

## EXPLANATORY MEMORANDUM TO

### THE HEALTH AND SAFETY (AMENDMENT) (EU EXIT) REGULATIONS 2018

2018 No. 1370

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by The Department for Work and Pensions and is laid before Parliament by Act.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

#### 2. Purpose of the instrument

- 2.1 These Regulations ensure that European Union ('EU')-derived health and safety protections will continue to be available in domestic law after the United Kingdom ('UK') has left the EU. The regulations amended are detailed in section 6 and 7 of this explanatory memorandum. These Regulations do not make any policy changes beyond the intent of ensuring continued operability of the relevant legislation.

##### *Explanations*

##### What did any relevant EU law do before exit day?

- 2.2 A variety of Community measures in the field of health and safety at work have been adopted under Article 153 of the Treaty on the Functioning of the EU<sup>1</sup> including Directives. Most notably Directive 89/391/EEC<sup>2</sup> on the introduction of measures to encourage improvements in the health and safety of workers at work ('the Framework Directive'). Other measures include directly acting Regulations. Domestic health and safety regulations support and implement the measures adopted by the EU.

##### Why is it being changed?

- 2.3 The European Union Withdrawal Act<sup>3</sup> ('EUWA') allows EU-derived legislation to be fixed to ensure it operates properly and effectively once the UK has left the EU. These amendments address deficiencies in health and safety legislation arising from the exit of the UK from the EU. This instrument amends provisions which will for example, become inappropriate or redundant.

##### What will it now do?

- 2.4 This instrument amends the relevant legislation to ensure that existing protections and regulatory frameworks are maintained and continue to work in the same way once the UK has left the EU.

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12008E153>

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31989L0391>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>

### **3. Matters of special interest to Parliament**

#### *Matters of special interest to the Joint Committee on Statutory Instruments.*

- 3.1 This instrument has been sifted as a proposed negative. Sifting began on 24 July 2018 and was completed on 11 September 2018. Both Sifting Committees recommended that the instrument continue under the negative resolution procedure originally proposed.

#### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

### **4. Extent and Territorial Application**

- 4.1 The territorial extent and application of Part 2 of this instrument is the same as for each of the regulations being amended in that Part.
- 4.2 Please see original Regulations for the extent and territorial application of individual regulations.
- 4.3 The territorial extent and application of Part 3 of this instrument (which amends EU Regulation 1112/2014<sup>4</sup>) is the whole of the UK.

### **5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

### **6. Legislative Context**

- 6.1 This instrument introduces miscellaneous amendments to existing secondary legislation and one directly acting EU Regulation, when this is brought into UK law on exit from the EU. The amendments relate to matters which have been identified as deficiencies in the legislation arising from the UK's withdrawal from the EU. These Regulations amend 11 sets of regulations and one directly acting EU Regulation.

They amend the following regulations to clarify that a reference to 'the European Union' only refers to provisions imposed by the European Communities up to the day of the UK's exit from the EU:

- the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995<sup>5</sup>
- the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995<sup>6</sup>
- the Borehole Sites and Operations Regulations 1995<sup>7</sup>

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<sup>4</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R1112>

<sup>5</sup> <https://www.legislation.gov.uk/uksi/1995/738/contents/made>

<sup>6</sup> <https://www.legislation.gov.uk/uksi/1995/743/contents/made>

<sup>7</sup> <https://www.legislation.gov.uk/uksi/1995/2038/contents/made>

- the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996<sup>8</sup>
- 6.2 The Health and Safety (Safety Signs and Signals) Regulations 1996<sup>9</sup> are amended to remove a redundant reference to [European] ‘Community’; and to replace a reference to a Directive with a reference to the domestic legislation which implements that Directive.
  - 6.3 The Control of Substances Hazardous to Health Regulations 2002<sup>10</sup> are amended to replace a reference to Member State with a UK body.
  - 6.4 The Control of Artificial Optical Radiation at Work Regulations 2010<sup>11</sup> are amended to clarify definitions in Directive 2006/25/EC<sup>12</sup> and to amend a definition for consistency with the domestic regime.
  - 6.5 The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015, the Control of Major Accident Hazards Regulations 2015 and the Ionising Radiations Regulations 2017 are amended to make it clear that once the UK leaves the EU it will no longer be a Member State.
  - 6.6 The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015<sup>13</sup> are amended to remove a redundant reference to the European Union Offshore Oil and Gas Authorities Group to which the UK will no longer belong once it leaves the EU.
  - 6.7 The Genetically Modified Organisms (Contained Use) Regulations 2014<sup>14</sup> are amended to remove a redundant reference and to amend requirements to notify European Economic Area (‘EEA’) States and report to the European Union which will no longer be appropriate once the UK leaves the EU.
  - 6.8 The Control of Major Accident Hazards Regulations 2015<sup>15</sup> are amended to remove requirements to provide information to and advise Member States, report and provide information to the European Commission which will no longer be appropriate once the UK leaves the EU. A new definition of “international organisation” is also inserted by these Regulations for consistency under the domestic regime.
  - 6.9 The directly acting EU Regulation, Commission Implementing Regulation (EU) No. 1112/2014<sup>16</sup> determining a common format for the sharing of information on major hazard indicators by operators and owners of offshore oil and gas installations, as well as a common format for the publication of information on major hazard indicators by the Member States. This has been amended to remove redundant references and to clarify cross references to Directive 2013/30/EU<sup>17</sup> to make such references clearer and more accessible.

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<sup>8</sup> <http://www.legislation.gov.uk/uksi/1996/913/contents/made>

<sup>9</sup> <https://www.legislation.gov.uk/uksi/1996/341/contents/made>

<sup>10</sup> <http://www.legislation.gov.uk/uksi/2002/2677/regulation/7/made>

<sup>11</sup> <http://www.legislation.gov.uk/uksi/2010/1140/contents/made>

<sup>12</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006L0025-20140101>

<sup>13</sup> <http://www.legislation.gov.uk/uksi/2015/398/contents/made>

<sup>14</sup> <https://www.legislation.gov.uk/uksi/2014/1663/contents>

<sup>15</sup> <http://www.legislation.gov.uk/uksi/2015/483/contents/made>

<sup>16</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R1112>

<sup>17</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013L0030>

## 7. Policy background

### *What is being done and why?*

- 7.1 These Regulations are made under powers in section 8 of the EUWA. They correct deficiencies arising from the UK's withdrawal from the EU. They maintain the protections afforded by health and safety legislation and do not impose any new liabilities or obligations on relevant persons.

### *The Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995*

- 7.2 Regulation 20 allows for exemption certificates to be granted by the Health and Safety Executive (HSE), subject to 'any of the provisions imposed by the 'European Union' (in respect of the encouragement of improvements in the safety and health of workers at work...'. However, the UK will not be subject to those provisions when it leaves the EU. This means that the regulations need to be amended to make clear that the power to issue exemption certificates will only be subject to provisions imposed by the EU up to exit day. This will ensure exemptions can continue to be made without being subject to provisions imposed by the EU once the UK leaves.

### *The Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995*

- 7.3 Regulation 22 allows for exemption certificates to be granted by HSE, subject to 'any of the provisions imposed by the 'European Union' in respect of the encouragement of improvements in the safety and health of workers at work'. However, the UK will not be subject to those provisions when it leaves the EU. This means that the regulations need to be amended to make clear that the power to issue exemption certificates will only be subject to provisions imposed by the EU up to exit day. This will ensure exemptions can continue to be made without being subject to provisions imposed by the EU once the UK leaves.

### *The Borehole Sites and Operations Regulations 1995*

- 7.4 Regulation 6(8) allows for exemption certificates to be granted by HSE, subject to 'any of the provisions imposed by the 'European Union' in respect of the encouragement of improvements in the safety and health of workers at work...'). However, the UK will not be subject to those provisions when it leaves the EU. This means that the regulations need to be amended to make clear that the power to issue exemption certificates will only be subject to provisions imposed by the EU up to exit day. This will ensure exemptions can continue to be made without being subject to provisions imposed by the EU once the UK leaves.

### *The Health and Safety (Safety Signs and Signals) Regulations 1996*

- 7.5 Paragraph 2 of Part 2 of Schedule 1 relates to the positioning and installation of signboards together with the provision of improvements (phosphorescent colours, reflective materials or artificial lighting) where the level of natural light is poor. This applies without prejudice to the requirements of Directive 89/654/EEC<sup>18</sup>, which

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<sup>18</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31989L0654>

requires workplaces to have sufficient natural light. The requirement for natural light is transposed in another set of regulations, the Workplace (Health, Safety and Welfare) Regulations 1992 ('the 1992 Regulations'). As the UK will no longer be bound by EU law when it leaves the EU, the reference to the Directive needs to be replaced with a reference to regulation 8 of the 1992 Regulations to ensure that the same provision continues to have effect. These changes will continue to ensure the protection of workers.

- 7.6 The amendment in regulation 5(2)(b) of these Regulations removes the reference to "Community" level codes in the preliminary remark and retains the requirement to continue to have reference to other codes, which could include those at Community level as well as Internationally that are used for the same manoeuvres in certain sectors. Removing the reference to "Community level" will therefore not change the signals that are used, or will continue to be used, by UK and EU drivers etc.

*The Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996*

- 7.7 Regulation 23 allows exemptions certificates to be granted by HSE, subject to 'any of the provisions imposed by the 'European Union' in respect of the encouragement of improvements in the safety and health of workers at work...'). However, the UK will not be subject to those provisions when it leaves the EU. This means that the regulations need to be amended to make clear that the power to issue exemption certificates will only be subject to provisions imposed by the EU up to exit day. This will ensure exemptions can continue to be made without being subject to provisions imposed by the EU once the UK leaves.

*Control of Substances Hazardous to Health Regulations 2002*

- 7.8 These Regulations prohibit the import into the United Kingdom of certain substances and articles from outside the European Economic Area (EEA). Currently the regulations use the term "another Member State" implying that the UK is also a Member State. From exit day, the reference therefore needs to be changed to "a Member State" in order to continue the prohibition of importation of the relevant substances and articles from outside the EEA into the UK.
- 7.9 These Regulations also allow HSE to make exemptions, by a certificate in writing, from the prohibitions imposed for certain substances. 'The Executive' is defined in the regulations as the HSE. Currently, these exemptions are only permitted to the extent allowed by article 9 of Directive 98/24/EC19. Article 9 sets out the circumstances in which exemptions may be granted and the information to be provided by the employer making the request. Article 9 makes reference to powers afforded to 'Member States'; after exit in order for article 9 to still apply references to 'Member States' need to be read as meaning 'the Executive'.

*The Control of Artificial Optical Radiation at Work Regulations 2010*

- 7.10 The amendments qualify two references to 'relevant European Directives' by inserting the words 'as they had effect immediately before exit day'. This is to make clear to business that Directives coming into force, or amendments to Directives having effect, from exit day are not relevant for the purposes of the Regulations because Directives are not being brought into domestic legislation after the UK exits the EU.

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<sup>19</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31998L0024>

Genetically Modified Organisms (Contained Use) Regulations 2014

- 7.11 Regulation 3(2)(b)(iii) provides an exemption from these Regulations for certain food and feed products that were on the market before EC Regulation 1829/2003<sup>20</sup> on genetically modified food and feed came into force. Due to the time limits specified by EC Regulation 1829/2003 on these food and feed products having run their course, this exemption is redundant and can be removed.
- 7.12 Regulation 27(b) requires that the competent authority immediately notify those EEA states which could be affected by an accidental release of a genetically modified organism (GMO). From exit day, it will not be appropriate for the competent authority to be under a duty to notify EEA states who could be affected by accidental releases of a GMO, so this duty will be removed. The UK will still retain an international obligation to notify affected or potentially affected states of accidental trans-boundary movements of GMOs by virtue of our treaty obligations under Article 17 of the Cartagena Protocol<sup>21</sup>. DEFRA run the Biosafety Clearing House on behalf of UK where these notifications would be co-ordinated.
- 7.13 Regulation 27(d) requires that the competent authority send certain information to the European Commission where it is informed of an accident. From exit day, it will not be appropriate for the competent authority to be under a duty to provide information about accidents to the Commission, so this duty will be removed. The UK will still retain an international obligation to share certain information around accidental trans-boundary movements of GMOs by virtue of our treaty obligations under Article 17 of the Cartagena Protocol.

Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015

- 7.14 Regulation 32 requires the exchange of knowledge, information and experience between the competent authority and authorities in other Member States and through the European Union Offshore Oil and Gas Authorities Group (EUOAG). From exit day, it will not be appropriate for the competent authority to be under a duty to share information with other Member States, including through EUOAG.
- 7.15 The amendment removes the reference to ‘authorities in other Member States, and replaces it with a reference to ‘other authorities having such knowledge, information or experience’. This removes the specific references to EU Member states and EUOAG, while still allowing HSE to continue to exchange knowledge and information with other authorities (which could still include EUOAG) as appropriate once the UK has left the EU.
- 7.16 Regulation 34 requires UK-registered companies that are operating outside the European Union to report, on request from the competent authority, the circumstances of any major incident in which they have been involved. This regulation excludes operations in the European Union which are reported under other requirements in these Regulations. The amendment ensures that once the UK is no longer a member of the European Union this exclusion will continue to apply to Great Britain’s waters.

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<sup>20</sup> <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32003R1829>

<sup>21</sup> <https://www.cbd.int/doc/legal/cartagena-protocol-en.pdf>

*The Control of Major Accident Hazards Regulations 2015*

- 7.17 Regulations 17 and 20(1) require specified information to be made available to other EU Member States where they could be impacted by a major accident. From exit day this will no longer be appropriate. However, the UK will still be under an international obligation to share certain information around potential transboundary effects of major accidents due to being party to the United Nations Economic Commission for Europe ('UNECE') Transboundary Effects of Industrial Accidents Convention (TEIA). From exit day, the reference therefore needs to be to "country".
- 7.18 Regulation 20(2) requires the competent authority to advise another Member State which could be impacted by a major accident if the site has been deemed to not require an external emergency plan. The provision to exempt a site from an external emergency plan is a rarely used power and it would not be appropriate to require the UK to provide such information to other Member States from exit day. The reference is therefore being removed. However, the UK will still be under an international obligation to share certain information around potential transboundary effects of major accidents due to being party to the TEIA Convention.
- 7.19 Regulation 26(3) places a duty on the competent authority to provide the European Commission with specified information about major accidents which meet the criteria in Schedule 5, within a specified period of time. From exit day, it will no longer be appropriate to require such information to be provided. The reference is therefore being removed. Under its membership of the Organisation for Economic Co-operation and Development (OECD) and as a party to the UNECE TEIA Convention the UK is required to share information for lessons learned and international best practise purposes using the Commission database. The amendment will remove the criteria and timescales and substitute international organisation for European Commission.
- 7.20 A definition of "international organisation" has been inserted in a new regulation 26(6) for the purposes of regulation 26(3).
- 7.21 Regulation 26(4) allows for information to be delayed if the outcome of an investigation has not been completed or if legal proceedings are ongoing. As the defined criteria and time limit will have been removed after exit day this will be a defunct provision and is therefore being removed.
- 7.22 Paragraph (g) of Part 2 of Schedule 4 uses the term 'Member State' implying that the UK is also a Member State in the context of an external emergency plan and a major accident with possible trans-boundary consequences. From exit day, the amendment therefore changes this to "country" as the UK will no longer be a part of the EU.
- 7.23 Schedule 5 prescribes the criteria to determine whether details of a major accident must be submitted to the European Commission. This will be rendered redundant due to the removal of the obligation in regulation 26(3) to report major accidents to the European Commission and is therefore being removed.

*The Ionising Radiations Regulations 2017*

- 7.24 The Regulations contain provisions about the protection of contractors who work with radiation (known as "outside workers"). Some of the duties (for example, maintaining the contractor's dose record) are placed on the contractor's own employer. Where that employer is based in another Member State, the regulations allow that employer to comply with the equivalent provisions implementing the Directive in that Member State. Currently the regulations use the term "another Member State" implying that



the UK is also a Member State. From exit day, the reference therefore needs to be to “a Member State” to reflect that the provisions remain equivalent to our domestic provisions but we will no longer be a part of the EU.

*Commission Implementing Regulation (EU) No. 1112/2014 determining a common format for the sharing of information on major hazard indicators by operators and owners of offshore oil and gas installations and a common format for the publication of information on major hazard indicators by the Member States*

- 7.25 So that this Regulation may continue to operate from exit day, references to European Directives have been replaced with references to the appropriate domestic Regulation or guidance, or have been removed where they are simply redundant. For example, a reference to a Directive in Form F relating to the reporting of helicopter accidents has been removed. It has been replaced with text that explains the meaning of helicopter accident within this Regulation (set out in a preceding section of Annex AI). Once the UK leaves the EU, this reference will be clearer and more accessible to owners and operators.
- 7.26 Supplementary remarks that have no legal status and are not relevant in the domestic context have also been removed.
- 7.27 A new Annex (AI) has been inserted into the Implementing Regulation to clarify the reporting requirements for this Implementing Regulation. Annex AI contains the detail of the information to be reported under the Implementing Regulation that is provided in Annex IX of Directive 2013/30/EU.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument is being made under the powers in section 8 and paragraph 21 of Schedule 7 of the EUWA in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the EU. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this explanatory memorandum.

## **9. Consolidation**

- 9.1 There are no plans for consolidation.

## **10. Consultation outcome**

- 10.1 As this SI is making simple technical operability fixes and the impacts on business for complying with these technical amendments have been assessed as minimal, the Department has concluded that consultation is not necessary.

## **11. Guidance**

- 11.1 There is no associated guidance.

## **12. Impact**

- 12.1 There is no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no significant, impact on the public sector.



12.3 A full impact assessment has not been prepared for these Regulations because they will maintain the status quo. However, a de minimis assessment has been carried out and it has been concluded that there would be no impact on businesses or the public sector.

### **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 The effect of these Regulations is to maintain the status quo, therefore no specific action to minimise the impact on small businesses is required.

### **14. Monitoring & review**

14.1 No specific monitoring arrangements are needed.

14.2 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

### **15. Contact**

15.1 Lawrence Donaldson at the Health and Safety Executive Telephone: 02030282588 or email: [lawrence.donaldson@hse.gov.uk](mailto:lawrence.donaldson@hse.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Clive Fleming, Deputy Director for Regulation and International Policy, at the Health and Safety Executive can confirm that this Explanatory Memorandum meets the required standard.

15.3 Sarah Newton at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

# Annex

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.  State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

## **Part 2**

### **Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act**

#### **1. Sifting statement(s)**

1.1 The Minister of State for Disabled People, Health and Work, Sarah Newton, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Health and Safety (Amendment) (EU Exit) Regulations 2018 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.

1.2 This is the case because these Regulations do not fall into the category of regulations identified in schedule 1 Part 1 paragraph 1(2) as requiring approval in draft by resolution of both Houses of Parliament. These Regulations correct deficiencies in retained health and safety legislation arising out of the UK’s withdrawal from the EU. The instrument makes changes of a technical nature to ensure the continued effective operability of the relevant legislation. We do not see any reason why they should not be subject to the negative procedure”

#### **2. Appropriateness statement**

2.1 The Minister of State for Disabled People, Health and Work, Sarah Newton, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Health and Safety (Amendment) (EU Exit) Regulations 2018 does no more than is appropriate”.

2.2 This is the case because they do no more than prevent, remedy or mitigate deficiencies in health and safety law arising from the withdrawal of the UK from the EU, examples of which are mentioned in paragraph 8.2 in the main body of this explanatory memorandum.”

#### **3. Good reasons**

3.1 The Minister of State for Disabled People, Health and Work, Sarah Newton, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”

3.2 These Regulations correct deficiencies in health and safety law to ensure that it can continue to operate from exit day. The instrument does not impose any new liabilities or obligations on any relevant persons.”

#### **4. Equalities**

4.1 The Minister of State for Disabled People, Health and Work, Sarah Newton, has made the following statement:

“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”.

- 4.2 The Minister of State for Disabled People, Health and Work, Sarah Newton, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Sarah Newton, 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.”

## **5. Explanations**

- 5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.