EXPLANATORY MEMORANDUM TO

THE UNION CIVIL PROTECTION MECHANISM (REVOCATION) (EU EXIT) REGULATIONS 2021

2021 No. 896

1. Introduction

1.1 This explanatory memorandum has been prepared by the Cabinet Office 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 made using powers in the European Union (Withdrawal) Act 2018, in order to address a deficiency in domestic law arising from the withdrawal of the United Kingdom from the European Union (EU). The instrument revokes Decision 1313/2013/EU (hereafter "the Decision") and Decision (EU) 2019/420 which govern the Union Civil Protection Mechanism (hereafter, "the UCPM"), and seven implementing acts[1] which lay down more detailed rules for the implementation of those Decisions. The instrument also revokes Decision 1999/847/EC and Decision 2005/12/EC which established and extended respectively a Community Action Programme in the field of civil protection, which ceased on 31 December 2006.

Explanations

What did any relevant EU law do before exit day?

2.2 The Decision facilitates coordination in the field of civil protection in order to improve the response of EU Member States and participating states of the UCPM to natural and man-made disasters. The European Commission coordinates disaster prevention, preparedness and response activities via the UCPM. The UCPM funds or partly funds research, cooperative projects, training, exercises, equipment and co-funding of transport providing assistance during disaster responses both inside and outside of Europe. In accordance with Article 28 of the Decision, six third countries currently participate in the UCPM: Turkey; Iceland; Norway; Serbia; North Macedonia and Montenegro.

2.3 On 21 March 2019, the Decision was amended by Decision (EU) 2019/420, which established an additional reserve capability (rescEU) for responding to exceptional events such forest fires. Member States can draw on the response assets in rescEU as a last resort when overwhelmed by disasters. rescEU assets are largely funded by the European Commission and owned by Member States.

2.4 As an EU Member State, the UK had participated in the UCPM since its inception in 2001. To support disasters both inside and outside of Europe, the UK has utilised

[1] Commission Implementing Decision 2014/762/EU, Commission Implementing Decision (EU) 2018/142, Commission Implementing Decision (EU) 2019/570, Commission Implementing Decision (EU) 2019/1310, Commission Implementing Decision (EU) 2019/1930, Commission Implementing Decision (EU) 2020/414 and Commission Implementing Decision (EU) 2020/452.

transport co-funding when sending humanitarian assistance and civil protection expertise through the mechanism. More recently, co-funding has also been utilised for the repatriations of UK and European citizens from select parts of the world during the Covid-19 pandemic. The UK has never requested assistance to respond to domestic disasters via the UCPM. Any country, both inside and outside of the EU can request emergency assistance through the mechanism. There are seven implementing acts which set out more specific rules governing how the Decision works in practice.

2.5 Decision 1999/847/ EC established a Community Action Programme in the field of civil protection which was extended by Decision 2005/12/EC. This was a precursor to the UCPM and allowed for cooperation between Member States during the period 1 January 2000 to 31 December 2006.

Why is it being changed?

2.6 The legislation provides for participation in the UCPM as an EU Member State, and the UK is no longer an EU Member State. Retaining this EU legislation in UK domestic law serves no purpose as it became redundant once the UK left the EU, which is why it is being revoked. Accordingly, this revocation will address a deficiency in retained law and will maintain a coherent statute book to avoid any legal uncertainty as to the application of the legislation in the UK.

What will it do now?

2.7 This instrument will revoke this legislation as it operates in domestic law. The legislation will continue to operate in EU law.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument was laid for sifting, under paragraph 3 of Schedule 7 to the European Union (Withdrawal) Act 2018, on 25th March 2021 by the Paymaster General. She considered that the appropriate Parliamentary procedure for the instrument was that it should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the "negative procedure"), and made a statement to that effect as detailed in Part 2 of Annex 1 to this Explanatory Memorandum.

3.2 The Secondary Legislation Scrutiny Committee of the House of Lords, at its meeting on 13th April 2021, scrutinised the instrument and agreed that the negative procedure should apply to the instrument.

3.3 The European Statutory Instruments Committee of the House of Commons, at its meeting on 20th April 2021, scrutinised the instrument and agreed that the negative procedure should apply to the instrument.

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)

3.4 Not applicable.

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 Section 8(1) of the European Union (Withdrawal) Act 2018 provides for a Minister of the Crown to deal with deficiencies arising from the withdrawal of the UK from the EU. This includes law which continues to form part of UK law under sections 2 and 3 of that Act (namely, saving for EU-derived domestic legislation and the incorporation of direct EU legislation).

6.2 These Regulations address deficiencies under section 8(2)(a) (retained EU law has no practical application in relation to the United Kingdom or any part of it or is otherwise redundant or substantially redundant) and section 8(2)(b) (retained EU law confers functions on, or in relation to, EU entities which no longer have functions in that respect under EU law in relation to the United Kingdom or any part of it).

7. Policy background

What is being done and why?

7.1 Information on the background to and necessity for this instrument can be found in section 2 of this Explanatory Memorandum.

7.2 The instrument revokes eleven instruments of retained EU legislation relating to civil protection because it became redundant upon Implementation Period (IP) completion day, when the UK ceased to be an EU Member State.

7.3 Revoking the legislation will remove any legal uncertainties and ensure a coherent statute book. Not proceeding with this instrument preserves legislation which no longer applies to the UK following IP completion day. Revoking the legislation will not have an impact on the UK's ability to respond to disasters within the UK and globally.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is being made using the power in section 8 of 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. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

9.1 Not applicable. This instrument revokes legislation.

10. Consultation outcome

10.1 Consultation is not necessary because this instrument makes purely technical changes to revoke redundant retained EU law, which will no longer be relevant to the UK following the UK's withdrawal from the EU.

10.2 The Minister of the Crown is making this instrument in England and Wales, Scotland and Northern Ireland, in accordance with the power in section 8 of the European

Union (Withdrawal) Act 2018. The Minister of the Crown has written to ministers from the Devolved Administrations about the preparation of this instrument. No concerns were raised in response.

11. Guidance

11.1 No guidance is provided alongside this instrument, as it does not require action or interpretation in order to be effective.

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 it will have no, or no significant, impact on the private, voluntary or public sector.

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 EU (Withdrawal) Act 2018, no review clause is required.

15. Contact

15.1 Amal Hassan at the Cabinet Office, email: Amal.Hassan@cabinetoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Natasha Grant, Deputy Director for Civil Contingencies Secretariat at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Penny Mordaunt MP, Paymaster General at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.