

**EXPLANATORY MEMORANDUM TO**

**THE EUROPEAN STRUCTURAL AND INVESTMENT FUNDS COMMON PROVISIONS AND COMMON PROVISION RULES ETC. (AMENDMENT) (EU EXIT) REGULATIONS 2019**

**2019 No. 625**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy 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 This instrument disapplies the common provision regulations on European Structural and Investment Funds insofar as they apply to the European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), and European Territorial Cooperation (ETC), in order to address deficiencies in retained European Union law as provided for by the European Union (Withdrawal) Act 2018. In the event of a No Deal, this instrument also ensures that projects supported by these funds can continue to operate domestically under HM Government's funding guarantee by including transitional provisions for projects agreed before exit, and by creating a power to pay out the HM Government funding guarantee to relevant recipients for the continued delivery of projects under the cross-border ETC programmes.

*Explanations*

What did any relevant EU law do before exit day?

- 2.2 Regulation 1303/2013 on the European Structural and Investment Funds (ESI Funds), set out the rules common to the ERDF, ESF, ETC (collectively known as Structural Funds), and the Cohesion Fund, as well as the rules for the European Agricultural Fund for Rural Development (EAFRD), and the European Maritime and Fisheries Fund (EMFF). Regulation 1303/2013 as it applies to EAFRD and EMFF is to be amended in a separate statutory instrument made under the European Union (Withdrawal Act) 2018.
- 2.3 In addition to Regulation 1303/2013 there are fund specific regulations and delegated and implementing acts setting out further rules applicable to the ERDF, ESF, ETC and Cohesion Fund that were not contained in the common regulations. Note that the United Kingdom was not eligible to take part in the Cohesion Fund, which was specifically aimed at poorer Member States.
- 2.4 The Structural Funds and the Cohesion Fund were designed to reduce social and economic disparities in the EU and are the main tools of the EU's Cohesion Policy (i.e. regional policy).
- 2.5 These European regulations enabled the shared management of these funds between an EU Member State, and the European Commission. They set out the rules, objectives and financing arrangements for the funds. They also imposed

responsibilities on Member States and their Managing Authorities (government bodies charged with delivery) in relation to the management of projects eligible for support under the regulations. For ETC programmes in particular, which involve Structural Fund projects spanning several Member States (with beneficiaries spread across multiple countries), the regulations specified how cross-border projects were to be managed between multiple countries, and the specific funding arrangements relevant to their cross-border nature.

Why is it being changed?

- 2.6 In the event of a non-negotiated withdrawal of the United Kingdom from the EU, these regulations will no longer be operable in so far as they concern ERDF, ESF, European Territorial Co-operation (ETC) Programmes and the Cohesion Fund.
- 2.7 The EU regulations will be inoperable because the regulations created a shared management programme between a Member State of the European Union and the European Commission. As the UK will no longer be a Member State and will no longer be able to participate in these Programmes as a Member State, the regulations are redundant. These funds will instead be administered domestically and funded by the HM Government funding guarantee (“the guarantee”) for EU Programmes, largely using existing domestic funding powers.
- 2.8 For the purposes of the ETC cross-border collaboration programmes, the European regulations and existing domestic regulations do not provide the HM Government Secretary of State, or Devolved Administrations, with the powers necessary to make payments to fund beneficiaries through the guarantee. A new power therefore needs to be created for the delivery of the ETC guarantee, as any payments made under the guarantee will come from HM Government, as opposed to the European Commission as provided for in the EU regulations.

What will it now do?

- 2.9 The ESI Fund Regulations will cease to have effect in domestic EU law in relation to ESF, ERDF, ETC and the Cohesion Fund.
- 2.10 Where a domestic ERDF or ESF project has been agreed before exit day, it will be governed by the terms of the existing Funding Agreement for that project. These Regulations ensure that any obligations in those Funding Agreements to comply with the ESI Fund Regulations will continue to have effect after exit. This means that Managing Authorities will continue to be able to enforce current compliance requirements. Payments will be made to beneficiaries under existing domestic spending powers and bodies designated as Managing Authorities, certifying authorities and audit authorities will continue to have powers in relation to those projects to carry out relevant project monitoring and financial checks. In effect, these transitional provisions preserve the management and control structure of the funds for projects started before EU exit, to ensure their continuation in a domestic framework, but do not preserve redundant obligations towards the EU.
- 2.11 For ETC, the cross-border nature of projects means that their continuation in a No Deal will be secured through two sets of arrangements. In the first set of arrangements, the EU has agreed in principle to administer the guarantee for ETC programmes that include Northern Ireland and Ireland (PEACE and Interreg VA), due to their role in peace and reconciliation efforts. These programmes are managed by a joint North-South body set up under the Good Friday Agreement, the Special EU

Programmes Body (SEUPB). This body can only receive funding from the EU (as opposed to from HM Government or the Republic of Ireland), and therefore needs the European Commission's involvement to continue in a No Deal. The EU has prepared a regulation enabling the UK to take part in this programme in a No Deal, and HM Treasury will pay out the guaranteed funding to the EU so that it may administer funding to the SEUPB. This instrument facilitates these arrangements by providing HM Government and Devolved Administrations with the power to pay out the ETC guarantee to the relevant bodies for the continuation of ETC programmes started before EU Exit.

- 2.12 All other ETC programmes will be repurposed domestically, or where that is not possible, may be compensated under the guarantee. This is because they cannot be continued as cross-border projects under the EU regulations after the UK's withdrawal. The UK would also need the EU's permission to continue in these other programmes as a third-country. However, the EU is only willing to extend this solution to the PEACE and Interreg VA programmes mentioned above. This instrument therefore provides the relevant powers for HM Government, and the Devolved Administrations, to pay the ETC guarantee directly to the relevant UK bodies as ETC programmes (other than PEACE and Interreg VA) are repurposed domestically or potentially compensated under the guarantee.
- 2.13 The specific provisions that allow this instrument to do all of the above are as follows:
- 2.14 Regulations 3 and 4 disapply the European Structural and Investment Fund Regulations insofar as they apply to ERDF, ESF, ETC and the Cohesion Fund.
- 2.15 Regulation 5 makes clear that the Funding Agreements issued for existing domestic ERDF and ESF projects (including financial instruments) are not affected by the disapplication of these Regulations and provides that any reference to the ESI Fund regulations in a Funding Agreement issued by a Managing Authority or Intermediate Body will continue to apply as it did before exit day, in so far as it relates to obligations imposed on the beneficiary. This Regulation also ensures that the rights and obligations of bodies designated as Managing Authorities, Intermediate Bodies, Audit Authorities and Certifying Authorities continue in relation to beneficiaries after exit. This allows projects started before EU Exit to continue through the guarantee, by keeping fund and management and control systems intact.
- 2.16 Regulation 6 also creates payment powers for a Secretary of State or Devolved Administration to pay relevant bodies involved in ETC programmes before EU exit the appropriate funds from the guarantee. This allows for the continuation of ETC programmes or the protection of ETC beneficiaries as specified under points 2.11 and 2.12.
- 2.17 This instrument does not make provision for the delivery of projects started after exit in a No Deal scenario. Managing Authorities (i.e. delivery bodies) across the UK are currently drawing up the delivery framework for projects started after exit. These will be based on the pre-exit framework including the same rules (with appropriate simplifications) and the same investment priorities as have been applied to applicants for existing Structural Fund projects.

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

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

- 3.1 This instrument provides transitional powers to enable the payment of the ETC guarantee by HM Government, and the Devolved Administrations. As these regulations are being disapplied, such powers are being continued through this instrument.
- 3.2 This instrument also makes clear that references to the ESI Fund regulations in Funding Agreements continue to apply those provisions between the parties to those agreements – this is to maintain the rights and responsibilities of beneficiaries, and the Managing Authorities, Audit Authorities and Certifying Authorities towards each other, for projects started before exit. This is therefore a transitional provision.

#### *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)*

- 3.3 The territorial application of this instrument includes Scotland and Northern Ireland.
- 3.4 This instrument applies to all of the United Kingdom.

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

- 4.1 The territorial extent of this instrument is all of the United Kingdom.
- 4.2 The territorial application of this instrument is all of the United Kingdom.
- 4.3 This instrument preserves the devolved nature of Structural Funds when delivered through the guarantee. This would be consistent with how ESI Funds currently operate, and would ensure that the devolved powers and devolved competences in these matters remain the same as before exit day.
- 4.4 Devolved Administrations were involved in the preparation of this instrument.

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

- 5.1 The Parliamentary Undersecretary of State, Lord Henley, has made the following statement regarding Human Rights:

“In my view the provisions of the European Structural and Investment Funds Common Provisions and Common Provision Rules etc. (Amendment) (EU Exit) Regulations 2019 are compatible with the Convention rights.”

### **6. Legislative Context**

- 6.1 This instrument concerns EU Regulation No. 1303/2013 laying down common provisions on the European Regional Development Fund (ERDF) and its cross-border European Territorial Cooperation (ETC) goal, the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF). It revokes the provisions on ERDF, ETC, ESF and the CF only. Agricultural (EAFRD) and fisheries (EMFF) matters in EU Regulation No.1303/2013 are addressed separately in an instrument drafted by the Department for the Environment, Food and Rural Affairs.
- 6.2 This instrument also fully repeals the supplementary fund-specific regulations governing ETC (1299/2013), the Cohesion Fund (1300/2013), the European Regional

Development Fund (1301/2014) and the European Social Fund (1302/2013 and 1304/2013) and associated delegated and implementing legislation.

## **7. Policy background**

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

- 7.1 The EU Regulations for ERDF, ESF and ETC (collectively known as Structural Funds), and the Cohesion Fund are designed to reduce social and economic disparities in the EU, and are the main funding tools designed to deliver the EU's Cohesion Policy. They come under the wider family of European Structural and Investment Funds (ESI Funds), which includes the agricultural and fisheries funds not dealt with by this instrument. These EU regulations set out the rules governing these funds and give powers to the Secretary of State or a Devolved Authority to ensure the operability of a project approved as eligible by the above regulations.
- 7.2 The UK has been allocated £8.4bn of funding under Structural Funds for the 2014-2020 period. The funds currently support growth, low carbon, transport, research, innovation, SMEs, employment opportunities, and social inclusion.
- 7.3 Structural Fund programmes are managed and delivered by government organisations designated as Managing Authorities (MAs), which are responsible for drawing up operational programmes. These programmes set out the levels of funding available for certain activities and how the programmes will be run, within the parameters set by the EU regulations.
- 7.4 The need for continued regional investment in the event of a No Deal, and the nature of the projects supported by these funds, means it is HM Government's intention to enable these funds to operate domestically in a No Deal until their planned closure, even though they will cease to be funded by the EU.
- 7.5 To this end, HM Government funding guarantee ensures that, in the event of a No Deal, HM Treasury will underwrite sums that would have otherwise been received from the European Commission. This will allow Structural Funds to continue in the UK through a domestic framework.
- 7.6 In a No Deal the EU regulations will no longer be operable in so far as they concern ERDF, ESF and ETC, and would not enable the distribution of funding through the guarantee. These regulations would also not provide the powers necessary to the Secretary of State or Devolved Authorities to fund cross-border ETC programmes from the guarantee.
- 7.7 This instrument is intended to ensure that the funds specified above can continue to operate domestically in a No Deal, specifically making provisions to enable ERDF and ESF projects started before exit to continue after exit as they would have had the UK remained a Member State, and by making provisions to pay out the guaranteed funding for ETC as cross-border projects are brought under domestic arrangements in a No Deal.
- 7.8 This instrument does so by (a) repealing redundant regulations that would have made the funds inoperable domestically, (b) by keeping the workable elements of the fund delivery structures intact for ERDF and ESF projects started before exit through transitional provisions and (c) by providing the necessary payment powers for the Secretary of State, Treasury and Devolved Administrations to distribute funding provided by the guarantee for ETC. Note that for the ETC programmes involving

Northern Ireland and Ireland, separate arrangements between HM Government and the European Commission will allow their cross-border continuation in a no-deal.

- 7.9 Existing domestic legislation already provides the legal powers to pay out the funding guaranteed for ERDF and ESF. In England, Wales and Scotland, this legislation is the Housing Grants, Construction and Regeneration Act 1996 (as applied through the relevant devolution settlements). In Northern Ireland, it is the Industrial Development Act (Northern Ireland) 2002 for the purposes of ERDF, and the Employment and Training Act (Northern Ireland) 1950 for the purposes of ESF.
- 7.10 This instrument does not make provision for ERDF and ESF projects started after exit, as the intention is to rely on existing domestic spending powers to provide and manage this funding. Managing Authorities are currently developing plans to ensure that projects started after exit under the guarantee can continue to operate as they would have before exit, including continuing (with appropriate simplifications) pre-exit management and control systems, and the same investment priorities. Existing legislation ensures that they already have the required powers to pay out the guarantee to selected beneficiaries, as specified in 7.9.
- 7.11 For ETC, the European Commission have prepared a new regulation that will enable the UK to take part in the PEACE and Interreg VA programmes under ETC in a no-deal until the end of the current programme in 2020. These two programmes involve respectively Northern Ireland and Ireland, and Ireland, Northern Ireland and Scotland. Due to their role in peace and reconciliation, they are of particular political importance to HM Government, the Republic of Ireland and the EU, which is why EU is taking action to support their continuation. This instrument facilitates this eventuality by ensuring that HM Government, and Devolved Administrations, have the power to pay out the ETC guarantee to relevant bodies (including the European Commission) to ensure the continuation of ETC programmes started before exit, including PEACE and Interreg VA.
- 7.12 For all other ETC programmes the UK is involved in, this instrument will enable HM Government and Devolved Authorities to pay the guarantee directly to Managing Authorities, and the relevant beneficiaries. This enables ETC programmes agreed before exit to be repurposed domestically or possibly compensated in a No Deal, as their cross-border nature under EU law will cease on exit day.
- 7.13 If this instrument is not laid before exit day, the EU regulations for ERDF and ESF would be inoperable and place obligations on beneficiaries and delivery departments that are redundant for a non-EU Member State. This could have unforeseen consequences that hinder the delivery of the guarantee to beneficiaries, and hinder the ability of beneficiaries, and Managing Authorities, audit authorities and certifying authorities, to exercise their rights and obligations, compromising the value for money of the funding guarantee.
- 7.14 If this instrument were not laid ahead of exit day, HM Government, and the Devolved Administrations would also not have the necessary payment powers to pay out the funding guarantee for ETC programmes— therefore making the guarantee for ETC undeliverable. This could undermine the financial viability of existing programme beneficiaries, who applied to the programme based on HM Government’s reassurances, and damage relationships with the Republic of Ireland by preventing PEACE and Interreg VA from continuing in a No Deal.

7.15 This instrument applies to Structural Funds which are a transferred matter for Northern Ireland as Structural Funds are neither an excepted nor a reserved matter under the Northern Ireland Act 1998. The UK Government remains committed to restoring devolution in Northern Ireland. This is particularly important in the context of EU Exit where we want devolved Ministers to take the necessary actions to prepare Northern Ireland for exit. We have been considering how to ensure a functioning statute book across the UK including in Northern Ireland for exit day notwithstanding the absence of a Northern Ireland Executive. With exit day months away, and in the continued absence of a Northern Ireland Executive, the window to prepare Northern Ireland's statute book for exit is narrowing. UK Government Ministers have therefore decided that in the interest of legal certainty in Northern Ireland, the UK Government will take through the necessary secondary legislation at Westminster for Northern Ireland, in close consultation with the Northern Ireland departments. This is one such instrument.

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

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 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 European Union. 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 This instrument will not be consolidated.

## **10. Consultation outcome**

10.1 Existing policy is not changing, and this instrument will ensure that the programmes can continue to operate through the guarantee, so no formal consultation is needed. All Devolved Administrations and delivery leads were consulted in the preparation of this instrument. These partners will also be engaged in considerations related to potential changes to project requirements for projects funded through the funding guarantee.

## **11. Guidance**

11.1 This instrument will allow the guarantee to be delivered for ERDF and ESF projects, and for ETC projects where agreements have been entered into with the European Commission or the respective Managing Authorities. Existing fund beneficiaries should therefore continue to operate as usual, in the knowledge that in the event of a No Deal, they will be able to continue to receive funding in a similar way as they had done when the United Kingdom was a member of the European Union.

11.2 This instrument does not make provisions for the delivery of projects started after exit: see 7.10 for further detail.

11.3 HM Government published Technical Notices on no deal planning in August 2018. These will be updated early in 2019 to provide further information for project beneficiaries related to the administration of the funding guarantee in the event of a no deal exit.

## **12. Impact**

- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 There is no impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because this instrument does not change HM Government, or Devolved Administration policy. It is designed to allow the ERDF, ESF and ETC funds (where possible) to continue to operate domestically under HM Government's funding guarantee for EU programmes, which ensures that the same amount of funding that would have been allocated by the European Commission to projects, will instead be paid out by HM Treasury.
- 12.4 The instrument contains a transitional provision to preserve the delivery structures of the funds for projects started before exit: it states that for all projects started under these funds before exit, the relevant obligations and rights of beneficiaries and delivery leads, as specified in Funding Agreements agreed before exit, remain the same after exit.
- 12.5 This instrument also ensures that payments for EU funded programmes under ETC can be made from the funding guarantee, as such powers do not currently exist in the statute book. The necessary domestic powers already exist for ERDF and ESF.
- 12.6 There is no change to policy through this instrument, as the funding guarantee and the transitional provision (and for ETC, the payment powers) ensure that these funds can continue to operate domestically under the guarantee in a No Deal. There is therefore no impact to business, charities, voluntary bodies or the public sector where they are currently funded under the funds, as they will continue to receive funding as they had before EU exit. There are no adversely affected groups of people under this measure and we do not anticipate that there will be any resulting regional effects.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.
- 13.2 The funds do support SMEs, however, and this instrument ensures that there will be no impact on SMEs as the guarantee allows funds to continue as before, with the transitional provision maintaining regulations that were previously used for projects started before EU exit (this instrument cannot make provision for projects started after EU exit). In relation to ETC, HM Government will cooperate with the Commission as specified above or set up domestic alternatives.

## **14. Monitoring & review**

- 14.1 The approach to monitoring this legislation is to engage with delivery partners and beneficiaries throughout the delivery of existing projects under existing funding agreements.
- 14.2 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

## **15. Contact**

- 15.1 Jonathan Couturier at the Department for Business, Energy and Industrial Strategy Telephone: 0207 215 5143 or email: [jonathan.couturier@beis.gov.uk](mailto:jonathan.couturier@beis.gov.uk) can be contacted with any queries regarding the instrument.



- 15.2 Susannah Simon, Director for Structural Funds and ETC at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Henley at the Department for Business, Energy and Industrial Strategy 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	<p>Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p>
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	<p>Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2</p> <p>In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs</p>	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 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the ‘good reasons’ for creating a criminal offence, and the penalty attached.
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 This is not applicable to this instrument (this instrument is subject to the affirmative procedure).

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

- 2.1 The Parliamentary Undersecretary of State, Lord Henley, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the European Structural and Investment Funds Common Provisions and Common Provision Rules etc. (Amendment) (EU Exit) Regulations 2019 does no more than is appropriate”.

- 2.2 This is the case because it remedies deficiencies in retained EU law, as set out in section 2.1, and because it provides for the continuation of existing government policy in the event of a no-deal EU exit.

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

- 3.1 The Parliamentary Undersecretary of State, Lord Henley, 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 are for the reasons set out in section 7 of this Explanatory Memorandum.

#### **4. Equalities**

- 4.1 The Parliamentary Undersecretary of State, Lord Henley 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 Parliamentary Undersecretary of State, Lord Henley has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lord Henley 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.”.

- 4.3 No impact on equalities is expected.

4.4 The Parliamentary Undersecretary of State, Lord Henley has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lord Henley, 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.