

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

EXPLANATORY NOTES

OVERVIEW AND BACKGROUND

Part 2 – Environment

Chapter 2 – Environmental governance

Duty to consult on effectiveness of governance arrangements

Section 41 - Duty to consult on effectiveness of governance arrangements

157. Section 41 provides that the Scottish Ministers must prepare and consult on a report on the effectiveness of governance arrangements established under this Chapter.
158. Subsection (2) sets out the matters which must be contained in the report. The matters which must be included are whether the provisions set out in this Chapter have ensured that there continues to be effective and appropriate environmental governance following the withdrawal of the UK from the EU, whether the law in Scotland on access to justice on environmental matters is effective and sufficient, and whether and, if so, how the establishment of an environmental court could enhance these governance arrangements.
159. Subsection (3) provides a list of the persons with whom the Scottish Ministers are required to consult in relation to the report. These persons are Environmental Standards Scotland, persons who appear to the Scottish Ministers to be representative of the interests of persons likely to be affected by the governance arrangements, and such other persons as the Scottish Ministers consider appropriate.
160. Subsection (4) requires that the consultation on the report must commence before the end of the period of six months beginning with the date on which Environmental Standards Scotland publishes its strategy (as required by section 22(1)). Subsection (5) requires the Scottish Ministers to lay a copy of the consultation document before the Parliament as soon reasonably practicable after the consultation commences.
161. Following the conclusion of consultation process, subsection (6) requires the Scottish Ministers to lay before Parliament a statement setting out details of the consultation that was carried out, a summary of any views expressed in response to the consultation, and the Scottish Ministers' recommendations in response to those views.