

UK MINISTERS ACTING IN DEVOLVED AREAS

The Marine Environment (Amendment) (EU Exit) Regulations 2018

Laid in the UK Parliament: 20 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	5 December 2018
Written statement under SO 30C:	Paper 14
SICM under SO 30A (because amends primary legislation)	Paper 15

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(b) of Schedule 7 of the European Union (Withdrawal) Act 2018.

These Regulations make changes to the following legislation:-

- The Marine Strategy Framework Directive (“the MSFD”);
- The Marine Strategy Regulations 2010;
- Commission Decision (EU) 2017/848;
- The Marine and Coastal Access Act 2009 (“the MCCA”); and
- The Marine Licensing (Exempted Activities) Order 2011.

As these regulations amend primary legislation i.e. the MCCA, the Welsh Government have laid a statutory instrument consent memorandum under Standing Order 30A.2.

These changes are necessary to ensure that the above legislation continues to operate effectively after the UK leaves the EU. The changes include the replacement of references to “Member States” with references to the UK or to an appropriate UK body, the replacement of references to “Community legislation” or “EU law” with references to “retained EU law”, and the replacement of requirements to notify or report to the Commission with requirements to report publicly. The changes also ensure that cross references to the MSFD, and other EU legislation, will continue to work after exit.

Legal Advisers agree with the statement laid by the Welsh Government dated 22 November 2018 regarding the effect of these Regulations.

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.