EXPLANATORY MEMORANDUM TO

THE STATUTORY AUDITORS, THIRD COUNTRY AUDITORS AND INTERNATIONAL ACCOUNTING STANDARDS (AMENDMENT) (EU EXIT) REGULATIONS 2019

2019 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy 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 This instrument is primarily being made using powers in the European Union (Withdrawal) Act 2018 (c. 16), as well as other domestic powers in the Deregulation Act 2015, the Companies Act 2006 (c. 46) (including some that were introduced by the Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (SI 2019/177 - "the audit regulations")) and the Limited Liability Partnerships Act 2000 (c. 12). This instrument continues the process of addressing failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom (UK) from the European Union (EU). This is intended to ensure that the frameworks for the application of international accounting standards under UK law, and for regulatory oversight and professional recognition of statutory auditors and third country auditors in the UK, work effectively following the UK's withdrawal from the EU.

Explanations

What did any relevant EU law do before exit day?

2.2 Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ("the IAS Regulation") (OJ No. L 243, 11.9.2002, p.1) sets out the requirements for the application of International Accounting Standards (IAS) in the EU. Publicly traded companies are required to apply a single set of high-quality IAS for the preparation of their consolidated financial accounts. EU member States may also either permit or require IAS for non-publicly traded companies to prepare their consolidated or annual accounts.

2.3 The IAS Regulation sets out the provisions for an endorsement process to adopt IAS for use in the EU. Article 2 specifically includes International Financial Reporting Standards (IFRS) in its definition of IAS. IFRS are a set of IAS which are issued by the International Accounting Standards Board (IASB). The standards which are adopted are contained in Commission Regulation (EC) No. 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No. 1606/2002 of the European Parliament and of the Council on the

application of international accounting standards ("the second IAS Regulation") (OJ No. L 320, 29.11.2008, p.1).

2.4 The effects of this Regulation were transposed into UK law for companies by Part 15 of the Companies Act 2006 and other related instruments. The result is that publicly traded companies in the UK are required to apply IFRS as endorsed and adopted by the EU to their consolidated accounts. All other companies must either produce their accounts using IFRS or UK Generally Accepted Accounting Practices (UK GAAP). UK GAAP is a UK specific set of accounting standards set by the Financial Reporting Council (FRC). Some companies use IFRS on a voluntary basis. After the UK's exit from the EU, directly applicable retained EU law will become part of UK legislation, by virtue of section 3 of the European Union (Withdrawal) Act 2018. This means that existing EU-adopted IFRS will be brought into UK law.

2.5 The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/685 - "the IFRS regulations") provide for a national framework for UK endorsement and adoption of IFRS after departure from the EU. By regulation 4 of the IFRS regulations, the IAS in the United Kingdom on exit day will be those which were contained in Commission Regulation (EC) No. 1126/2008, as it had effect immediately before exit day. The Regulation itself, and all amending instruments, however, are revoked (see Schedule 2 of the IFRS regulations).

2.6 Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts ("the Audit Directive" - OJ No. L 157, 9.6.2006, p. 87), as last amended by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (OJ No. L 158, 27.5.2014, p. 196) sets out requirements on the statutory audit of certain businesses that are required to be audited under EU law (see section 1210 of the Companies Act 2006 for how this was transposed in the UK). It also sets out the responsibilities of the competent authorities of member States for regulation of statutory audit, including audit inspections, investigations and enforcement, and requirements as to the registration of auditors. In the UK the competent authority is the Financial Reporting Council (FRC), which has ultimate responsibility for monitoring and inspections, investigations and sanctioning of auditors. Article 14 of the Audit Directive provides for the automatic recognition of the qualification and approval of an auditor from another EEA State subject, where necessary, to passing an aptitude test or successfully completing an adaptation period.

2.7 Article 45 of the Audit Directive provides for the regulation of auditors of companies from outside the EEA, where those companies issue securities that are admitted to trading on the regulated market of an EEA State ("third country auditors"). It requires that these auditors are registered and regulated in the EEA state in which the regulated market is based and the securities traded. The audit regulations made amendments to the framework for registration and regulation of third country auditors in the UK. They will apply in combination with an amendment by the Financial Conduct Authority to its Disclosure and Transparency Rules. One of the main effects of the changes will be to include EEA auditors in the requirement for registration and regulation of third country auditors when they audit EEA or third country issuers whose securities are traded in the UK.

2.8 Article 46 of the Audit Directive allows the requirements on the registration and regulation of third country auditors to be disapplied, in whole or in part, subject to certain conditions, where a registered third country auditor is subject to a system of regulation which is determined to be "equivalent" to that required by the Directive. This had been implemented in the Companies Act 2006 via a power for the Secretary of State, or the FRC as the Secretary of State's delegate, to disapply registration and regulation requirements by written direction. The audit regulations did not make any substantive change to the direction powers beyond expanding their scope to include EEA auditors that are registered third country auditors. However, they did provide new powers for the Secretary of State to grant equivalence of third countries' audit regulatory regimes for this purpose via a new power, inserted as section 1240A of the Companies Act 2006. Section 1240A also enables the Secretary of State to "make provision" for the grant of equivalence to a third country. Such provision may include: specifying the procedure for assessing the audit regulatory regime of the third country and granting approval; setting out considerations which must or may be taken into account; setting out a list of third countries that have been granted approval; and making provision for the amendment, suspension or withdrawal of approval. It was intended that considerations to be taken into account would reflect those set out in Article 46 of the Audit Directive.

2.9 Article 47 of the Audit Directive allows member States to transfer, or permit the transfer, of audit working papers and investigation reports to a third country competent authority for audit, only where a number of conditions have been met. These usually include that the Commission has determined that the relevant third country competent authority has "adequate" requirements as regards the confidentiality of information transferred. A third country competent authority's adequacy status is granted by the Commission once it has made an assessment of the legal framework applied in the relevant third country, and of undertakings given by the third country competent authority on the handling and use of information transferred. This framework is implemented in the UK in sections 1253D to 1253F of the Companies Act 2006 and in paragraphs 16A to 16AB of Schedule 10 to that Act. Meanwhile Article 36 of the Audit Directive applies to the handling of audit regulatory information by EEA competent authorities and the transfer of that information between them. It provides for the confidentiality of that information with exceptions to allow the transfers provided for. The basis for an assessment of adequacy of a third country competent authority under Article 47 of the Audit Directive is that it is subject to arrangements that achieve comparable outcomes to those required under Article 36 of the Audit Directive in the EEA States.

2.10 The audit regulations amended the framework that had implemented both Articles 36 and 47 of the Audit Directive in order to treat EEA States and third countries in the same way. Transfers of audit working papers and investigation reports will continue to be on the basis of working arrangements following a determination of the adequacy of the relevant third country competent authority including of an EEA competent authority. However, this determination would be made by the Secretary of State in regulations under new section 1240B of the Companies Act 2006. As with section 1240A, section 1240B enables the Secretary of State also to make provision for the grant of adequacy status. Such provision may include: specifying the procedure for assessing the competent authority and granting approval; setting out considerations which must or may be taken into account; setting out a list of competent authorities that have been granted approval; and making provision for the amendment, suspension

or withdrawal of approval. It was intended that considerations to be taken into account would reflect the requirement in Article 47 of the Directive that an adequate competent authority must be subject to arrangements achieving comparable outcomes to those under the implementation of Article 36 of the Audit Directive.

2.11 Regulation (EU) No. 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities (OJ No. L 158, 27.5.2014, p. 77) ("the EU Audit Regulation") applies only to audits of "public interest entities" ("PIEs"), including banks, building societies, insurers and undertakings with transferable securities that are admitted to trading on a regulated market. The EU Audit Regulation imposes more onerous requirements than those otherwise applicable to statutory audits in the EU because of the greater need to safeguard the public interest when auditing PIEs.

2.12 Article 26 of the EU Audit Regulation imposes mandatory requirements relating to quality assurance of auditors (i.e. inspections), to be carried out on the basis of an analysis of risk. The higher the level of risk, the more frequent the inspections should be. Large PIEs are more likely to present higher risks to financial stability than those which are small or medium-sized enterprises ("SMEs"), and auditors of larger, higher risk PIEs should be inspected more frequently than auditors of PIEs all of which are SMEs. SMEs are defined in EU law in points (17) and (18) of Article 2 of the Audit Directive, and in domestic law by sections 382, 383, 465 and 467 of the Companies Act 2006.

2.13 Paragraph 2 of Article 26 sets the frequency of inspections, and auditors who only audit PIEs that are SMEs need only be inspected at least once every 6 years. Auditors that audit large PIEs must be inspected at least once every 3 years. The Financial Reporting Council ("the FRC") is the UK's national competent authority and has responsibility for undertaking the inspections of audit firms that audit PIEs.

2.14 Article 37 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (known colloquially as the EU Accounting Directive) (OJ No. L 182, 29.6.2013, p. 19) provides a member State option to exempt subsidiaries from preparing and publishing accounts and having them audited. Sections 479A to 479C of the Companies Act 2006 implement part of this option by providing an exemption from audit for companies that are subsidiaries of UK and EEA parent undertakings. These sections are applied to Limited Liability Partnerships (LLPs) by regulation 34A of the Limited Liability Partnerships (Application of the Companies Act 2006) (Accounts and Audit) Regulations 2008 (SI 2008/1911). The exemption is not made available to subsidiaries of third country parent undertakings.

Why is it being changed?

2.15 It is necessary to update Schedule 2 to the IFRS regulations. This is needed because the Schedule is a list of revocations of directly applicable EU legislation which adopts IFRS or amends existing adopted IFRS, and which would otherwise be brought into domestic law by section 3 of the European Union (Withdrawal) Act 2018. Without revocation of the directly applicable EU legislation we would have two largely overlapping frameworks.

2.16 The Government had always planned that legislation would follow in due course to provide a framework for the determination of the equivalence of third countries or the

adequacy of their competent of authorities using the powers provided in sections 1240A and 1240B of the Companies Act 2006.

2.17 It was also the intention of the audit regulations to make sure that auditors in the UK who had originally been qualified and approved in an EEA State, and then recognised and approved in the UK under Article 14 of the Audit Directive, should continue to be approved and registered after exit day in the same way that they were immediately before. The Institute for Chartered Accountants in England and Wales (ICAEW) is one of the Recognised Supervisory Bodies (RSBs) in the UK that is required to make rules to this effect for those auditors that it registers. It has requested a clarification to the requirement in Schedule 10 to the Companies Act 2006 on the content of those rules.

2.18 The Government also always planned to make amendments to the subsidiaries audit exemption so that it was only available to subsidiaries of UK parent undertakings. This amendment was not included in the audit regulations because it was decided additional work was needed to establish the extent of the impact of the reduction in the availability of the current exemption. This has now been completed.

2.19 The audit regulations made amendments to Article 26 of the EU Audit Regulation, in anticipation of it becoming retained EU law on exit day. The amendments were intended to address failures of provisions in that Article to operate effectively arising from the withdrawal of the UK from the EU. Regulation 100 of the audit regulations making these changes including an error, which had the effect of requiring that auditors of SME PIEs be inspected at least once every 3 years, instead of at least once every 6 years. Meanwhile auditors of PIEs, all of which were large, would have to be inspected at least once every 3 years, instead of at least once every 3 years.

What will it now do?

2.20 Because a number of changes to EU adopted IAS have been issued or identified since the IFRS regulations were made, this instrument updates the list of revoked EU instruments – see regulation 8 of this instrument.

2.21 This instrument commences the insertion of the powers at sections 1240A and 1240B into the Companies Act 2006 before exit day (for the purpose of making regulations only – see regulation 3 of this instrument) so that those powers can be used to set out the framework for determination of the equivalence of third countries and the adequacy of their competent authorities in full in later regulations. It makes other related changes in order to finalise the framework in primary legislation on the assessment and determination of equivalence and adequacy, and the implementation by the FRC of the effects of these determinations for audit inspections. In order to provide greater clarity for those affected this instrument enables the framework to be put in place before exit day and therefore before the UK's withdrawal from the EU or during an implementation period as provided for in the current draft withdrawal agreement.

2.22 In response to the request from the ICAEW, this instrument clarifies the requirement in Schedule 10 to the Companies Act 2006 on the content of the rules that RSBs must make on the continued recognition of EEA Auditors – see regulation 5 of this instrument.

2.23 With the completion of work to establish the limited impact of amending the subsidiaries audit exemption this instrument amends the availability of the exemption

to subsidiaries only of UK parent undertakings – see regulation 4 (regarding companies) and regulation 7 (regarding LLPs). The effect of these amendments matches that for amendments already made to the accounting exemptions for dormant subsidiaries under sections 394A, 394C, 448A and 448C of the Companies Act 2006 as they apply to companies and LLPs following amendments made in the Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (SI 2019/145 – "the accounts regulations").

2.24 This instrument corrects the error to restore the original effect of Article 26 of the EU Audit Regulation in respect of the frequency of inspections – see regulation 6.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument is being issued under the free issue procedure to all known recipients of the audit regulations, because of the correction of an error in that instrument (see paragraphs 2.13 and 2.24 above).

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 The territorial application of this instrument includes Scotland and Northern Ireland.

3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 24 of the European Union (Withdrawal) Act 2018; section 114 of the Deregulation Act 2015; section 1299 of the Companies Act 2006; and section 19 of the Limited Liability Partnerships Act 2000). The territorial application of this instrument is not limited either by these Acts or by this instrument.

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 The Minister for Small Business, Consumers and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy, Kelly Tolhurst, has made the following statement regarding Human Rights:

"In my view the provisions of the Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 The IAS Regulation, the second IAS Regulation and the EU Audit Regulation will become retained EU law on exit day by virtue of section 3 of the European Union (Withdrawal) Act 2018 (incorporation of direct EU legislation). However, the IAS Regulation and the 2nd IAS Regulation will not continue to apply after exit day because they are repealed by the IFRS regulations, which put in place a new framework for the adoption and application of IFRS in the UK post-exit.

6.2 The EU Audit Regulation will continue to apply in the same way that it does now to the audits of those businesses that are required to be audited under EU law and that are PIEs.

6.3 To reflect the fact that the UK will no longer be an EU member State, the audit regulations made amendments to:

- Part 16 of the Companies Act 2006 on a company's obligations in respect of the audit of its annual accounts. This instrument builds on those amendments by further amending the subsidiaries audit exemption at sections 479A and 479C.
- the Limited Liability Partnerships (Accounts and Audit) (Application of the Companies Act 2006) Regulations 2008 (SI 2008/1911), which provide for the statutory audit of LLPs and which apply Part 16 of the Companies Act 2006 in respect of LLPs, in particular regulation 34A applies sections 479A and 479C and is amended by this instrument.
- Part 42 of the Companies Act 2006. The changes were extensive but in particular the audit regulations provided new powers to make provision for the grant by the Secretary of State of equivalence status to a third country and of adequacy status to its audit competent authorities (sections 1240A and 1240B respectively). This instrument commences the amendment of the Companies Act 2006 before exit day for the purposes of making regulations only. A small number of other related amendments are also included.
- Schedule 10 to the Companies Act 2006, to make changes to the rules to be applied by professional accountancy bodies on the recognition of individuals and firms as eligible for appointment as statutory auditors. This instrument makes a further clarificatory amendment to this Schedule on the continued approval and registration of EEA auditors practising in the UK.
- the EU Audit Regulation. The amendments related to the application of the Regulation as a part of UK law. This instrument corrects an error in those amendments.

6.4 The Explanatory Memorandum relating to the IFRS regulations can be found here:

http://www.legislation.gov.uk/uksi/2019/685/memorandum/contents

6.5 The Explanatory Memorandum relating to the audit regulations can be found here: http://www.legislation.gov.uk/uksi/2019/177/memorandum/contents

6.6 The Explanatory Memorandum relating to the accounts regulations can be found here:

http://www.legislation.gov.uk/uksi/2019/145/memorandum/contents

7. Policy background

What is being done and why?

7.1 This instrument makes a number of changes to the audit regulatory framework that will apply in the UK following its exit from the EU, as well as updating the framework for IFRS post-exit. It adds to the changes that have already been made by the audit regulations, the IFRS regulations and the accounts regulations. As with those regulations, most of these changes will take effect on exit day.

7.2 Regulation 3 brings forward commencement of the new powers inserted as sections 1240A and 1240B of the Companies Act 2006, so that these powers will be available

before exit day for the purposes of making regulations only. These powers were inserted by the audit regulations but with a commencement date of exit day (as that SI was made in anticipation of exit day being 31 March 2019 with no withdrawal agreement in place). However, in order to have a full framework in place as soon as possible on the determination of equivalence of third countries and the adequacy of their competent authorities, it has been decided to bring forward the commencement of these powers. Further regulations, exercising those powers, will need to set out the basis for these determinations.

7.3 Regulation 4 amends regulation 4 of the audit regulations so as to change the amendments that are made to sections 479A and 479C of the Companies Act 2006. Regulation 7 makes a comparable substitution at regulation 50(b) of the audit regulations so as to make the same amendments to the same sections of the Companies Act 2006, as it applies to LLPs. The subsidiaries audit exemption will continue to be available for those companies and LLPs that are subsidiaries of UK parent undertakings. However, it will not be available to subsidiaries of parent undertakings in the EEA after exit day.

7.4 Regulation 5 inserts a further provision into regulation 16 of the audit regulations to make some outstanding consequential amendments to subsection (4) of section 1242 of the Companies Act 2006. These amendments are consistent with others elsewhere in the framework to replace references to "UK-traded non-EEA companies" with references to "UK-traded third country companies". The amendments to section 1242(4) were delayed while further consideration was given to how determinations of equivalence and adequacy by the Secretary of State should result in reduced requirements on the regulation of third country auditors.

7.5 Regulation 6 substitutes point (b) of the version of paragraph 6(1A) of Schedule 10 to the Companies Act 2006, which was substituted by regulation 28(b) of the audit regulations. The new point (b) clarifies that EEA auditors, who have already been approved and registered as statutory auditors in the UK, will continue to be approved and registered after exit day.

7.6 Regulation 8 corrects an error in the audit regulations where they amend the EU Audit Regulation. It will become retained EU law on exit day by virtue of section 3 of the European Union (Withdrawal) Act 2018. The original amendment made by the audit regulations was intended to address a failure of that retained EU law to operate effectively arising from the withdrawal of the UK from the EU. However, the error changed the effect of the original provision, going beyond addressing the deficiency caused by the UK's departure from the EU.

7.7 Regulations 9 and 10 simply move the position of the text '(if any)' within amendments previously made to sections 394C and 448C of the Companies Act 2006 by the accounts regulations. This is to make it clearer that '(if any)' should qualify 'the registered number' and not 'the parent undertaking'. This change is made to match the drafting in the amendments to section 479C of the Companies Act 2006 made by regulation 4 of these regulations. The change is not intended to have a substantive effect.

7.8 Regulations 11 and 12 make amendments to update Schedule 2 to the IFRS regulations so as to repeal additional directly applicable Commission Regulations adopting IFRS or amending EU adopted IFRS for application in the EU.

7.9 This instrument applies to company law, which is a transferred matter for Northern Ireland under section 4 of the Northern Ireland Act 1998. The UK Government remains committed to restoring devolution in Northern Ireland. This is particularly important in the context of EU Exit where we want devolved Ministers to take the necessary actions to prepare Northern Ireland for exit. We have been considering how to ensure a functioning statute book across the UK including in Northern Ireland for exit day absent a Northern Ireland Executive. With exit day less than one year away, and in the continued absence of a Northern Ireland Executive, the window to prepare Northern Ireland's statute book for exit is narrowing.UK Government Ministers have therefore decided that in the interest of legal certainty in Northern Ireland, the UK Government will take through the necessary secondary legislation at Westminster for Northern Ireland, in close consultation with the Northern Ireland departments. This is one such instrument.

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

8.1 This instrument is being made using the powers in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

9. Consolidation

This is not a consolidation.

10. Consultation outcome

10.1 There has been no consultation on this instrument.

11. Guidance

11.1 The practical implementation of the changes in this instrument will primarily be a matter for the audit profession with the support of the professional accountancy bodies and oversight by the FRC. Guidance on the audit requirements of the Companies Act 2006 from Companies House will also be updated in due course to reflect the framework that will apply following the coming into force of 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 of the low level of impact on business (less than £5 million). However, De Minimis assessments have been carried out and have concluded that only a limited sector is affected. Comparatively few auditors audit companies that issue securities that are admitted to trading on UK or EEA regulated markets or that are subsidiaries of EEA parent undertakings.

13. Regulating small business

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

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), as these would mostly be audit firms and their small business clients including small PIEs, the approach taken in the audit regulations was to only make very necessary changes outside of those that are required in the context of sophisticated transactions between companies and financial markets. This instrument is consistent with that approach.

14. Monitoring & review

14.1 As the amendments made by this instrument are made under the European Union (Withdrawal) Act 2018, no review clause is required.

14.2 The instrument does not include a statutory review clause and, in line with sections 28(2)(b) and 31(2)(b) of the Small Business, Enterprise and Employment Act 2015 (c. 26), the Minister for Small Business, Consumers and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy, Kelly Tolhurst, has made the following statement:

14.3 "I consider that it is not appropriate to make provision for review of the amendments to Chapter 1 of Part 16 to the Companies Act 2006, made by the Statutory Auditors, Third Country Auditors and International Accounting Standards (EU Exit) (Amendment) Regulations 2019, as the Regulations are amending regulatory provision that is contained in primary legislation, which is outside the scope of the policy objectives as set out in the statutory guidance.

14.4 "A review provision is not included in respect of the amendments made to the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 because these amendments have no, or no significant, impact on business, charities or voluntary bodies".

15. Contact

15.1 Paul Smith at the Department for Business, Energy and Industrial Strategy Telephone: 0207 215 4164 or email: pauld.smith@beis.gov.uk can be contacted with any queries regarding the instrument.

15.2 Andrew Death, Deputy Director, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kelly Tolhurst, Minister for Small Business, Consumers and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

1.1 The Minister for Small Business, Consumers and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy, Kelly Tolhurst, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 do no more than is appropriate".

1.2 This is because this instrument merely continues to remedy deficiencies in retained EU law to maintain continuity with the law that applied before the UK's exit from the EU. Further details are provided in sections 2 and 7 of the explanatory memorandum.

2. Good reasons

2.1 The Minister for Small Business, Consumers and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy, Kelly Tolhurst, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

2.2 The reasons are that it is important to enable as smooth a transition as possible to an arrangement where the UK’s audit regulatory framework operates effectively outside of the European Union. Preserving continuity in the framework is an important part of that transition.

3. Equalities

3.1 Minister for Small Business, Consumers and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy, Kelly Tolhurst, has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

3.2 The Minister for Small Business, Consumers and Corporate Responsibility the Department for Business, Energy and Industrial Strategy, Kelly Tolhurst, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the instrument, I, Kelly Tolhurst, Minister for Small Business, Consumers and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.".

4. Explanations

4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.