

UK MINISTERS ACTING IN DEVOLVED AREAS

The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2018

Laid in the UK Parliament: 22 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	4 December 2018
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	w/c 3 December 2018
Date sifting period ends in UK Parliament	10 December 2018
Written statement under SO 30C:	Paper 32
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.

The Regulations amend domestic legislation that implements EU air quality legislation to ensure it continues to be operable after the withdrawal of the UK from the EU.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 27 November 2018 regarding the effect of these Regulations:

1.The statement incorrectly summarises the legislation which is being amended by the Regulations. The legislation amended is as follows:-

- The Air Quality Standards Regulations 2010;

- The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012; and
- The National Emission Ceilings Regulations 2018.

2. Whilst both the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012 and the National Emission Ceiling Regulations 2018 apply to the UK, only regulations 3 (a), 23, 24, 25(4) and 32 of the Air Quality Standards Regulations 2010 apply to Wales. Only regulation 32 is amended by these Regulations. This is not clear from the Welsh Government statement.

3. In addition it is not clear from the statement the impact the Regulations have on the Assembly's legislative competence and/or the Welsh Minister's executive competence.

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.

As it is unclear from the Welsh Government's statement dated 27 November 2018 the impact the Regulations may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence, Legal Advisers have been unable to assess whether 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.