EXPLANATORY MEMORANDUM TO

THE CLIMATE CHANGE AGREEMENTS, CRC ENERGY EFFICIENCY SCHEME AND ENERGY SAVINGS OPPORTUNITY SCHEME (AMENDMENT) (EU EXIT) REGULATIONS 2020

2020 No. 711

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy (BEIS) and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of this statutory instrument is to make amendments in consequence of the European Union (Withdrawal Agreement) Act 2020 (c. 1). This instrument, made under the power in section 41(1) of the European Union (Withdrawal Agreement) Act 2020 ("the WAA"), replaces references to "exit day" with references to "IP completion day" in the Climate Change Agreements (Amendment of Agreements) (EU Exit) Regulations 2018 (S.I. 2018/1205), the CRC Energy Efficiency Scheme (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1336) and the Energy Savings Opportunity Scheme (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1342).

2.2 This instrument also makes supplemental provision relating to these amendments, using the power in paragraph 12 of Schedule 4 to the WAA.

2.3 The instrument amends the Energy Savings Opportunity Scheme (Amendment) (EU Exit) Regulations 2018 to retain the provision in the Energy Savings Opportunity Scheme Regulations 2014 for converting the financial threshold to euros with respect to a qualification date that falls before Implementation Period (IP) completion day.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The amendment in regulation 4(2)(b) addresses the anomaly reported by the Joint Committee on Statutory Instruments (JCSI) in the Forty-sixth Report of Session 2017-19 in relation to S.I. 2018/1342. The effect of this provision is that paragraph 3 of Schedule 1 to the Energy Savings Opportunity Scheme Regulations 2014 is retained for the purpose of a conversion to euros for a qualification date before IP completion day. This amendment is made under the power to make supplementary provision in paragraph 12(b) of Schedule 4 to the European Union (Withdrawal Agreement) Act 2020. As this Statutory Instrument has been made in part in consequence of a defect in S.I. 2018/1342, the Department has decided to issue this Statutory Instrument free of charge to all known recipients of S.I. 2018/1342. The Department has complied with the requirement stated in paragraph 4.7.6 of Statutory Instrument Practice to consult with the SI Registrar.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The Climate Change Agreements (Amendment of Agreements) (EU Exit) Regulations 2018 (S.I. 2018/1205), the CRC Energy Efficiency Scheme (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1336) and the Energy Savings Opportunity Scheme (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1342) were made to address legal inoperabilities that arise from the withdrawal of the United Kingdom from the European Union. As written, those instruments come into force on "exit day", and there are references to "exit day" within the body of those instruments.

6.2 By virtue of paragraph 1 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020, those instruments come into force on IP completion day. This statutory instrument, made under section 41(1) of that Act, replaces the references to "exit day" within the body of those instruments. It also makes supplementary provision under the power in paragraph 12 of Schedule 4 to that Act.

7. Policy background

What is being done and why?

7.1 As a result of the European Union (Withdrawal Agreement) Act 2020 ("the WAA"), instruments relating to withdrawal from the EU that were to come into force on exit day will now come into force on "IP completion day". However, a statutory instrument is required to replace references to "exit day" with references to "IP completion day" in the body of those EU withdrawal instruments. The amendments in this instrument are made in consequence of the WAA.

7.2 The amendment in regulation 4(2)(b) is supplementary to the amendments in regulation 4(2)(a), and addresses an anomaly reported by the JCSI in the Forty-sixth Report of Session 2017-19 in relation to S.I. 2018/1342. The supplementary amendment retains the provision relating to conversion into euros for a qualification date before IP completion day.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not trigger the statement requirements under the European Union (Withdrawal) Act 2018.

8.2 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom from the European Union because it makes amendments to instruments that relate to withdrawal from the European Union

9. Consolidation

9.1 There are no plans for consolidation of the amended instrument.

10. Consultation outcome

10.1 No consultation was required for this instrument as no significant impacts on business or the public or voluntary sectors are foreseen.

10.2 We have sought the views of the devolved administrations in Northern Ireland, Scotland and Wales and the Environment Agency (the administrator for the Climate Change Agreements, Energy Savings Opportunity Scheme and CRC Energy Efficiency Scheme) about the amendments made by this instrument.

11. Guidance

11.1 No guidance is required for this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because the instrument relates to maintenance of existing regulatory standards, making minor and technical changes only arising from EU withdrawal.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses

13.3 The basis for the final decision on what action to take to assist small businesses is that this instrument only makes minor and technical changes to instruments relating to EU withdrawal.

14. Monitoring & review

14.1 As this instrument only makes minor and technical changes to instruments relating to EU withdrawal, no review clause is required.

15. Contact

15.1 Craig Mellis at the Department for Business, Energy and Industrial Strategy (BEIS) Telephone: 020 7215 1940 or email: craig.mellis@beis.gov.uk can be contacted with any queries regarding the instrument.

15.2 Michael Rutter, Deputy Director for Business Energy Use, at the Department for Business, Energy and Industrial Strategy (BEIS) can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kwasi Kwarteng at the Department for Business, Energy and Industrial Strategy (BEIS) can confirm that this Explanatory Memorandum meets the required standard.