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 1 – Alignment With Eu Law

Section 7 – Procedure for publication of policy statement

49. Section 7 sets out the procedure which must be followed before a policy statement, or revised policy statement is published by Scottish Ministers. It sets out a three stage process.

50. In the first stage, subsection (3) requires that Scottish Ministers must first lay a draft copy of the policy statement before the Scottish Parliament, and have regard to any representations made to them about the draft within 28 days of the draft policy statement being laid before the Scottish Parliament.

51. In the second stage, subsection (1) requires that Scottish Ministers must lay a copy of the statement before the Scottish Parliament for approval. Subsection (4) requires Scottish Ministers at the same time to lay before the Scottish Parliament a document describing how they have had regard to any representations made about the draft document.

52. Subsections (2) and (5) have the effect of allowing the Scottish Parliament a period of 28 days in which it can agree by resolution that the policy statement should not be approved, thereby preventing the Scottish Ministers from publishing it. If the Scottish Parliament makes such a resolution, then the Scottish Ministers will be required to review and revise the policy statement, having regard to any views expressed by the Scottish Parliament and to lay a copy of the revised statement before the Scottish Parliament. Subsection (6) makes clear that in those circumstances, the Scottish Parliament will have another period of 28 days in which to consider the revised statement.

53. In the third stage, following the expiry of 28 days without the Scottish Parliament having resolved that the statement should not be approved, Scottish Ministers are permitted to publish the statement as per the requirement under section 6.

54. Subsection (7) sets out that in calculating the periods of 28 days provided for by subsections 3(b) and (5), no account should be taken of any period during which the Parliament is dissolved or is in recess for more than four days.

55. Subsection (8) has the effect of requiring a first draft policy statement to be laid as soon as reasonably practicable after section 1(1) comes into force.