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STATUTORY INSTRUMENTS

2021 No. 145

ENFORCEMENT, NORTHERN IRELAND

The Conflict Minerals (Compliance) (Northern Ireland) (EU Exit) (Amendment) Regulations 2021

<i>Made</i> - - - -	<i>10th February 2021</i>
<i>Laid before Parliament</i>	<i>15th February 2021</i>
<i>Coming into force</i> - -	<i>8th March 2021</i>

The Secretary of State, in exercise of the powers conferred by section 8C(1)(a) of the European Union (Withdrawal) Act 2018(a), makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Conflict Minerals (Compliance) (Northern Ireland) (EU Exit) (Amendment) Regulations 2021 and come into force on 8th March 2021.

(2) These Regulations extend to Northern Ireland only.

Amendments to the Conflict Minerals (Compliance) (Northern Ireland) (EU Exit) Regulations 2020

2. The Conflict Minerals (Compliance) (Northern Ireland) (EU Exit) Regulations 2020(b) are amended as set out in regulations 3 to 7.

3. In regulation 8 (power to require the production of information), for “person”, in each place it occurs, substitute “Union importer”.

4. In regulation 11(c)—

(a) for “any person to provide” substitute “the provision of”;

(b) for “Secretary of State”, in the first place it occurs, substitute “inspector”.

5. In regulation 12(b), after “Secretary of State” insert “(or the inspector, as the case may be)”.

6. In regulation 15 (imposition of civil sanctions)—

(a) the existing text becomes paragraph (1);

(b) after that paragraph insert—

(a) 2018 c.16. Section 8C was inserted by the European Union (Withdrawal Agreement) Act 2020 (c.1), section 21.
(b) S.I. 2020/1664.

“(2) In paragraph (1), “the Secretary of State” means the Secretary of State or an inspector authorised under regulation 9 to exercise the powers under regulations 10 and 11.”

7. In the Schedule—

- (a) in the following provisions—
 - (i) paragraph 1(2) and (3),
 - (ii) paragraph 2(1)(c) and (2),
 - (iii) (aa) paragraph 3(2), in the first place that it occurs, and
(bb) paragraph 3(3) and (4),
 - (iv) paragraph 4(4), (5), (8)(b) and (10),
 - (v) paragraph 5(2), and
 - (vi) paragraph 6(2),for “paragraph” substitute “sub-paragraph”;
- (b) in paragraph 3(2)(e), for “appeal under paragraph (3)” substitute “apply for a review of the compliance notice under sub-paragraph (3)”;
- (c) in paragraph 4(8)(a), for “paragraph 4(1)” substitute “sub-paragraph (1)”;
- (d) in paragraph 6(4), for “paragraph 6(1)” substitute “sub-paragraph (1)”.

Ahmad
Minister of State

10th February 2021

Foreign and Commonwealth and Development Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the European Union (Withdrawal) Act 2018 (c. 16) to amend the Conflict Minerals (Compliance) (Northern Ireland) (EU Exit) Regulations 2020 (“the 2020 Regulations”). The purpose of the 2020 Regulations is to implement and enforce, to and in the United Kingdom in respect of Northern Ireland, Regulation (EU) No 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high risk areas (OJ No. L 130, 19.5.2017, p. 1) (“the EU Regulation”).

The EU Regulation was included in Annex 2 of the Protocol on Ireland/Northern Ireland to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Treaty Series No.3 (2020)) and therefore applies to and in the United Kingdom in respect of Northern Ireland. The 2020 Regulations include provision for powers of entry and inspection, and the power to require the production of documents to enable the Secretary of State to determine whether Union importers (as defined in regulation 2 of the 2020 Regulations) are meeting their due diligence obligations.

Regulation 3 amends regulation 8 of the 2020 Regulations so that a requirement to produce information (which is given effect by way of a notice) may only be imposed upon a Union importer.

Regulation 4 amends regulation 11 of the 2020 Regulations to clarify that an inspector may require the provision of any assistance as may be considered necessary by the inspector for the purposes of carrying out the Secretary of State’s functions.

Regulation 5 amends regulation 12 of the 2020 Regulations to clarify that an inspector is not authorised to take possession of any document or information over which legal professional privilege could be claimed.

Regulation 6 amends regulation 15 of the 2020 Regulations to make clear that civil sanctions may be imposed for failure to cooperate with either the Secretary of State or an inspector who is exercising powers under regulation 10 or 11 of the 2020 Regulations.

Regulation 7 makes minor corrections to the Schedule, and clarifies that a compliance notice issued to a Union importer under paragraph 3 of the Schedule must inform the Union importer of the right to apply to the Secretary of State for a review of the compliance notice.

A full Impact Assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sectors in the United Kingdom is foreseen. No impact assessment was carried out for the 2020 Regulations. A full impact assessment of the EU Regulation was carried out at an EU level.

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