

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 33 - Content of a compliance notice

140. Section 33 sets out the required contents of a compliance notice. It must contain a statement of the grounds for issuing the notice, specifically: the regulatory function of the public authority to which the alleged failure to comply with environmental law relates; the relevant provision of environmental law, and the alleged conduct that has led Environmental Standards Scotland to conclude that the public authority is failing to comply with environmental law or has failed to comply with environmental law and the failure is likely to be repeated or continue. In addition, Environmental Standards Scotland must include in the notice: its reasons for reaching its conclusion; information on the environmental harm or risk of environmental harm being caused, or having been caused, by the alleged failure, and the steps that the public authority must take to address its failure to comply with environmental law.
141. A compliance notice must also contain the following details: the date of issue of the notice; the timescales within which the required steps are to be taken (not less than 28 days from the date on which the notice is issued, meaning that the steps cannot be required to be taken before expiry of the 21-day appeal period specified in section 36(2)(a)); information about the person to whom, and as to how and by when, any representations about the notice may be made; information regarding the right to appeal, including timescales for this as well as an explanation of the consequences of the public authority failing to comply with the requirements of the notice.