

These notes relate to the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (asp 4) which received Royal Assent on 29 January 2021

UK WITHDRAWAL FROM THE EUROPEAN UNION (CONTINUITY) (SCOTLAND) ACT 2021

EXPLANATORY NOTES

OVERVIEW AND BACKGROUND

Part 2 – Environment

Chapter 2 – Environmental governance

Compliance notices

Section 32 - Restrictions on issuing a compliance notice

139. Section 32 provides that Environmental Standards Scotland may not issue a compliance notice in respect of certain failures to comply with environmental law. Firstly, it may not issue a notice in respect of a failure arising out of any decision taken by a public authority in the exercise of its regulatory functions in relation to a particular person or case. This restriction ensures that compliance notices are not used as a means to review individual regulatory decisions or as a substitute appeal process. Secondly, it may not issue a notice in respect of a failure arising out of particular conduct that has already been the subject of an improvement report. This would cover the instance where the failure had already been identified as a systemic issue, either across a range of public bodies, or structurally in the funding or guidance given to the body. Any compliance notice issued in breach of either of these restrictions will not have any effect.