

## UK MINISTERS ACTING IN DEVOLVED AREAS

### 174 - The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020

*Laid in the UK Parliament: 8 October 2020*

#### **Sifting**

Subject to sifting in UK Parliament?	No
Procedure:	Draft affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	NA
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	NA
Date sifting period ends in UK Parliament	NA
Written statement under SO 30C:	Paper 77
SICM under SO 30A (because amends primary legislation)	Not required

#### **Scrutiny procedure**

Outcome of sifting	NA
Procedure	Draft affirmative
Date of consideration by the Joint Committee on Statutory Instruments	21 October 2020
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	20 October 2020

#### **Background**

These Regulations are proposed to be made by the UK Government pursuant to sections 8(1) and 8C(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

#### **Summary**

This instrument makes the necessary corrections to ensure that Regulation (EU) 2019/1021 of the European Parliament and of the Council on Persistent Organic Pollutants ("POPs") functions in Great Britain after the end of the Implementation Period. This instrument also makes amendments for purposes relating to the implementation of the Protocol on Ireland / Northern Ireland ("the Protocol").

Following the end of the Implementation Period, the amendments to Regulation (EU) 2019/1021 will enable GB authorities to independently implement the Stockholm Convention by regulating the production, placing on the market, and use of POPs. The amendments will also allow

GB authorities to regulate stockpiles of POPs and manage waste where POPs are present. They also set out monitoring and reporting requirements. Furthermore, the amendments will create a power which will enable GB to put in place the necessary measures to ensure the control and traceability of waste contaminated by relevant pollutants.

The Stockholm Convention came into effect in 2004 and aims to eliminate or restrict the production and use of these POPs. It regulates the production, placing on the market and use of POPs, which are banned or restricted under the Stockholm Convention with exemptions and limits for the quantity of the substance allowed in new articles. It also sets out requirements to take appropriate measures to destroy POPs waste and requirements to monitor and report on listed substance elimination, stockpiles and waste management. The UK is a Party to the Stockholm Convention in its own right and continues to be bound by its international obligations under the Convention following the UK's withdrawal from the EU.

#### **Statement by Welsh Government**

Legal Advisers agree with the statement laid by the Welsh Government dated 13 October 2020 regarding the effect of these Regulations, but make the following comments:

1. Article 7 of Regulation (EU) 2019/1021, as amended by regulation 14 of these Regulations and forming part of retained EU law, provides (at the new paragraph 7 of Article 7) a power to the Welsh Ministers, or with their consent, the Secretary of State, to make regulations to ensure the control and traceability of waste containing or contaminated by a substance listed in Annex 4 of Regulation (EU) 2019/1021. A similar power is currently exercisable via section 2(2) of the European Communities Act 1972, which will cease to have effect following the end of the Implementation Period.
2. The amendments to Article 7 ensure that this power operates effectively following the end of the Implementation Period. However, it is noted that the new paragraph 14 of Article 7 of Regulation (EU) 2019/1021 provides that no regulations may be made under paragraph 7 on or after 31 October 2023 (see regulation 14(4) of these Regulations).
3. Stylistically, the statement by the Welsh Government refers to both “the 2019 Regulations” and “the 2020 Regulations”. This seems to be an error, as both terms appear to be in reference to these Regulations.

**Intergovernmental Agreement on the European Union (Withdrawal) Bill**

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.