ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE

AGENDA

26th Meeting, 2020 (Session 5)

Tuesday 6 October 2020

The Committee will meet at 9.00 am in a virtual meeting and be broadcast on www.scottishparliament.tv.

1. **Scottish Government Budget 2021-22:** The Committee will take evidence on the Scottish Government's Budget 2021-22 from—
   
   Roseanna Cunningham, Cabinet Secretary for Environment, Climate Change and Land Reform;
   
   Kate Forbes, Cabinet Secretary for Finance;
   
   Dougie McLaren, Deputy Director Public Spending, Rachel Gwyon, Deputy Director Infrastructure and Investment Division, Kersti Berge, Director of Energy and Climate Change, Simon Fuller, Deputy Director, RESAS, and Alastair Mitchell, Deputy Director, Aquaculture and Recreational Fisheries, Scottish Government.

2. **European Union (Withdrawal) Act 2018:** The Committee will consider a proposal by the Scottish Government to consent to the UK Government legislating using the powers under the Act in relation to the following UK statutory instrument proposal—
   
   The Air Quality (Amendment) (Northern Ireland) (EU Exit) Regulations 2020.

3. **Subordinate legislation:** The Committee will consider the following negative instrument—
   
   The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Amendment Order 2020.

4. **Regional Marine Planning inquiry (in private):** The Committee will consider written evidence received by the Committee on the inquiry.
5. **Work programme (in private):** The Committee will consider its work programme.

Lynn Tullis  
Clerk to the Environment, Climate Change and Land Reform Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
Tel: 0131 348 5240  
Email: ecclr.committee@parliament.scot.

The papers for this meeting are as follows—

**Agenda item 1**

Note by the Clerk  
PRIVATE PAPER  
ECCLR/S5/20/26/1

**Agenda item 2**

Note by the Clerk  
PRIVATE PAPER  
ECCLR/S5/20/26/2 (P)

**Agenda item 3**

Note by the Clerk  
PRIVATE PAPER  
ECCLR/S5/20/26/3

**Agenda item 4**

PRIVATE PAPER  
ECCLR/S5/20/26/4 (P)

**Agenda item 5**

PRIVATE PAPER  
ECCLR/S5/20/26/5 (P)
Environment, Climate Change and Land Reform Committee

26th Meeting, 2020 (Session 5), Tuesday 6 October 2020

Scottish Government Budget 2021-22 – pre-Budget scrutiny

Introduction

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Finance and the Cabinet Secretary for Environment, Climate Change and Land Reform, as one panel. The Cabinet Secretaries will be supported by officials.

Background

2. No Budget statement was delivered by the Chancellor of the Exchequer during 2019 (the Budget planned for that Autumn was cancelled due to the timing of the 2019 General Election). As a consequence, the Scottish Budget 2020-21 was published later than normal, on 6 February 2020 and, unusually, in advance of the UK Government’s Budget (March 2020). A Carbon Assessment of the Budget was published alongside the Scottish Budget.

3. Preceding the UK Government’s Budget meant that the total Scottish spending envelope for 2020-21 was still uncertain. The Scottish Budget 2020-21 was also published and agreed before Covid-19 was perceived as posing a significant health risk to the UK.

Impact of the current health pandemic

4. Reacting to the current pandemic has been a priority across all sectors and has had adverse impacts at national, local and personal levels. In terms of the Budget commitments and the Programme for Government, many previously planned aspects have been paused including the proposed Circular Economy Bill and the work on preparing for and hosting COP26 in Glasgow in 2020.

5. The next Scottish Budget - 2021-22 - is due to be published in December 2020. Publication usually happens after the UK Budget has been outlined. However, the UK Government has announced that it has ‘cancelled’ the upcoming autumn Budget, scheduled for November, and this will be replaced with a spending review1. The Chancellor of the Exchequer presented a Winter Economy Plan to the UK Parliament (on 24 September 2020) to outline how the government will support jobs and the economy over the coming months; this contained measures relevant to Scotland2.

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1 https://www.bbc.co.uk/news/business-54267795
6. Also on 24 September 2020, the Scottish Government published its draft infrastructure investment plan 2021-2022 to 2025-2026\(^3\) for consultation as well as its capital spending review framework 2021-2022 to 2025-2026\(^4\) document.

7. The Cabinet Secretary for Finance made a statement to the Parliament on 29 September 2020 to “provide an update linked to the publication of the autumn budget revision, which was laid on Thursday 24 September, and on related budget matters”—

*Official Report, Meeting of the Parliament, 29 September 2020*

8. In her statement to the Parliament, the Cabinet Secretary said—

   “The draft infrastructure investment plan sets out a clear vision to support and enable an inclusive net zero emissions economy. It includes the details of around £24 billion of major projects and national programmes that we can confirm now, with more to be added in future years. Infrastructure has a vital role to play in supporting jobs and helping businesses and communities to adapt and recover from the impact of Covid-19. Moreover, the package of investments set out in the draft plan responds to Scotland’s economic, social and environmental needs, and supports sustainable and inclusive growth for all.” (Official Report, column 6)

9. It has not yet been confirmed when the Scottish Government will publish the Scottish budget 2021-22.

10. The Cabinet Secretary is due to meet with the Finance and Constitution Committee on Wednesday 7 October; there may be further clarity following that meeting on the process for the upcoming budget year.

**Response to the current health pandemic**

11. A green, just and resilient recovery has been highlighted by Governments across the world, including the Scottish Government, as essential in effectively responding to the current challenges of the COVID-19 health crisis (including the social and economic challenges).

12. The Committee is currently undertaking an inquiry to establish the principles that could underpin a green recovery, to identify key actions for change, immediate priorities, potential barriers to implementation and the governance arrangements needed to deliver this.

13. It is intended that the Committee report ahead of the 2021/22 draft budget and the updated climate change plan.

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Focus of the meeting with the Cabinet Secretaries

14. Some themes have emerged from the Committee’s inquiry so far. It is suggested that the meeting focus on the following issues:

   The need for—

   • all public expenditure to be coherent with addressing the climate and ecological crises and building a wellbeing economy.
   • implementation of existing investment recommendations, e.g. Infrastructure Commission for Scotland, recommendations of UKCCC.
   • investment in nature-based solutions (e.g. woodland creation, peatland restoration) to form part of a green recovery package.
   • outlining spending plans for replacement funding for EU support (e.g. agriculture) and how these align with public objectives on climate change and biodiversity loss.
   • greater investment in research and innovation.
   • investment in job creation in green industries.
   • broader changes to taxation, including for interventions requiring collaboration with the UK Government (e.g. changes to VAT).
   • the resourcing for public services to deliver public objectives.

15. A briefing note from SPICe is attached as a separate paper (private) and expands on these themes.

Next Steps

16. It is anticipated that the Scottish Government Budget Bill 2021-22 will be introduced in December 2020. This is subject to confirmation from the Scottish Government.

17. The Committee will consider the evidence heard later in this meeting. It is intended that the Committee reports to the Parliament at the end of October 2020.

Clerks
Environment, Climate Change and Land Reform Committee
Current Scottish Budget (2020-21) and the ECCLR portfolio

Level 2 budget information for the ECCLR portfolio (Annexe A) shows spending increasing from £426.6 million in 2019-2020 to £461.8 million in 2020-21 – a 6.3% increase in real terms.

<table>
<thead>
<tr>
<th>Level 2</th>
<th>2018-19 Budget £m</th>
<th>2019-20 Budget £m</th>
<th>2020-21 Budget £m</th>
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<td>66.6</td>
<td>71.0</td>
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<tr>
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<td>64.7</td>
<td>65.5</td>
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<td>UK Funded AME</td>
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Environment, Climate Change and Land Reform Committee  
26th Meeting, 2020 (Session 5), Tuesday, 6 October 2020  

European Union (Withdrawal) Act 2018 - consideration of consent notifications

Introduction

1. This paper supports the Committee’s consideration of a consent notification sent by the Scottish Government relating to the following UK statutory instrument (SI)—
   - The Air Quality (Amendment) (Northern Ireland) (EU Exit) Regulations 2020

2. These regulations are being laid in relation to the European Union (Withdrawal) Act 2018. To assist the consideration of such instruments, a protocol has been put in place between the Scottish Government and Scottish Parliament. Further detail on this protocol is available in a letter from the Cabinet Secretary for Government Business and Constitutional Relations.

Contents of this paper

Annexe
   Environment – Notification from the Scottish Government to the Scottish Parliament: The Air Quality (Amendment) (Northern Ireland) (EU Exit) Regulations 2020

Reporting

3. Under the protocol referred to above, the Committee has the following two options following its consideration of UK SIs—
   
   a) Write to the Scottish Government to confirm it is content for consent for a UK SI to be given; or

   b) Consider the matter further, take evidence if appropriate and make a report to the Parliament.

4. If it chooses to report, it may make one of the following three recommendations—
   
   a) it is content for consent to be given for a UK SI to be made in the UK Parliament only.

   b) it is not content with the Scottish Government granting its consent and that the proposals should be made by an SSI; or
c) it is not content with the Scottish Government granting its consent and that the proposals should be included as a UK SI in both Parliaments, made under the joint procedure.

5. The Committee’s role in the protocol is to decide whether it agrees to the Scottish Government offering its consent to the UK Government to make regulations on its behalf. However, there are broader policy issues which may arise in future, not as a direct consequence of the notification, but due to Brexit itself. These broader policy issues will be identified in relation to each instrument where appropriate. In such cases, the Committee may wish to note these issues in its response to the Scottish Government and request that it be kept up to date on any developments on these matters.

**Instruments for consideration at this meeting**

6. This table notes the instrument: the notification related to the instrument is included in annexe to this paper.

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Category</th>
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<tbody>
<tr>
<td>The Air Quality (Amendment) (Northern Ireland) (EU Exit) Regulations 2020</td>
<td>A</td>
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Category A is understood to mean changes to retained EU law are minor or technical. Category B would make changes to retained EU law that are more significant (not merely minor).

**Decision**

7. The Committee is asked to consider the consent notification referred to in this paper and determine whether it is content to write to the Scottish Government to confirm it is content for consent to be given for the UK SI referred to in the notification.

*Clerks, Environment, Climate Change and Land Reform Committee*
The Air Quality (Amendment) (Northern Ireland) (EU Exit) Regulations 2020

1. Name of instrument and summary of proposal

The Air Quality (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 make amendments to the Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019 (“the 2019 regulations”) and the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 (“the 2018 regulations”) which are necessary to implement the Protocol on Ireland/Northern Ireland Protocol in the EU Withdrawal Agreement (“NIP”). The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020 also make amendments to the 2018 regulations, for matters where there are no NIP related changes.

2. Explanation of law that the proposals amend and summary of the proposals

The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012 (“the 2012 regulations”), as referred to in regulation 2 of this instrument, implement Directive 2004/42/EC on the limitation of emissions of volatile organic compounds from these products. The 2019 Regulations made one definitional change to reflect that the 2012 regulations now no longer apply to paints, varnishes and vehicle refinishing product to be used in a country or territory outside of the customs territory of the United Kingdom, rather than outside of the customs territory of the European Union as previously. The current instrument amends the 2019 regulations to reflect that in Northern Ireland the 2012 regulations will continue to apply such products which are to be used in a country or territory in the customs territory of the EU, as required by the NIP.

Decision 2017/1442/EU establishing best available techniques (BAT) conclusions under Directive 2010/75/EU for large combustion plants was amended by regulation 20 of the 2018 Regulations, as referred to in regulations 3 (1) and 3 (2) of this instrument. The purpose of regulation 20 in the 2018 regulations was to ensure that BAT conclusions continue to apply in the UK after exit day, as well as including some new definitions for clarity. Regulation 3 (1) and 3 (2) of the current instrument makes amendments to the 2018 regulations to ensure that any activity which comes within the scope of a Northern Ireland Protocol obligation is not covered by the 2018 regulations.

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1 The Scottish Parliament recommended (1) on 4 December 2018 that the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 (following the notification to the Parliament on 13 November 2018 and (2) also on 4 December 2018 that the Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019 (following the notification to the Parliament also on 13 November 2018 should both include Scottish devolved matters. This notification should be read alongside the notifications that were provided for these two sets of regulations now being amended.

2 This notification should also be read alongside the notification provided for the Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020 that was provided on 28 August 2020.
Decision 2018/1135/EU establishing the type, format and frequency of information to be made available by the Member State for the purposes of reporting on the implementation of Directive 2010/75/EU on industrial emissions was amended by regulation 22 of the 2018 regulations to replace ‘Member State’ by ‘appropriate authority’ and to make changes to the information provision requirements, as referred to in regulation 3 (3) of the current instrument. Regulation 3 (3) makes amendments to the 2018 regulations to ensure that any activity which comes within the scope of a Northern Ireland Protocol obligation is not covered by the 2018 regulations.

Decision 2019/2010/EU establishing the BAT conclusions under Directive 2010/75/EU for waste incineration is amended by a new provision introduced by regulation 3 (4) of the current instrument. Regulation 3 (4) ensures that BAT conclusions for waste incineration continue to apply in the UK after exit day, but excludes any activity which comes within the scope of a Northern Ireland Protocol obligation.

3. Why are these changes necessary?

Regulations 2 and 3 ensure that the 2018 and 2019 regulations are consistent with the requirements of the NIP. Regulation 4 ensures that retained EU law continues to operate effectively after the withdrawal of the UK from the EU and amends Decision 2019/2010/EU which was adopted after the 2018 regulations came into force and therefore was not covered by previous amendments to retained EU law in relation to air quality.

The only new air quality changes made by this instrument (regulation 4) are technical in nature and have no policy implications. The changes made by regulation 4 include amendments to implement the NIP. The changes made by regulations 2 and 3 introduce no new air quality provisions and relate solely to the requirements of the NIP. Northern Ireland will continue to be subject to the relevant provisions of EU law, rather than the retained EU law as amended by the 2018 Regulations.

4. Scottish Government categorisation of significance of the proposals

Category A. This is on the basis that they are primarily concerned with making minor adjustments to legislation; they are part of a package of wider legislation on air quality arising from EU withdrawal.

5. Impact on devolved area

So far as the changes relate to air quality, the only new provision is introduced by regulation 4. The provisions related to the NIP within this instrument are minor and technical in nature. Although air quality is a devolved area, the change relates to policies and other procedures which are currently exercised on a joint UK basis for reasons of practicality, efficient use of resources and ease of collaboration. The intention is for this approach to continue.

The Scottish Government still has concerns about the operation of the NI Protocol, but we also recognise the need to prepare for the end of the Implementation Period. We
are therefore proceeding on the basis that we are notifying the Scottish Parliament now of our intention to consent to these instruments, but invite the committee to note that the SG continues to engage with the UK Government on the NIP.

6. Stakeholder engagement/consultation

We have written to our stakeholders setting out the general approach we are taking to correcting deficiencies in environmental legislation and we are in regular contact with all our stakeholders regarding the move towards the end of the implementation period. However, these measures are aimed solely at preserving the functioning of the law as it stands at present and, therefore, we have not undertaken any engagement, or any formal consultation, about these specific amendments.

7. Any other impact assessments

On the basis that these amendments do not result in any policy changes, no impact assessment has been prepared.

8. Summary of reasons for Scottish Ministers proposing to consent to UK Ministers legislating

Scottish Ministers consider that consenting to the Regulations is the most effective and transparent way to make changes to address deficiencies which require a UK-wide approach.

9. Have Scottish Ministers had regard to the guiding principles on animal welfare and the environment?

Yes. The guiding principles on the environment as set out in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union are relevant to these proposals. The legislation implementing the relevant Directives is already in line with these principles, and as no policy changes are being introduced, it is considered that the amendments in this statutory instrument are in adherence with these principles.

10. Are there governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

To the extent these measures affect devolved statutory regimes, they will be within the scope of the new environmental governance arrangements that are proposed in the UK Withdrawal from the European Union (Continuity) (Scotland) Bill. Where there are interactions with reserved regimes, we will expect the new Scottish governance body to reflect this through cooperation, as appropriate, with the UK environmental governance body proposed in the UK Environment Bill.

11. Intended laying date

13 October 2020.

12. Does the Scottish Parliament have 28 days to scrutinise?

Yes.
13. **Information about any time dependency associated with the proposal?**

It is essential that the Regulations are in force at the end of the Implementation Period in order to ensure legislation functions as intended after the UK’s withdrawal from the EU.

14. **Any significant financial implication?**

None.

15. **Additional information to note**

None.

Lead Official: Andrew Taylor
Environmental Quality & Circular Economy
CHEMICALS - NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020

1. Name of instrument and summary of proposal:

On 3 September 2019, the Scottish Parliament recommended that the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2019 (“the 2019 regulations”) should include Scottish devolved matters, as set out in the notification provided by the Scottish Government on 13 June 2019. Those 2019 regulations were not progressed in the UK Parliament due to holding of the UK General Election on 12 December 2019. Instead, the UK Government Department for the Environment Food and Rural Affairs now intends to lay the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020 (“the 2020 regulations”) at Westminster under the draft affirmative procedure on 1 October 2020.

The 2020 regulations amend the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018 (“the initial regulations”) to take account of developments since the initial regulations were laid in the UK Parliament on 21 December 2018.

This notification should be read alongside the notification that was provided for the 2019 regulations.3

2. Explanation of law that the proposals amend and summary of the proposals

Regulation (EU) 2019/1021 of the European Parliament and of the Council on Persistent Organic Pollutants (“recast EU POPs Regulation”) is the mechanism by which the EU and its Member States, including the UK have, until now, implemented the provisions of the Stockholm convention on Persistent Organic Pollutants through the elimination and restriction of the use of chemicals that have been internationally recognised as toxic, persistent, bio-accumulative and highly mobile.

Following exit day, the recast EU POPs regulation will become retained EU law. The 2020 regulations make the necessary corrections to ensure that the recast EU POPs Regulation functions in the UK from the end of the transition period. This includes transferring legislative and administrative functions that are currently conferred by EU legislation upon the European Commission and the European Chemicals Agency, to be exercisable instead by Secretary of State, the Scottish Ministers and the Welsh Ministers. All of these corrections and transfers of functions were included in the 2019 regulations which the Parliament has already recommended consent to.

3 The notification in relation to the 2019 Regulations explained that the Scottish Parliament recommended (1) (on 5 December 2018) that the initial regulations (following the notification to the Parliament on 8 November 2018) and (2) (on 18 December 2018) that the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019 (following the notification to the Parliament on 27 November 2018) should both include Scottish devolved matters. This notification should be read together with those earlier notifications in 2018.
The 2020 Regulations also make new minor and technical amendments to take account of the implementation of the Protocol on Ireland/Northern Ireland (“NIP”); these amendments were not included in the the 2019 POPs EU exit regulations but they do not impact on devolved matters in relation to Scotland.

Part 2 of the 2020 Regulations revokes amendments made to Part 3 of the Persistent Organic Pollutants Regulations 2007 by the initial regulations to ensure that, in line with the NIP, Northern Ireland now retains certain duties of member states under the recast EU POPs Regulation (as it continues to apply in EU law).

Further amendments are made to the retained EU law to reflect the fact that, in line with the NIP, the retained EU law in relation to POPs applies only to GB. As explained above, Northern Ireland will be subject to the recast EU POPs legislation as it applies in EU law and Part 3 of the 2020 Regulations therefore no longer includes references to Northern Ireland and its departments, or to Northern Ireland domestic legislation, in the amendments it makes to the retained EU law.

3. Why are these changes necessary?

The 2020 regulations are necessary to reflect the recast EU POPs Regulation and they correct identified deficiencies. This ensures that the retained EU law in relation to POPs will continue to function effectively after the end of the implementation period. The additional provisions which have been added since the notification for 2019 regulations was submitted are necessary to implement the Protocol on Ireland/Northern Ireland (“NIP”).

4. Scottish Government categorisation of significance of proposals

Category B. The main substantive provisions which relate to devolved powers in Scotland, including regulation-making powers, in the 2020 Regulations have already been notified to, and consent given by, the Parliament. The only minor change to the regulation-making powers from the 2019 version of the regulations is that regulation 22 extends the application of the affirmative procedure to regulations made under the new Article 18 of the recast EU POPs Regulation which widen the scope of any criminal offences (in addition to regulations which create new criminal offences.)

5. Impact on Devolved Area

There remains ongoing engagement between the Scottish Government and the UK Government regarding the practical implications of the Northern Ireland Protocol. However, our assessment is that the NIP-related provisions contained within this instrument are minor and technical in nature. The main differential that would result is that Scotland would have powers to nominate chemicals to the Stockholm convention and to amend annexes of the (retained and amended) POPs regulations, whereas Northern Ireland would still have to do so via the EU. Our assessment is that this does not have a substantive impact on devolution or Scottish interests.
6. Stakeholder engagement/consultation

We have been and are continuing to deepen our contact with stakeholders through the EU exit process. However, these measures are aimed solely at preserving the functioning of the EU and domestic regulations as they are at present and we have not undertaken any focussed engagement on this basis.

The UK Government are of the view that as this legislation does not produce any change in policy, formal stakeholder or public consultation is not necessary, rather they have had a consistent programme of informal consultation with stakeholders.

Stakeholders in this area are primarily UK- or EU- wide, such as trade bodies or environmental groups, and they have been clear and consistent that they wish to see the regulatory systems of the EU-27 and the UK remain highly aligned.

7. Any other impact assessments

No additional impact assessments have been undertaken as the substantive content of the instrument as it relates to Scotland is identical to the previous notification which was agreed.

8. Summary of reasons for Scottish Ministers proposing to consent to UK Ministers legislating

As per previous notification.

9. Have Scottish Ministers had regard to the guiding principles on animal welfare and the environment?

Yes. The guiding principles on the environment as set out in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union are relevant to these proposals. The existing EU POPs regulations are already in line with these principles, and as no policy changes are being introduced, it is considered that these amendments are in adherence with these principles.

10. Are there governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

To the extent these measures affect devolved statutory regimes, they will be within the scope of the new environmental governance arrangements that are proposed in the UK Withdrawal from the European Union (Continuity) (Scotland) Bill. Where there are interactions with reserved regimes, we will expect the new Scottish governance body to reflect this through cooperation, as appropriate, with the UK environmental governance body proposed in the UK Environment Bill.

We remain engaged in framework discussions with all the administrations of the UK and the relevant regulators specifically looking at the regulation of chemicals and pesticides in the UK outside of the EU and its existing regimes.
The Scottish Government’s position remains that future arrangements should be based on staying closely aligned with the EU chemicals regulatory regime and maintaining existing standards of protection for human health and the environment.

11. Intended laying date

The instrument is intended to be laid at Westminster under the draft affirmative procedure on 1 October 2020.

12. Does the Scottish Parliament have 28 days to scrutinise?

Yes.

The Scottish Government still has concerns about the operation of the NI Protocol, but we also recognise the need to prepare for the end of the Implementation Period. We are therefore proceeding on the basis that we are notifying the Scottish Parliament now of our intention to consent to these instruments, but invite the committee to note that the SG continues to engage with the UK Government on the NIP.

13. Information about any time dependency associated with the proposal?

It is essential that the 2020 Regulations are in force at the end of the transition period in order to correct deficiencies and implement the NIP, and ensure that legislation is operable to allow continued high levels of protection for human health and the environment.

14. Any significant financial implication?

As per previous notification.

Environmental Quality and Circular Economy Division
Environment, Climate Change and Land Reform Committee

26th Meeting, 2020 (Session 5), Tuesday 6 October 2020

SSI 2020/281: The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Amendment Order 2020

Type of Instrument: Negative

Laid Date: 14 September 2020

Meeting Date: 6 October 2020

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament’s attention by the Delegated Powers and Law Reform Committee? No

Reporting deadline: 2 November 2020

Background

1. SSI (2020/281): The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Amendment Order 2020 was laid in the Scottish Parliament on 14 September 2020 and referred to the Environment, Climate Change and Land Reform Committee for consideration under the negative procedure. The SSI is being laid before the Scottish Parliament under section 96(5) and (6) of the Climate Change (Scotland) Act 2009. The negative instrument is subject to annulment within 40 days of it being laid.

Purpose of the instrument

2. This Order amends the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015 (“the 2015 Order”).

3. This Order updates the list of public bodies in schedule 1 of the 2015 Order. Bodies listed in that schedule are required to prepare reports on compliance with climate change duties imposed under (or by virtue of) section 44 of the Climate Change (Scotland) Act 2009.

4. It adds Crown Estate Scotland, and the Scottish Land Commission to the list of public bodies required to report in accordance with article 3 of the 2015 Order.

5. This Order requires listed public bodies to provide information in their annual reports about how the body will align its spending plans and use of resources to contribute towards delivering its emissions reduction targets. It adds new reporting requirements, detailed below in the ‘New Reporting Requirements’ section.
Policy Objectives

6. Section 44(1) of the Climate Change (Scotland) Act 2009 ("the 2009 Act") places public bodies under a duty to contribute to the delivery of Scotland’s national emissions reduction targets and the national adaptation programme, and to act in a way the body considers to be most sustainable. The Scottish Ministers made the 2015 Order under section 46(1) of the 2009 Act. The 2015 Order requires the public bodies listed in schedule 1 of that Order to report annually on compliance with these duties, using the form specified in schedule 2 of the Order.

7. Scottish Ministers’ objective in strengthening public bodies’ reporting requirements by way of this amending Order is to support the public sector’s leadership role in delivering Scotland’s new national target of net zero emissions of greenhouse gases by 2045, set in Part 1 of the 2009 Act (as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019).

8. A copy of the Policy Note is included in Annexe A.

Consultation


New Reporting Requirements

11. In line with the responses to the consultation, the Scottish Ministers propose to strengthen the requirements of the 2015 Order to require public bodies to include the following information in their annual reports:

- where applicable, a target date for achieving zero direct emissions of greenhouse gases, or such other targets that demonstrate how the body is contributing to Scotland achieving its emissions reduction targets;
- where applicable, any targets for reducing indirect emissions of greenhouse gases;
- how the body aligns its spending plans and use of resources to contribute to reducing emissions and delivering its emissions reduction targets;
- how the body will publish, or otherwise make available, its progress towards achieving its emissions reduction targets;
- how the body is contributing to Scotland’s Adaptation Programme (the most recent version of which was published in September 2019).

Delegated Powers and Law Reform Committee (DPLRC)

12. At its meeting on 22 September 2020, the DPLRC considered the instrument and had no comments to make.
Procedure for Negative Instruments

13. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

14. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Clerks,
Environment, Climate Change and Land Reform Committee
POLICY NOTE

THE CLIMATE CHANGE (DUTIES OF PUBLIC BODIES: REPORTING REQUIREMENTS) (SCOTLAND) AMENDMENT ORDER 2020

SSI 2020/281

The above instrument was made in exercise of the powers conferred by sections 46(1) and 96(2)(a) of the Climate Change (Scotland) Act 2009. The instrument is subject to negative procedure.

Summary Box

This Order amends the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015 ("the 2015 Order"). One of the amendments made by this Order is that listed public bodies will be required to include the following information, where applicable, in their annual reports:

- a target date for achieving zero direct emissions of greenhouse gases, or such other targets that demonstrate how the body is contributing to Scotland achieving its emissions reduction targets,
- targets for reducing indirect emissions of greenhouse gases.

This Order requires listed public bodies to provide information in their annual reports about how the body will align its spending plans and use of resources to contribute towards delivering its emissions reduction targets.

This Order amends schedule 1 of the 2015 Order to require Crown Estate Scotland and the Scottish Land Commission to prepare a report on compliance with its climate change duties in accordance with article 3 of the Order.

Policy Objectives

Section 44(1) of the Climate Change (Scotland) Act 2009 ("the 2009 Act") places public bodies under a duty to contribute to the delivery of Scotland’s national emissions reduction targets and the national adaptation programme, and to act in a way the body considers to be most sustainable. The Scottish Ministers made the 2015 Order under section 46(1) of the 2009 Act. The 2015 Order requires the public bodies listed in schedule 1 of that Order to report annually on compliance with these duties, using the form specified in schedule 2 of the Order.

Scottish Ministers' objective in strengthening public bodies’ reporting requirements by way of this amending Order is to support the public sector's leadership role in delivering Scotland's new national target of net zero emissions of greenhouse gases by 2045, set in Part 1 of the 2009 Act (as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019).
Consultation


New Reporting Requirements

In line with the responses to the consultation, the Scottish Ministers propose to strengthen the requirements of the 2015 Order to require public bodies to include the following information in their annual reports:

- where applicable, a target date for achieving zero direct emissions of greenhouse gases, or such other targets that demonstrate how the body is contributing to Scotland achieving its emissions reduction targets;
- where applicable, any targets for reducing indirect emissions of greenhouse gases;
- how the body aligns its spending plans and use of resources to contribute to reducing emissions and delivering its emissions reduction targets;
- how the body will publish, or otherwise make available, its progress towards achieving its emissions reduction targets;
- how the body is contributing to Scotland’s Adaptation Programme (the most recent version of which was published in September 2019).

Additions to List of Public Bodies Required to Report

This Order adds Crown Estate Scotland, and the Scottish Land Commission to the list of public bodies required to report in accordance with article 3 of the 2015 Order.

Timetable

This Order will come into force on 9 November 2020. The amendments made by this Order do not apply to the report year ending on 31 March 2021.

Impact Assessments

As set out in the Policy Note for the 2015 Order, screening reports were undertaken in 2015 in relation to equalities, the environment and children’s rights and welfare issues, and full impact assessments were not prepared as no such significant impacts were foreseen.

Likewise, this Order is not expected to create significant impacts in these areas.
Financial Effects

The Cabinet Secretary for Environment, Climate Change and Land Reform confirms that no BRIA is necessary. As with the 2015 Order, this Order applies only to listed public bodies and no significant additional financial impact is foreseen as bodies already report annually on climate change.

Scottish Government
Directorate for Energy and Climate Change
September 2020