

UK MINISTERS ACTING IN DEVOLVED AREAS

The INSPIRE (Amendment) (EU Exit) Regulations 2018

Laid in the UK Parliament: 8 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	20 November 2018
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	19/20 November 2018
Date sifting period ends in UK Parliament	26 November 2018
Written statement under SO 30C:	Paper 14
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 the European Union (Withdrawal) Act 2018 and paragraph 21 of Schedule 7 to it.

In order to allow the UK to continue to operate the spatial data infrastructure established by the INSPIRE Directive, 'deficiencies' in the INSPIRE Regulations 2009 and associated retained EU law that arise as a consequence of EU Exit are being 'corrected'. This ensures legal operability of the INSPIRE Regulations 2009 and the retained EU law after EU Exit.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 12 November 2018 regarding these Regulations:

These Regulations amend the following Commission Regulations: 1205/2008, 2009/442 and 976/2009 and 1089/2010 as well as the INSPIRE Regulations 2009. The Commission Regulations will be retained direct EU legislation by virtue of section 3 of the European Union (Withdrawal) Act 2018. Amongst other amendments, these Regulations amend the Commission Regulations to replace references to 'Member States' with references to 'appropriate authority'. This is defined as the Secretary of State in relation to England, Wales and Northern Ireland and the Scottish Ministers in relation to Scotland. Neither the statement of the Welsh Government nor the Explanatory Memorandum of the UK Government explains why Wales is being treated differently from Scotland.

The answer lies in the implementation of the INSPIRE Directive (2007/2/EC). It was transposed by the INSPIRE Regulations 2009 and the INSPIRE (Scotland) Regulations 2009. Accordingly, there is already a separate legislative framework for Scotland, which is retained by the present Regulations. It would not have been appropriate to use 'correcting' legislation to devolve responsibilities to the Welsh Ministers. Nevertheless, it would have been helpful if that had been explained in the Welsh Government's statement.

Subject to the observations above, 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.

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