

POLICY NOTE

THE ENVIRONMENTAL IMPACT ASSESSMENT (TRANSPORT) (EU EXIT) (SCOTLAND) (AMENDMENT) REGULATIONS 2019

SSI 2019/415

The above instrument was made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 to the European Union (Withdrawal) Act 2018. This instrument is subject to the negative procedure.

Purpose of the instrument. The Regulations make technical amendments to the Roads (Scotland) Act 1984, the Transport and Works (Scotland) Act 2007 and the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 to address minor deficiencies that would arise as a result of the UK leaving the EU.

Policy Objectives

Where practical and appropriate, European legislation is being retained in UK law on the UK's exit from the EU. In this context the objective of this instrument is to make technical and minor changes relevant to retained EU law to ensure the continued and proper operation of Environmental Impact Assessment legislation in the fields of road and transport works.

This instrument does not introduce any policy changes.

Explanation of the law being amended by the regulations

The Regulations will amend the following pieces of legislation:

- The Roads (Scotland) Act 1984
- The Transport and Works (Scotland) Act 2007
- The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007

Reasons for and effect of the proposed change or changes on retained EU law

The Regulations make technical amendments to remedy deficiencies arising from the withdrawal of the United Kingdom from the European Union. In particular, references to EU legislation (including Directives) and EU Member States are adjusted to refer to the corresponding retained EU law or removed where they will no longer be appropriate after the UK leaves the EU.

Statements required by European Union (Withdrawal) Act 2018

Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement: "In my view the regulations do no more than is appropriate.

This is because the amendments are being made only to ensure continued and effective functioning of the legislation being amended and do not introduce policy change. The amendments seek only to correct references to EU legislation or Member States which would no longer be appropriate after the UK has left the European Union.”

Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement; “In my view there are good reasons for the regulations, and I have concluded they are a reasonable course of action. We must ensure that the relevant legislation relating to environmental impact assessments for transport projects continues to operate as intended after the UK leaves the EU, in order to protect Scotland’s natural environment and enable sustainable development.”

Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement: “In my view 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.”

Statement that Scottish Ministers have, in preparing the regulations, 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 Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement: “In my view the regulations 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.”

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the Regulations, had due regard to the guidance principles on the environment and animal welfare

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, has made the following statement: “In my view, in preparing the Regulations the Scottish Ministers have had due regard to the guidance principles on the environment and animal welfare as derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union.”

Statement explaining the effect (if any) of the Regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

Not applicable.

An indication of how the Regulations should be categorised in relation to the significance of the change proposed

Low – The amendments are technical in nature to allow continuity of law and do not amount to a change in policy.

Statement setting out the Scottish Ministers' reasons for their choice of procedure

Negative procedure is considered appropriate as these minor and technical amendments do no more than is necessary to ensure that the legislation continues to operate effectively following the UK's exit from the EU.

Further information

Consultation

This instrument does not amount to a change in policy and is being made to avoid deficiencies arising as a result of the UK's withdrawal from the EU. There has been no formal public consultation regarding this instrument.

Impact Assessments

Full impact assessments have not been prepared for this instrument because it is aimed at preserving the effect of the current regulatory regimes once the UK leaves the EU. The Regulations do not introduce any new policy changes and all changes are technical in nature.

The amendments do not alter Scottish Government's current environmental policies and priorities and, therefore, do not have a significant impact on the environment. The impact on business, charities or voluntary bodies is expected to be minimal.

Financial Effects

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Transport Scotland

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