

UK MINISTERS ACTING IN DEVOLVED AREAS

217 – The Greenhouse Gas Emissions (Kyoto Protocol Registry) Regulations 2021

Laid in the UK Parliament: 25 February 2021

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Draft affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	N/A
Date sifting period ends in UK Parliament	N/A
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	9 March 2021

Background

These Regulations are proposed to be made by the UK Government under section 8 of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

Summary

The United Kingdom is a party to the United Nations Framework Convention on Climate Change (the UNFCCC). The UNFCCC has near universal membership and recognises that climate change is an important issue, which can be combatted by stabilising greenhouse gas emissions.

The Kyoto Protocol is a protocol to the UNFCCC, under which certain countries have agreed to emission reduction commitments. Those countries include the United Kingdom and the European Union.

Before 31 December 2020, the UK's Kyoto Protocol registry operated within the EU platform (the Consolidated System of European Union Registries, CSEUR).

These Regulations amend retained EU law relating to the UK's Kyoto Protocol registry, to ensure that the UK's Kyoto Protocol Registry works within the new domestic platform (i.e. independently of the CSEUR). This will allow the UK to hold and trade Kyoto units, helping the UK comply with its international obligations under the Kyoto Protocol.

The Regulations also remove a requirement for the Environment Agency to comply with EU law when considering applications regarding Kyoto Protocol projects. Instead, the Environment Agency will have to comply with the UK's relevant international climate law obligations.

Statement by Welsh Government

Legal Advisers agree with the statement laid by the Welsh Government dated 26 February 2021 regarding the effect of these Regulations.

However, we note that the software platform for the new UK Kyoto Protocol registry is still in development and is due to be operational in Spring 2021. A consequence of this is summarised in section 7.3 of the UK Government's Explanatory Memorandum to the Regulations:

“The UK's access to the EU's KP Registry system ended at the end of the Transition Period (TP). The IT platform for the new UK KP registry is currently in development and is due to be operational in Spring 2021. For the period between the end of the TP and Spring 2021, businesses with accounts in the UK KP registry will temporarily lose access to them and have been advised to open KP accounts in other countries' registries if they wish to trade KP units during this time.”

It also appears that the Welsh Government's written statement incorrectly cites the name of the Regulations. The correct name is the Greenhouse Gas Emissions (Kyoto Protocol Registry) Regulations 2021.

Intergovernmental Agreement on the European Union (Withdrawal) Bill

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect and the extent to which these Regulations would enact new policy in devolved areas.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Consent motion under Standing Order 30A.10

The Regulations amend the Environment Act 1995 as it applies to “charging authorities”. The Natural Resources Body for Wales is a charging authority.

The Committee may wish to seek clarification from the Welsh Government as to why no Statutory Instrument Consent Memorandum has been laid before the Senedd under Standing Order 30A, insofar as the Regulations amend the Environment Act 1995 in devolved areas.