

UK MINISTERS ACTING IN DEVOLVED AREAS

143 - The Health and Safety (Amendment) (EU Exit) Regulations 2018

Laid in the UK Parliament: 18 December 2018

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Negative
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 40
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Negative
Date of consideration by the Joint Committee on Statutory Instruments	23 January 2019
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	14 January 2019

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.

These Regulations make miscellaneous amendments to eleven pieces of secondary legislation and one directly acting EU Regulation, when it is brought into UK law on the UK's withdrawal from the EU. The amendments relate to matters which have been identified as deficiencies in the legislation arising from the UK's withdrawal from the EU, ensuring that EU derived health and safety protections will continue to be available in domestic law after exit day.

These Regulations do not make any policy changes beyond the intent of ensuring continued operability of the relevant legislation.

Standing Order 30C.3(ii) requires the Welsh Government's written statement to "specify any impact the statutory instrument may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence". The Welsh Government's statement dated 29 July 2019 does not identify which legislative powers of the Assembly or executive powers of the Welsh Ministers are affected by this instrument. Therefore, Legal Advisers recommend that clarification is sought on which devolved powers are affected.

In a letter to the Chair of the Constitutional and Legislative Affairs Committee dated 26 July 2019, the Counsel General provided an update on the review that has been carried out by Welsh Government of the UK Government's programme of EU Exit SIs in areas devolved to Wales. In relation to this instrument, the Counsel General stated:

"[The Health and Safety (Amendment) (EU Exit) Regulations 2018] was laid in Parliament for sifting before the changes to Standing Orders, resulting in 30C, were agreed. Consent for the SI was, though, sought and given and we shall be notifying the Assembly of this SI too."

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

As it is unclear from the Welsh Government's statement dated 29 July 2019 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.