EXPLANATORY MEMORANDUM TO

THE HEALTH AND SAFETY (CONSEQUENTIAL AMENDMENTS) (EU EXIT) REGULATIONS 2020

2020 No. 660

1. Introduction

1.1 This explanatory memorandum has been prepared by The Department for Work and Pensions and is laid before Parliament by Command of her Majesty.

2. Purpose of the instrument

2.1 This instrument amends The Health and Safety (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1370) [1] to replace references "exit day" in certain legislation amended by those Regulations with "IP completion day". This instrument does not make any policy changes but will ensure that the statute book operates properly following IP completion day, at the end of the Transition Period ("TP").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

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 and application of this instrument is the same as for each of the provisions in S.I. 2018/1370 being amended this instrument.

4.2 Please see the regulations being amended by S.I. 2018/1370 for their territorial extent and application.

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 These Regulations are made in exercise of the powers in section 41(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1) [2] to make consequential provision on the coming into force of that Act.

[1] http://www.legislation.gov.uk/uksi/2018/1370/made
[2] http://www.legislation.gov.uk/ukpga/2020/1/section/41

6.2 In consequence of provisions setting out the existence of the transition period, ending with IP completion day in that Act, S.I. 2018/1370 is being amended using the section 41(1) power in order to update certain references to "exit day" with reference to "IP completion day".

7. Policy background

What is being done and why?

7.1 This instrument introduces amendments to existing secondary legislation, by way of amendment of S.I. 2018/1370, coming into force at the end of the TP. The amendments relate to matters which have been identified as deficiencies in the legislation arising from the UK's withdrawal from the EU.

7.2 The amendments ensure the references to EU provisions in that legislation relate to the provisions as they had effect immediately before the end of the TP. Without these amendments references in the legislation to EU provisions would, amongst other things, not include any changes to EU law made between 'exit day' and the end of the Transition Period ("TP").

7.3 The effect of this instrument is to amend the following regulations by amending S.I. 2018/1370 to ensure references to "exit day" are amended to "IP completion day".

- The Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995[3].
- The Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995[4].
- The Borehole Sites and Operations Regulations 1995[5] .
- The Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996[6].
- Control of Artificial Optical Radiation at Work Regulations 2010[7].

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

8.1 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 as it is being made using powers in the European Union (Withdrawal Agreement) Act 2020 to amend, in consequence of the Withdrawal Agreement, provisions made under the European Union (Withdrawal) Act 2018 that address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the UK from the EU.

9. Consolidation

9.1 There are no plans for consolidation.

[3] http://www.legislation.gov.uk/uksi/1995/738/made
[4] https://www.legislation.gov.uk/uksi/1995/743/contents/made
[5] https://www.legislation.gov.uk/uksi/1995/2038/contents/made
[6] http://www.legislation.gov.uk/uksi/1996/913/contents/made
[7] http://www.legislation.gov.uk/uksi/2010/1140/contents/made

10. Consultation outcome

10.1 As this instrument is making simple technical consequential provision and the impacts on business for complying with that provision have been assessed as minimal, the Department has concluded that consultation is not necessary.

11. Guidance

11.1 Specific guidance for this instrument is not required as the primary purpose is to ensure that the statutory instruments listed in paragraph 7.3 function as intended on IP completion day.

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 A full impact assessment has not been prepared for these Regulations because they will maintain the status quo. However, a de minimis assessment was conducted for The Health and Safety (Amendment) (EU Exit) Regulations 2018[8] and it concluded that there would be no impact on businesses or the public sector.

13. Regulating small business

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

13.2 This instrument amends legislation already made to ensure that it functions as intended and does not place any new obligations on business. It will not therefore have any disproportionate impact on small business.

14. Monitoring & review

14.1 No specific monitoring arrangements are needed.

14.2 Although this instrument is made under the European Union (Withdrawal Agreement) Act 2020, it amends provisions made under the European Union (Withdrawal) Act 2018 for which no review clause is required. Consequently, no review clause is included for this instrument.

15. Contact

15.1 Dipti Kerai at the Health and Safety Executive Telephone: 0203 028 3222 or email: Dipti.kerai@hse.gov.uk can be contacted with any queries regarding the instrument.

15.2 Kate Haire, Deputy Director for Regulation, International and Major Hazards Policy at the Health and Safety Executive can confirm that this Explanatory Memorandum meets the required standard.

15.3 Mims Davies, Parliamentary Under Secretary of State for Employment at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

[8] http://www.legislation.gov.uk/uksi/2018/1370/made