

UK MINISTERS ACTING IN DEVOLVED AREAS

133 - The Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019

Laid in the UK Parliament: 6 June 2019

Sifting

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| Subject to sifting in UK Parliament? | No |
| Procedure: | Draft affirmative |
| Date of consideration by the House of Commons European Statutory Instruments Committee | N/A |
| Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee | N/A |
| Date sifting period ends in UK Parliament | N/A |
| Written statement under SO 30C: | Paper 6 |
| SICM under SO 30A (because amends primary legislation) | Not required |

Scrutiny procedure

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| Outcome of sifting | N/A |
| Procedure | Draft 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 2(1) of Schedule 7 to, the European Union (Withdrawal) Act 2018.

These Regulations amend a number of EU Directives to transfer a series of legislative functions that are currently conferred upon the European Commission, to be exercisable instead by the Secretary of State, and in relation to matters devolved to Wales, the Welsh Ministers. This is to ensure that such functions can be exercised at national level after the UK leaves the EU. In most cases, where a power is to be exercised by the Welsh Ministers, it will also be possible for the Secretary of State to exercise the powers on their behalf, but only with the consent of the Welsh Ministers.

The functions being conferred on the Secretary of State and, where appropriate, the Welsh Ministers, generally gives a limited power to update legislation to reflect technical and scientific developments.

The Directives which are amended by the Regulations deal with air quality, environmental noise, infrastructure for spatial information, marine and water quality.

These Regulations also apply to Scotland and Northern Ireland. Legal Advisers make the following comments in relation to the Welsh Government's statement dated 7 June 2019 regarding the effect of these Regulations:

1. The Statement is not specific enough to enable Legal Advisers to ascertain the impact that the Regulations may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence. For example, the paragraphs under the heading "Air Quality, Water and environmental noise" confirm the law as set out in the Government of Wales Act 2006 but do not contain an assessment of the specific impact of the Regulations on competence in those policy areas.

Save for the point made at 1 above, the above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect. We are satisfied that the Regulations are making corrections rather than 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.