

UK MINISTERS ACTING IN DEVOLVED AREAS

The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2018

Laid in the UK Parliament: 28 November 2018

Sifting

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	11 December 2018
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	w/c 10 December 2018
Date sifting period ends in UK Parliament	17 December 2018
Written statement under SO 30C:	Paper 39
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	Not known
Procedure	Negative or 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	Not known

Commentary

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

These Regulations amend the Environmental Permitting (England and Wales) Regulations 2016 (“the **2016 Regulations**”). The 2016 Regulations established a cross-cutting environmental permitting and compliance system in England and Wales, and comprise a framework through which the permitting requirements of a series of EU Directives, and some domestic legislation, are implemented in England and Wales. Accordingly, the 2016 Regulations contain numerous references to EU Directives and to the UK’s obligations as a Member State, which would not function following the UK’s exit from the European Union.

These Regulations insert a new Schedule 1A into the 2016 Regulations, which contains modifications to the EU Directives transposed by the 2016 Regulations. Those modifications apply only for the purposes of interpreting the 2016 Regulations.

The effect of these Regulations is therefore to correct deficiencies in the 2016 Regulations arising from the UK's exit from the European Union. The Regulations do not implement new policy.

Legal Advisers agree with the statement laid by the Welsh Government dated 3 December 2018 regarding the effect of these Regulations. The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

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.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations.