SCOTTISH STATUTORY INSTRUMENTS

2019 No. 415

EXITING THE EUROPEAN UNION

ROAD TRAFFIC

TRANSPORT AND WORKS

The Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019

Made - - - - *3rd December 2019*

Laid before the Scottish Parliament *5th December 2019*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018(**a**), and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 and come into force on exit day.

Amendment of the Roads (Scotland) Act 1984

2.—(1) The Roads (Scotland) Act 1984(**b**) is amended as follows.

(2) In section 20B(3)(b) (environmental impact assessment), after "under" insert "any law in Scotland that implemented".

(3) In section 20C (environmental impact assessment report)—

(a) in subsection (7) the words "Union legislation or" are repealed,

(b) in subsection (10)(c), for "another" substitute "an",

(c) in subsection (16) the definition of "Union legislation" is repealed.

(4) In section 20E(2) (competent authority – avoidance of conflict of interest), for "the Directive" substitute "this Part".

(5) In section 20F (projects with significant transboundary effects)—

(a) in subsection (1)(a), for "another" substitute "an",

(**a**) 2018 c.16.
(**b**) 1984 c.54, as relevantly amended by S.S.I. 1999/1, S.S.I. 2006/614 and S.S.I. 2017/137.

(b) in subsection (5)(a), for sub-paragraph (i) substitute—

"(i) any authority in that State that the State may specify",

(c) in subsection (6), for "In accordance with Article 7(4) of the Directive, the" substitute "The".

(6) In section 20G(2)(b) (monitoring measures), the words from "Union legislation" to "or" are repealed.

(7) In section 55A (environmental assessment of certain road improvement projects)—

(a) in subsection (7), the words "Union legislation or" are repealed",

(b) in subsection (10)(c), for "another" substitute "an",

(c) in subsection (16)—

(i) after ""relevant project"," where it first occurs insert "and",

(ii) the words "and Union legislation" are repealed.

(8) In schedule 1 (procedures for making or confirming certain orders and schemes)—

(a) in paragraph 7(1A)(c), for "referred to in Article 6(1) of the Directive" substitute "in that State that the State has specified as authorities to be consulted",

(b) in paragraph 7(1B)(e)(ii), for "another" substitute "an",

(c) in paragraph 7(1D) after "law" insert "of any part of the United Kingdom",

(d) after paragraph 7(1D), insert—

"(1E) For the purpose of sub-paragraph (1D) Article 11(1) of the Directive is to be read as if the reference to—

(a) "Member States" were a reference to "The Scottish Ministers",

(b) "a Member State" were a reference to "Scotland".",

(e) in paragraph 13(1A)(c), for "referred to in Article 6(1) of the Directive" substitute "in that State that the State has specified as authorities to be consulted",

(f) in paragraph 13(1B)(e)(ii), for "another" substitute "an",

(g) in paragraph 13(1D) after "law" insert "of any part of the United Kingdom",

(h) after paragraph 13(1D) insert—

"(1E) For the purpose of sub-paragraph (1D) Article 11(1) of the Directive is to be read as if the reference to—

(a) "Member States" were a reference to "The Scottish Ministers",

(b) "a Member State" were a reference to "Scotland".".

(9) In schedule 1A (information for inclusion in environmental impact assessment reports)—

(a) in paragraph 6, for "established at Union or Member State level" substitute "in retained EU law or otherwise under the law of any part of the United Kingdom",

(b) in paragraph 9—

(i) the words from "Union legislation" to "pursuant to" are repealed,

(ii) after "requirements of" insert "any law that implemented".

Amendment of the Transport and Works (Scotland) Act 2007

3.—(1) The Transport and Works (Scotland) Act 2007(**a**) is amended as follows.

(2) In section 4(7) (applications), the words from "any" to "includes" are repealed.

(3) In section 5 (cases where other Member States are affected)—

(**a**) 2007 asp 8, as relevantly amended by S.S.I. 2017/138 and S.S.I. 2019/322.

(a) in the heading the word "other" is repealed,

(b) in subsection (1), for "another" substitute "a",

(c) in subsection (2)—

(i) for "another" substitute "a",

(ii) in paragraph (a), for "the other" substitute "that",

(iii) in paragraph (b), for "the other" substitute "that".

(4) In section 12 (publicity for making or refusal of order)—

(a) in subsection (8), for the words from "an organisation" to the end of the subsection substitute—

"any non-governmental organisation promoting environmental protection and meeting any requirements under the law of any part of the United Kingdom is deemed to—

(a) have an interest for the purposes of Article 11(1)(a) of the relevant directive, and

(b) rights capable of being impaired for the purposes of Article 11(1)(b) of that directive",

(b) after subsection (8), insert—

"(8A) For the purpose of subsection (8), Article 11(1) of the relevant directive is to be read as if the reference to—

(a) "Member States" were a reference to "The Scottish Ministers",

(b) "a Member State" were a reference to "Scotland".",

(c) in subsection (9) for "and (8)" substitute ", (8) and (8A)".

(5) in section 20A (monitoring measures)—

(a) in subsection (2)(b), the words from "Union legislation" to "or" are repealed,

(b) in subsection (5), paragraph (a) is repealed.

Amendment of the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007

4.—(1) The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007(**a**) are amended as follows.

(2) In rule 2(1) (interpretation)—

(a) in the definition of "relevant assessment" for "Union legislation" substitute "legislation in Scotland",

(b) omit the definition of "Union legislation".

(3) In rule 2A(3)(b) (environmental impact assessment), after "under" insert "any law in Scotland that implemented".

(4) In rule 9(4) (environmental impact assessment report), omit "Union legislation or" .

(5) In rule 12(10)(b) (publicity for application), for "another" substitute "an".

(6) In rule 14 (developments likely to have significant effects on the environment of another part of the United Kingdom or certain other states)—

(a) in paragraphs (1) and (4), for "another" wherever it occurs substitute "a",

(b) in paragraph (7)(a), for "referred to in Article 6(1) of the Directive" substitute "in that State that the State has specified as authorities to be consulted".

(7) In schedule 1 (information for inclusion in environmental impact assessment reports)—

(a) in paragraph 6 for "at European Union or Member State level" substitute "in retained EU law or otherwise under the law of any part of the United Kingdom",

---

(**a**) S.S.I. 2007/570, as relevantly amended by S.S.I. 2017/74 and S.S.I. 2019/322.

(b) in paragraph 9—

(i) omit the words from "Union legislation such as" to "pursuant to",

(ii) after "requirements of" insert "any law that implemented".

(8) In schedule 5 (proposals for orders by virtue of section 6)—

(a) in paragraph 11A(a), for "another" substitute "an",

(b) in paragraph 30, for "another" wherever it occurs substitute "a".

MICHAEL MATHESON
A member of the Scottish Government

St Andrew's House
Edinburgh
3rd December 2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018. The Regulations make amendments to address deficiencies in legislation relating to roads and transport and works arising from the withdrawal of the United Kingdom from the European Union.

Regulation 2 makes amendments to remedy deficiencies in the Roads (Scotland) Act 1984.

Regulation 3 makes amendments to remedy deficiencies in the Transport and Works (Scotland) Act 2007.

Regulation 4 makes amendments to remedy deficiencies in the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007.

A Business and Regulatory Impact Assessment has not been produced for this instrument as no impact upon business, charities or voluntary bodies is foreseen.

© Crown copyright 2019

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen's Printer for Scotland.

£4.90

S2019120410O1 12/2019 19585

http://www.legislation.gov.uk/id/ssi/2019/415

ISBN 978-0-11-104357-8

9 780111 043578