

UK MINISTERS ACTING IN DEVOLVED AREAS

165 - The Cleaner Road Transport Vehicles (Amendment) (EU Exit) Regulations 2020

Laid in the UK Parliament: 15 July 2020

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Proposed Negative
Date of consideration by the House of Commons European Statutory Instruments Committee	21 July 2020
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known
Date sifting period ends in UK Parliament	9 September 2020
Written statement under SO 30C:	Paper 57
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	Not known
Procedure	Not known
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 (“Withdrawal Act”).

These Regulations use powers in the Withdrawal Act to correct deficiencies in EU-derived legislation that regulates the environmental impact of public sector and utilities’ procurement of vehicles. This will ensure that the legal framework that regulates relevant public procurement of vehicles continues to function correctly at the end of the transition period.

The Cleaner Road Transport Vehicles Regulations 2011 (“CRTVR”) implemented EU Directive 2009/33/EC (“the Directive”) on the procurement of cleaner vehicles by the public sector. The Directive aimed to achieve a number of outcomes, including increasing energy efficiency

in the transport sector, protecting the environment by reducing emissions, stimulate the market for cleaner vehicles and reducing the cost of their production to achieve improved emission performance across the EU fleet. The proposed changes to the CRTVR are designed to ensure that after the transition period ends, the public procurement of vehicles in the UK continues to be regulated in a manner that is at least as ambitious as current arrangements.

The Committee notes a further Directive (Directive (EU) 2019/1161) amending the Directive was agreed by the EU in July 2019 and is due to be adopted by Member States by August 2021, i.e. after the end of transition period. Powers under the (Withdrawal) Act only allow for the correction of deficiencies in existing law that will be transposed into UK law at the end of the transition period, they do not permit policy proposals. As Directive 2019/1161 has not been implemented in the UK this instrument does not propose any potential changes arising from it. The provisions cross refer to related public procurement legislation. These are also the subject of an Exit SI, The Public Procurement (Amendment etc.) Regulations 2020, which will be laid later in the year and be subject to the affirmative procedure.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 16 July 2020 regarding the effect of these Regulations:

- The Welsh Government's statement does not identify which legislative powers of the Senedd or executive powers of the Welsh Ministers are affected by this instrument. Legal advisors recommend that clarification is sought on which devolved powers are affected.

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.

The regulations were laid before the UK Parliament on 13 July 2020 and subsequently withdrawn on 15 July 2020. New regulations were laid on 15 July 2020.