EXPLANATORY MEMORANDUM TO

THE RETURN OF CULTURAL OBJECTS (REVOCATION) (EU EXIT) (AMENDMENT) REGULATIONS 2020

2020 No. 2020

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Digital, Culture, Media and Sport 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 To amend the Return of Cultural Objects (Revocation) (EU Exit) Regulations 2018 ('the 2018 Regulations') in relation to non-commencement "exit day" references. These Regulations replace references to "exit day" currently contained in the 2018 Regulations with "IP completion day". These amendments are made so that the statute book functions correctly at the end of the Transition Period.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument was presented to the Sifting Committees on 21 July 2020 where the Committees recommended that the Return of Cultural Objects (Revocation) (EU Exit) (Amendment) Regulations 2020 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure).

3.2 Therefore, the requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 relating to the appropriate Parliamentary procedure for these Regulations have been satisfied.

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)

3.3 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 whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of 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 This instrument makes changes to secondary legislation concerning retained EU law that was made under the European Union (Withdrawal) Act 2018, which are required as a consequence of the European Union (Withdrawal Agreement) Act 2020. Specifically, the words "exit day" contained in regulations 4 and 5 of the 2018 Regulations are to be replaced with "IP completion day" to ensure that the statute book functions correctly at the end of the Transition Period.

7. Policy background

What is being done and why?

7.1 Amendments to the 2018 Regulations are required in order to replace non-commencement references to "exit day" with "IP completion day". The 2018 Regulations, when commenced, revoke both the Return of Cultural Objects Regulations 1994 and the Return of Cultural Objects (Amendment) Regulations 2015, but save them in respect of any application by a Member State for return of a cultural object where that application is received by the Secretary of State before exit day. The amendments contained in these Regulations will provide that such provisions, instead, will be saved in respect of any application by a Member State for return of a cultural object where that application is received by the Secretary of State before IP completion day.

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

8.1 This instrument is being made under the European Union (Withdrawal) Act 2018 as it relates to the withdrawal of the United Kingdom from the European Union, and addresses 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.

10. Consultation outcome

10.1 As there is no policy change and no questions relating to how to correct the deficiency, no public consultation was undertaken.

11. Guidance

11.1 No guidance is required.

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's impact will be negligible.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

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

15. Contact

15.1 Marcus Dean at the Department for Digital, Culture, Media and Sport, email: marcus.dean@dcms.gov.uk or 020 7211 2407 can be contacted with any queries regarding the instrument.

15.2 Helen Whitehouse, Deputy Director Museums and Cultural Property, at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Caroline Dinenage MP at the Department for Digital, Culture, Media and Sport 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	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
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 14, 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 15, 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. Sifting statement(s)

1.1 The Minister for Digital and Culture, Caroline Dinenage MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Return of Cultural Objects (Revocation) (EU Exit) (Amendment) Regulations 2020 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)."

1.2 This is the case because the instrument replaces non-commencement references to "exit day". This instrument replaces references to "exit day" currently contained in the Return of Cultural Objects (Revocation) (EU Exit) Regulations 2018 with "IP completion day". Further detail is provided in paragraph 7 of the Explanatory Memorandum.

2. Appropriateness statement

2.1 The Minister for Digital and Culture, Caroline Dinenage MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Return of Cultural Objects (Revocation) (EU Exit) (Amendment) Regulations 2020 does no more than is appropriate".

2.2 This is the case because this instrument is necessary to ensure that the statute book functions correctly at the end of the Transition Period.

3. Good reasons

3.1 The Minister for Digital and Culture, Caroline Dinenage MP, 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."

3.2 These reasons are provided in paragraph 7 of the Explanatory Memorandum.

4. Equalities

4.1 The Minister for Digital and Culture, Caroline Dinenage MP, has made the following statement(s):

"The draft 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."

4.2 The Minister for Digital and Culture, Caroline Dinenage MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the draft instrument, I, Caroline Dinenage MP, 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."

5. Explanations

5.1 The explanations statement has been made in paragraph 2 of the Explanatory Memorandum.