision of the Product Safety Regulations in respect of the Making Available on the Market and Supervision of Transfers of Explosives Regulations (Northern Ireland) 2016/366. Regulations 5(1) and 5(2)(m) amend a provision in respect of the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations (Northern Ireland) 2017/90. These amendments extend importer labelling transitional provisions for products imported from the EEA, to also cover imports from Switzerland.
- 7.18 The UK Government remains committed to restoring devolution in Northern Ireland. This is particularly important in the context of EU exit where we want devolved Ministers to take the necessary actions to prepare Northern Ireland for exit. We have been considering how to ensure a functioning statute book across the UK including in Northern Ireland for exit day in the absence of a Northern Ireland Executive. With exit day approaching, and in the continued absence of a Northern Ireland Executive,

the window to prepare Northern Ireland's statute book for exit is narrowing. UK Government Ministers have therefore decided that in the interests of legal certainty in Northern Ireland, the UK Government will take through the necessary secondary legislation at Westminster for Northern Ireland, in close consultation with the Northern Ireland departments. This is one such instrument.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 The provisions in Part 3 of this instrument are being made using the power in section 8 of, and paragraph 21 of Schedule 7 to 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.

8.2 Alongside the EU Withdrawal Act 2018 powers the instrument is also being made under the power in section 2(2) of the European Communities Act 1972. The provisions in Part 2 of the instrument are being made under this power.

9. Consolidation

9.1 There are no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

10.1 The Department did not undertake a public consultation given that the provisions of this instrument relating to EU exit are limited to making changes to some provisions of current no deal legislation, to ensure they operate effectively on EU exit, and that the no deal legislation aims to maintain the same requirements as apply currently. The provisions of the instrument relating to implementation of EU obligations are limited to clarifying the existing legal position.

11. Guidance

11.1 Guidance has not been produced for this instrument.

11.2 After making the no deal Product Safety Regulations that this instrument amends, the Department published on 25 March 2019 information for business on GOV.UK: [UK Product Safety and Metrology Guidance in a no deal scenario](#). This guidance set out the headline changes to many instruments that will be made by those regulations when they come into effect and was aimed at all businesses planning to place products on the UK market. The Department will update the [Guidance on Placing a Product on the UK Market](#) to reflect changes made by this instrument and is also planning further 'Guides to the Law', for publication if the United Kingdom exits the EU without a deal. These will describe the legislation governing certain product sectors, to explain what businesses in each sector need to do to comply with the law in a no deal exit. That guidance will include information or clarification as needed concerning the further amendments being made by this 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 An Impact Assessment has not been prepared for this instrument because the impacts are expected to be low level for business. The impact of this instrument is limited to familiarisation costs to business to understand the operability fixes and drafting improvements being made to the legislation.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise the regulatory burdens on small business.
- 13.3 The legal requirements on the industry do not differentiate between businesses in terms of their size, they are dependent on the type and nature of product being produced and placed on the market and therefore we are unable to take any mitigating actions to reduce burdens on small business.

14. Monitoring & review

- 14.1 The Department does not intend to monitor this instrument.
- 14.2 In respect of Part 2, the regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst has made the following statement:

“The Department has not included a statutory review clause. This is because a review would be disproportionate when taking into account the economic impact of this instrument.”.
- 14.3 As the provisions of Part 3 of the instrument are made under the EU Withdrawal Act 2018, no review clause is required for those.

15. Contact

- 15.1 James Baugh at the Department for Business, Energy and Industrial Strategy Telephone: 020 7215 6823 or email: OPSSbrexit@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Rebecca Bradfield, Deputy Director for the Regulatory Capability team in the Office for Product Safety and Standards, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

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), 9 and 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
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 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), 9 and 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), 9 and 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), 9 and 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 exit 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), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and 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 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit 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 exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 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.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

- 1.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Product Safety, Metrology and Mutual Recognition Agreement (Amendment) (EU Exit) Regulations 2019 do no more than is appropriate”.

- 1.2 This is the case because the instrument amends previous no deal legislation in light of the agreed extension to exit day, and to ensure that legislation operates effectively. That existing no deal legislation maintains the status quo as far as appropriate, in that it keeps the same obligations on economic operators for the UK market. It extends importer transitional provisions in that existing no deal legislation, for imports from the EEA, to imports from Switzerland, in light of current Swiss and EU regulatory equivalence and of EU recognition of Swiss importers for the purposes of certain labelling obligations.

2. Good reasons

- 2.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, 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 this instrument, and I have concluded they are a reasonable course of action”.

- 2.2 We are making appropriate amendments to domestic legislation to address deficiencies arising from the withdrawal of the United Kingdom from the European Union, including to ensure that amendments in previous no deal legislation operate effectively. The amendments are limited to that purpose.

3. Equalities

- 3.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statement:

“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.”

- 3.2 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst, has made the following statements regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Kelly Tolhurst, 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.”

“The Equalities Acts do not extend to Northern Ireland, and as the Product Safety, Metrology and Mutual Recognition Agreement (Amendment) (EU Exit) Regulations 2019 extend to Northern Ireland, I have given due regard to the need to eliminate discrimination, harassment and victimisation in relation to Northern Ireland.”

4. Explanations

- 4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.

5. Urgency

- 5.1 The Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view by reason of urgency, it is necessary to make the Product Safety, Metrology and Mutual Recognition Agreement (Amendment) (EU Exit) Regulations 2019, without a draft of the instrument containing the regulations being laid before, and approved by a resolution of, each House of Parliament.”

- 5.2 The Government considers it important to urgently have this instrument in place because it makes amendments to some provisions of previously made no-deal legislation which will need to take effect before that legislation comes into force on exit day. We will not be able to make further amendments to those provisions under the European Union (Withdrawal) Act powers once the previous legislation takes effect. These amendments are necessary to take account of the extension to Article 50 of the Treaty on European Union and to ensure certain provisions in the previous legislation operate as intended. Additionally, this instrument extends transitional importer labelling provisions for imports from the EEA to imports from Switzerland. These will need to be operable on exit day to ensure that UK importers do not need to put their contact details on products imported from Switzerland but can put them on documents accompanying the product for a time limited period post exit, to align the provisions with those covering imports from the EEA post exit. This instrument will provide confidence and certainty to the public and business and will ensure the effective functioning of the statute book after exit, across product safety and legal metrology.
- 5.3 The Government has concluded that the ‘made affirmative’ procedure provided for in the European Union (Withdrawal) Act 2018 ensures that this instrument is in place for exit day. Using this procedure still allows for parliamentary scrutiny and Parliament will need to approve its making for it to remain in force.