

POLICY NOTE

THE STORAGE OF CARBON DIOXIDE (LICENSING ETC.) (EU EXIT) (SCOTLAND) (AMENDMENT) REGULATIONS 2021

SSI 2021/354

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018⁽¹⁾ and all other powers enabling them to do so. The instrument is subject to negative procedure.

This instrument will correct deficiencies in the Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2011. The 2011 Regulations contain definitions, references and expressions related to EU law which require correction following EU Exit. References to European Directives are amended to refer to retained EU law.

Policy Objectives and explanation of the law being amended by the regulations

This SSI will correct deficiencies in Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2011 (the “2011 Regulations”). The 2011 Regulations contain outdated references to EU law which require correction following EU Exit.

The UK Government brought forward similar changes in respect of the licensing regulations for England, Wales and Northern Ireland earlier in 2019 and in 2021.

The 2011 Regulations partially implemented Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide by implementing the requirements of the Directive with regard to the licensing regime. The licensing regime for the storage of carbon dioxide in areas within UK territorial waters, and in areas beyond those water which have been designated as a Gas Importation and Storage Zone within the meaning of section 1(5) of the Energy Act 2008, was established by Part 1, Chapter 3 of that Act.

These regulations are purely technical in nature, and correct outdated references following EU Exit. This instrument does not introduce any policy changes.

Statements required by the European Union (Withdrawal) Act 2018

The Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MPS has made the following statements -

“In my view the Storage of Carbon Dioxide (Licensing etc.) (EU Exit) (Scotland) (Amendment) Regulations 2021 do no more than is appropriate”.

(1) 2018 c. 16.

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is the case because the changes are minor and technical in nature.”

“In my view the Storage of Carbon Dioxide (Licensing etc.) (EU Exit) (Scotland) (Amendment) Regulations 2021 do 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. The amendments are minor and technical in nature and concern amendments to be made to the 2011 Regulations.”

“In my view the Storage of Carbon Dioxide (Licensing etc.) (EU Exit) (Scotland) (Amendment) Regulations 2021 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

The Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MPS has made the following statement -

“In my view the Storage of Carbon Dioxide (Licensing etc.) (EU Exit) (Scotland) (Amendment) Regulations 2021 have had due regard to the guiding 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.”

The 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) is not applicable to this instrument.

Choice of procedure

The instrument is subject to the negative procedure. The amendments within the instrument are considered to be minor and technical in nature and amend Regulations which are all themselves made subject to the negative procedure.

Consultation

These regulations are purely technical in nature, and correct outdated references following EU Exit. They do not fundamentally change the substance of the 2011 Regulations. Therefore, no specific consultation has been carried out in relation to this instrument.

Impact Assessments

These regulations are purely technical in nature, and only seek to correct outdated references following EU Exit. They do not fundamentally change the substance of the 2011 Regulations. Therefore, no specific impact assessments are required in relation to this instrument.

Financial Effects

The Cabinet Secretary for Net Zero, Energy, and Transport confirms that no Business and Regulatory Impact Assessment is necessary: these regulations are purely technical in nature, and only seek to correct outdated references following EU Exit. They do not fundamentally change the substance of the 2011 Regulations. The instrument itself has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Energy and Climate Change

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