



The Scottish Parliament
Pàrlamaid na h-Alba

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

22nd Meeting, 2019 (Session 5)

Wednesday 18 September 2019

The Committee will meet at 9.45 am in the James Clerk Maxwell Room (CR4).

1. **Declaration of interests:** Tom Mason will be invited to declare any relevant interests.
2. **Decision on taking business in private:** The Committee will decide whether to take item 6 in private.
3. **Alcohol licensing in Communities:** The Committee will take evidence from—
 - Margaret Mary Cairns, Legal Services Manager, South Lanarkshire Licensing Board;
 - Aidan Collins, Senior Coordinator, Alcohol Focus Scotland;
 - James Douglas, Legal Services Manager, Inverclyde Licensing Board;
 - Mairi Millar, Clerk, City of Glasgow Licensing Board;
 - Maria Reid, Interim Head of Health, NHS Lanarkshire;
 - Elaina Smith, Health Improvement Lead Alcohol Licensing, Glasgow City Health and Social Care Partnership;
 - Norman Work, Convener, Edinburgh Licensing Board.
4. **European Union (Withdrawal) Act 2018:** The Committee will consider whether the following instruments have been laid under the appropriate procedure—
 - The Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 (SSI 2019/273);
 - The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Amendment Regulations 2019

(SSI 2019/274).

5. **Subordinate legislation:** The Committee will consider the following negative instruments—

The Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 (SSI 2019/273);

The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Amendment Regulations 2019 (SSI 2019/274).

6. **Alcohol licensing in Communities:** The Committee will consider the evidence heard earlier in the meeting.

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The papers for this meeting are as follows—

Agenda Item 3

Note by the Clerk

LGC/S5/19/22/1

PRIVATE PAPER

LGC/S5/19/22/2 (P)

Agenda Item 4

Note by the Clerk

LGC/S5/19/22/3

**Local Government and Communities Committee
22nd Meeting (Session 5), Wednesday 18 September 2019**

Alcohol Licensing in Communities: Note by the Clerk

Introduction

1. The Committee has held two previous evidence sessions looking at the transparency, accountability and opportunities for public participation in the alcohol licensing system. The Committee held a round table evidence session with stakeholders on [23 May 2018](#) and on [27 March 2019](#) heard from Ash Denham, Minister for Community Safety.
2. Following the evidence session with the Minister, the Committee agreed to write to the Scottish Government, the Law Society of Scotland and Clerks of all Licensing Boards in Scotland. The letter and responses are published on the Committee's webpage.
<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/111739.aspx>
3. In response to written submissions by the Licensing Boards, at its meeting on 28 June 2019 the Committee agreed to hold a one-off round table evidence session to further explore the main challenges and opportunities licensing boards are facing in delivering public health objectives via the licensing system.

Background

4. The key legislation that controls the sale of alcohol in Scotland is the Licensing (Scotland) Act 2005. Subsequent Acts that have also had an impact on the sale of alcohol are the Alcohol etc. (Scotland) Act 2010, the Criminal Justice and Licensing (Scotland) Act 2010, and the Air Weapons and Licensing (Scotland) Act 2015.
5. The Scottish Government recently updated the statutory guidance for alcohol licensing. The last update was published on 24 May 2018 and is available on the Scottish Government website <https://www.gov.uk/guidance/alcohol-licensing#history>

Licensing Boards

6. Decisions on the provision of alcohol licences are the responsibility of Licensing Boards in each local authority area. These are quasi-judicial bodies consisting of locally elected councillors, with support from local authority staff, including a qualified solicitor who provides legal advice. Licensing Boards are entirely separate legal entities from local authorities.
7. Licensing Boards are required to produce a licensing policy statement. This is a statement which sets out their approach to various licensing issues, such as extensions to opening hours.

8. Licensing policy statements must contain an overprovision statement. This is a statement about whether the licensing board considers that there are too many licensed premises in an area. If a board does consider that there is overprovision, this creates a rebuttable presumption that new license applications will be refused.

Local Licensing Forums

9. Under the 2005 Act Local Authorities were required to establish Local Licensing Forums (LLFs). The role of LLFs is to review the operation of the licensing system in their area and to give general advice to the Licensing Board. They cannot comment on individual applications.
10. Membership of LLFs includes the Licensing Standards Officer for the area and a representative of the local health board, as well as others in the community with an interest in licensing matters.
11. At the round table key issues for exploring will include:
 - the current role of the public health objective in licensing decisions;
 - whether boards could work with Community Planning Partnerships to advance the public health objective; and
 - whether the licensing standards officer role is adequately resourced.

Witnesses

12. The following individuals have agreed to take part in the round table session:
 - Elaina Smith, Health Improvement Lead Alcohol Licensing, Greater Glasgow Health Board;
 - Mairi Millar, Clerk, City of Glasgow Licensing Board;
 - James Douglas, Legal Services Manager, Inverclyde Licensing Board;
 - Margaret Mary Cairns, Legal Services Manager, South Lanarkshire Licensing Board;
 - Aidan Collins, Senior Coordinator, Alcohol Focus Scotland;
 - Iain Sharkey, Addiction Recovery Team Manager, NHS Lanarkshire and;
 - Norman Work, Edinburgh Licensing Board

Written responses

13. The Licensing Boards' responses to the Committee's letter of 10 April 2019 can be found at Annexe A.

Next steps

14. The Committee will have the opportunity to consider any further action, if any, they may wish to take immediately following the evidence session and in future work programme discussions.

Response from City of Glasgow Licensing Board

I should be obliged if the following information could be brought to the attention of the Committee:-

Overprovision and the Public Health Objective

In the view of the City of Glasgow Licensing Board, the Licensing (Scotland) Act 2005 has provided Licensing Boards with effective powers to consider issues relating to overprovision and the public health objective on an evidence led basis in relation to considering new applications for alcohol premises licences. There may, however, still be a perception amongst certain lobby groups or the wider public that Licensing Boards are not properly making use of the powers available to them or that they should be afforded wider discretion to refuse or revoke premises licences without the need to establish a causal link between the application.

The Glasgow Licensing Board has successfully used the overprovision ground for refusal for a number of years, supported by a robust evidence led overprovision assessment which has been used to identify localities in the city where there is a rebuttable presumption against the grant of further premises licences. The approach of the Licensing Board to overprovision is set out within the current licensing policy statement and in the overprovision assessment which was the subject of extensive consultation last year. Copies are attached for information.

<https://www.glasgow.gov.uk/CHttpHandler.ashx?id=17578&p=0>

The approach to overprovision and the identification of particular localities was led by an extensive piece of work carried out by a working group of the Local Licensing Forum, led by an officer from Greater Glasgow and Clyde Health and Social Care Partnership (GCHSCP). A copy of their report can be found at the attached link.

<https://www.glasgow.gov.uk/councillorsandcommittees/submissiondocuments.%20asp?submissionid=86457>

In addition to identifying overprovision localities, the Licensing Board was aware that there are a number of areas in Glasgow where there are very high levels of alcohol related health harm yet the number of licensed premises in the area may be very low or even zero, making use of overprovision as a ground for refusal very difficult. The Licensing Board has therefore developed a new policy approach to the use of public health data in relation to applications for off-sales licences. The policy position taken by the Board is to the effect that where the applicant premises are situated in an area which suffers from higher than national average levels of alcohol related health harm, and there is an intention to sell alcohol for consumption off the premises primarily directed to those living within the local community, for example as a local convenience store, the Licensing Board will carefully consider whether the grant of the application would be inconsistent with the licensing objective of protecting and improving public health. This more fully explained at part 9 of the Policy statement – this new approach has been welcomed by GCHSCP.

Alcohol related public health information and research has also played an important part in continuing to have a well-controlled policy on licensed hours for premises across the city.

One of the main successes in Glasgow in relation to making effective use of the public health objective is the creation of the dedicated post of a Health Improvement Lead for Alcohol Licensing within the GCCHSCP. The officer evaluates every application for a premises licence and major variation, determining on a case by case basis whether there is a sufficient evidential basis for submission of a representation or objection. This targeted approach has seen great success in relation to an increase in the number of applications which are refused in relation to the public health objective due to the provision of specific, targeted and evidence led information to the application as opposed to a scatter gun approach that all new applications are automatically contrary to the public health objective.

The Health Improvement Lead also played an important part in the development of the new licensing policy statement, attending evidence sessions with the Board members as well as a number of community based engagement events. She is also involved in the work of the local licensing form and has a positive working relationship with other stakeholders and partners in the licensing process. This is a post which I am sure would be of benefit if resourced and developed in other local authority areas.

Community Planning Partnerships

While the Licensing Board has not developed any formal relationship with Community Planning Partnerships, enhancing community engagement and involvement in the development of the new licensing policy statement was at the heart of the extensive consultation process undertaken by the Licensing Board last year. Again, further information on the range of consultation activities undertaken by the Board can be found at part 2 of the policy statement. Myself and my team regularly attend community council meetings, development days and area partnerships in order to provide briefings and information on how to engage with the licensing application process, including providing guidance on how to submit representations and objections, explanation of the grounds of objection and guidance as to what type of information could be considered relevant.

The Licensing Board would be keen to explore opportunities for the development of a national framework to create more formal links between CCPs and the Licensing Board.

Licensing Standards Officers

There are currently 4 dedicated Licensing Standards Officers in Glasgow and this number has been maintained since their creation in or around 2007.

However they are supported where appropriate by a range of other offices across the Council's Neighbourhoods and Sustainability Service, including environmental health, noise officers and trading standards. They work closely with colleagues at Police Scotland and actively participate in various campaigns with licensed premises, in addition to their statutory duties in responding to licence applications, investigating complaints and mediating on disputes between licensed premises and local residents.

I trust this information is of assistance to the Committee and I would be more than happy to expand on any of the points raised.

Response from Inverclyde Licensing Board

The Inverclyde Licensing Board have found their ability to deliver public health objectives via the licensing system to be very problematic. Much of the information available is in the form of public health data sets for defined areas within our local authority area. What was obvious to our Board was that the number of licensed premises within certain areas bore no correlation to the alcohol related illnesses within said area. For example, in one of Inverclyde's worst areas for alcohol related illness there are no licensed premises whatsoever. Boards are expected to make decisions based on the law and supporting evidence. It is accordingly impossible to make a decision to refuse a new premises application on public health grounds when those premises have never been involved with the sale of alcohol and where the number of alcohol outlets within a particular area are very few in number in any event.

Inverclyde Licensing Board had an area of overprovision in place for approximately 5 years. This has now been removed as the Police figures for crime and the NHS figures for health showed that there had been no discernible decrease in figures for the area covered by overprovision over the 5-year period. It is open to anyone to seek Judicial review at any time on a Board's Policy and accordingly the Board felt it could no longer support an area of overprovision.

Inverclyde Licensing Board are of the view that the current law does not empower Boards to deliver public health objectives.

Inverclyde Licensing Board fully supports the role of LSOs in its area. There are currently 2 LSOs operating and they are sufficiently resourced to carry out all their duties.

Response from South Lanarkshire Licensing Board

As you will be aware South Lanarkshire Licensing Board is currently divided into four Divisional Boards. However this response will cover all four Divisions.

I would respond as follows to the questions raised by your letter of 10 April 2019.

1. What Boards see as the main challenges and opportunities to delivering public health objectives via the licensing system.

Board members have expressed some concern over the use of the public health objective as there appears to be little or no input from the NHS in relation to applications before the Board. When the individual Division's licensing policy was consulted on there was no response received at all from the NHS. To enable Boards to support the public health objective there needs to be greater support from the NHS itself. Any information received from NHS previously related to the whole of South Lanarkshire. The NHS was at that time unable to provide information specific to each Licensing Division. In order for any information to be of use the information requires to be specific to the area covered by each Divisional Board.

2. Community planning, licensing and public health.

Generally the Board feels that it would welcome the opportunity to work with Community Partnerships. There is concern that the move from on-sale premises (which were formerly public houses) to off-sales is a growing phenomenon. This can lead to a growing disparity of price and leads to more home binge drinking. This could enable the Board and CPP to look at how to encourage good quality licensed on-sale premises. This in turn could result in more alcohol being consumed in regulated premises.

3. Licensing Standards Officers.

South Lanarkshire Council employs two Licensing Standards Officers. Each officer undertakes Civic Government (Scotland) Act licensing duties as well as liquor licensing duties. The same number of officers have been in place since the commencement of the 2005 Act. The number of Licensing Standards Officers appears to be adequate but this will be kept under review.

I trust the above is sufficient for your purposes.

Response from Edinburgh Licensing Board

I refer to your letter sent out to Licensing Boards earlier in the year and subsequent communications with the committee clerk when it was confirmed the deadline for responding to the letter had been extended. I have set out below the views of the Edinburgh Licensing Board, following on from each the topics contained in your letter as set out in italics.

What Boards see as the main challenges and opportunities to delivering public health objectives via the licensing system.

In considering and ultimately arriving at the terms of its new statement of licensing policy and assessment of overprovision, the Board was presented with evidence from the Edinburgh Alcohol and Drugs Partnership and separately from NHS Lothian regarding the public health licensing objective and specific data obtained from the Scottish Index of Multiple Deprivation. The Board agreed its assessment of overprovision partly on health-based evidence combined with evidence connected with the other licensing objectives, in particular the crime and disorder licensing objective. Reflecting on this process, the Board agrees that further guidance for boards that specifically focuses on the public health licensing objective and consideration of a methodology for using health-based data would be beneficial. The timing of the release of parts of the new draft statutory guidance on the Licensing (Scotland) Act 2005 while boards were fully engaged in their consultations on policy and assessments of overprovision throughout 2018 was not as beneficial as perhaps it could have been.

Separately the Board considers there remains an ongoing challenge with regard to the public health licensing objective when determining individual applications and linking health data provided for larger localities, in order to demonstrate causation when considering such individual applications on their merits.

Community planning, licensing and public health

The Board noted the comments made about community involvement in the licensing process. From the Board's perspective there is reasonable participation from local communities in the licensing regime, though it is accepted that participation is more evident in some areas than others. Community Councils provide written representations on individual licence applications with community councillors attending Board meetings to speak to the terms of these. Community Councils and local community representatives were also involved in contributing to the Board's formulation of its new statement of licensing policy throughout 2018, being invited to a workshop session on overprovision and evidence sessions on particular aspects of the policy.

NHS Lothian are similarly regularly involved in the licence applications process, providing representations on applications and attending Board meetings to speak to the terms with reference made to the public health licensing objective. The Board has

had regard to these representations and has, on occasion, sought amendment from applicants on the terms of their applications to take account of representations made.

The Board's experiences of the Edinburgh Licensing Forum, an important statutory consultee in the formation and assessment of Board policy, is that community representatives have been regularly involved in the Forum's work. The City of Edinburgh Council has recently approved arrangements for the appointment of a new Forum, which will include advertising for new community representatives. NHS Lothian has also been regularly involved in the Forum's work, providing a link between the Forum and the Edinburgh Alcohol and Drugs Forum, of which NHS Lothian is a member.

A new structure was agreed for the Edinburgh Community Planning Partnership arrangements, earlier in the year. Licensing Board members considered therefore that it was still early days in the new arrangement and that it would become apparent over time whether the new arrangements were proving to be effective.

As a final point, the Board had noted throughout 2018 when formulating its new statement of licensing policy, that community representatives referred on a number of occasions to improving the availability of information online about licence applications. In considering the terms of the Committee's letter, the Board considers it would be beneficial for all involved in the licensing process, and an effective means of engaging local communities, to have an online licensing portal similar to the portal which is currently available nationally for Planning applications.

Licensing Standards Officers

The Edinburgh Licensing Board considers that it is well-served by its Licensing Standards Officers. The Board notes the LSOs play an active role in the Board's area, regularly liaising with licence holders, members of the local communities in the vicinity of licensed premises and working in co-operation with police and others.

The City of Edinburgh Council employs eight LSOs, working in shifts and the Board has noted this has proven to be effective over the years. The LSO Manager regularly attends Board meetings, playing an active role as a consultee on applications and provides advice and assistance on applications when required. The total number of LSOs has fluctuated slightly, accounting for retirements and replacements, but has largely remained at eight throughout. The Board's perception, on the basis of the effectiveness of the LSOs, is that they are adequately resourced.

As a general comment, the Edinburgh Licensing Board welcomes the opportunity to respond to the Committee's call for further information and would welcome any future opportunity to participate further in the Committee's work in this area.

Local Government and Communities Committee
22nd Meeting, 2019 (Session 5), Wednesday 18 September 2019
Subordinate Legislation – EU Exit
Note by the clerk

Introduction

1. This paper supports the Committee’s consideration of the following Scottish statutory instruments, subject to negative procedure –
 - The Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019
 - The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Amendment Regulations 2019
2. The Committee is invited to consider the statutory instruments and—
 - agree whether it is content that the parliamentary procedure given to the instruments by the Scottish Government is appropriate; and
 - then consider the policy of each instrument in the usual way.

Background - The Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019

3. The Regulations make minor and technical changes to the Management of Extractive Waste (Scotland) Regulations 2010 to update references to waste Directives and to fix those deficiencies arising from the withdrawal of the UK from the EU. The policy note is attached at **Annexe A**.
4. An electronic copy of the instrument is available at:
<http://www.legislation.gov.uk/ssi/2019/273/made>
5. The SSI was laid on 4 September 2019 and the lead committee must report by 28 October 2019.
6. The Scottish Government has given the SSI the ‘low’ categorisation (further explanation of this term is explained below).
7. No motion to annul this instrument has been lodged.

Background - The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Amendment Regulations 2019

8. The Regulations amend the coming into force date and make three drafting amendments to Town and Country Planning and Electricity Works (EU Exit) (Scotland) Amendment Regulations 2019. The policy note is attached at **Annexe B**.
9. An electronic copy of the instrument is available at:
<http://www.legislation.gov.uk/ssi/2019/274/made>

10. The SSI was laid on 4 September 2019 and the lead committee must report by 28 October 2019.
11. The Scottish Government has given the SSI the 'low' categorisation (further explanation of this term is explained below).
12. No motion to annul this instrument has been lodged.

Consideration of EU exit SSIs

13. In anticipation of the UK leaving the EU, changes are required to devolved legislation by way of statutory instruments. Under the European Union (Withdrawal) Act 2018, Scottish Statutory Instruments (SSIs) related to EU exit will be considered in the same way that 'domestic' SSIs are considered except that the lead committee has the opportunity, in advance of its policy consideration, to recommend to the Scottish Government that the parliamentary procedure allocated to the instrument should be changed. This process is known as the sift.
14. A [protocol](#) has been agreed between the Scottish Government and Scottish Parliament on the process for considering SSIs laid under the 2018 Act. The protocol sets out further information about the sifting process.
15. The protocol also sets out an approach which categorises SSIs – high, medium or low – to assist committees' prioritisation in terms of scrutiny and gives the Delegated Powers and Law Reform Committee (DPLRC) a role in highlighting to a lead committee those SSIs where it disagrees with the Scottish Government about the categorisation.
16. This paper supports the Committee's consideration of the sift of the SSI. The Committee will then be invited to consider the SSI in the usual way at a later item.

Appropriateness of procedure being used (item 3 in agenda)

17. Scottish Ministers have discretion about whether instruments made under Schedule 2 of the 2018 Act should be subject to the affirmative or negative procedure, unless the instrument makes provision falling within one of the categories which requires the mandatory affirmative procedure to be used.
18. As set out above, the lead committee has the opportunity, in advance of its consideration, to recommend to the Scottish Government that the parliamentary procedure allocated to the instrument should be changed. Thus, the lead committee can recommend that an instrument laid under the negative procedure should be revoked and laid as an affirmative instrument and vice versa. The protocol states this "enables committees to recommend a change where they consider that the matter is of such significance that it requires active Parliamentary approval (or conversely is not so significant that it requires Parliamentary time to be allocated to its approval)".
19. The DPLRC will also consider the parliamentary procedure allocated to the instrument and make a recommendation to the lead committee where it agrees the procedure should be changed.
20. SPICe and the Office of the Solicitor of the Scottish Parliament (OSSP) have provided advice to inform the Committee's consideration of the sift.

21. Where a lead committee agrees with the parliamentary procedure, the instrument is thereafter considered in the same way as a 'domestic' SSI. Where a lead committee recommends the parliamentary procedure should be changed, it must report to the Parliament. The Scottish Government is expected to meet that recommendation as soon as possible. A change of procedure does not, however, affect the timetable for Parliamentary consideration and the SSI should be considered under the procedure recommended by the lead committee.

Delegated Powers and Law Reform Committee consideration

22. 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).

23. At its meeting on 10 September 2019, the DPLRC agreed that the above instruments should be considered under the negative procedure and with the 'low' categorisation.

For decision

24. The Committee is invited to agree whether the negative parliamentary procedure given by the Scottish Government to both of the instruments under consideration at this meeting is appropriate (agenda item 3).

Policy consideration of the SSIs (item 4 of agenda)

25. The process for the policy consideration of an SSI related to EU exit following the sift is the same as for a 'domestic' SSI. As mentioned, the Scottish Government has decided the negative parliamentary procedure is appropriate for this SSI. Negative instruments are instruments that are "subject to annulment" by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament.

26. 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 by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

27. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

28. Each negative instrument appears on the Local Government and Communities Committee's 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 the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For

this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.

29. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it. As noted above, as of the publication of this paper, no motion to annul has been lodged in respect of either instrument.

POLICY NOTE
THE MANAGEMENT OF EXTRACTIVE WASTE (EU EXIT) (SCOTLAND)
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2019
SSI 2019/273

The above instrument was made in exercise of the powers conferred by paragraph 1(1) and (3) of Schedule 2 to the European Union (Withdrawal) Act 2018 and section 2(2) of the European Communities Act 1972. The instrument is subject to negative procedure.

Purpose of the instrument. The Regulations make minor and technical changes to the Management of Extractive Waste (Scotland) Regulations 2010 to update references to waste Directives and to fix those deficiencies arising from the withdrawal of the UK from the EU.

Policy Objectives

The Regulations make minor and technical changes to the Management of Extractive Waste (Scotland) Regulations 2010. The amendments ensure references within the Regulations are up to date and that deficiencies arising from the withdrawal of the UK from the EU are addressed.

Explanation of the law being amended by the regulations

The Management of Extractive Waste (Scotland) Regulations 2010 regulate the natural materials which need to be disturbed and separated at mines and quarries in order to access commercially viable minerals. The materials are termed extractive waste (subject to certain exempt materials) and must be distinguished from other waste streams.

Reasons for and effect of the proposed change or changes on retained EU law

The Regulations make some minor and technical amendments to ensure the 2010 Regulations are up to date and to fix deficiencies arising from the withdrawal of the UK from the EU. In particular, references to EU legislation (including Directives), the Community and Member States are adjusted. These amendments are not intended to introduce any policy changes.

Statements required by European Union (Withdrawal) Act 2018

Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view the Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 do no more than is appropriate. This is because the changes being made are minor and technical amendments within the 2010 Regulations or those that address deficiencies that would occur due to the UK’s exit from the EU.”

Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”

Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view the Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 do 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.”

Statement that Scottish Ministers have, in preparing the regulations, 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

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view the Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 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.”

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view the Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 have had due regard to the need to the guiding principles on the environment and animal welfare as derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union.”

Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

Not applicable

An indication of how the regulations should be categorised in relation to the significance of the change proposed

The regulations are considered to be minor and technical in nature, with no policy change therefore the significance of the change is categorised as ‘low’.

Statement setting out the Scottish Ministers' reasons for their choice of procedure

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement "In my view, it is appropriate that the Management of Extractive Waste (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 is subject to the negative procedure as the amendments made by the instrument are considered to be minor and technical in nature."

Further information

Consultation

The amendments within the instrument are considered to be minor and technical in nature and are part of readiness preparations for the UK's exit from the EU.

Consultation on the content is, therefore, not considered necessary.

Impact Assessments

Full impact assessments have not been prepared for this instrument because the amendments are considered to be minor and technical in nature. The amendments do not alter the Scottish Government's current environmental policies and priorities and, therefore, do not have a significant impact on the environment. The impact on business, charities or voluntary bodies is expected to be minimal.

Financial Effects

The Minister for Local Government, Housing and Planning, Kevin Stewart confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government

Directorate for Local Government and Communities

August 2019

POLICY NOTE**The Town and Country Planning and Electricity Works (EU Exit)
(Scotland) (Miscellaneous Amendments) Amendment Regulations
2019****SSI 2019/274**

The above instrument was made in exercise of the powers conferred by paragraph 1(1) and (3) of Schedule 2 to the European Union (Withdrawal) Act 2018. The instrument is subject to negative procedure.

Purpose of the instrument. The Regulations amend the coming into force date and make three drafting amendments to Town and Country Planning and Electricity Works (EU Exit) (Scotland) Amendment Regulations 2019.

Policy Objectives

The Regulations are required in order to correct the date the 2019 Regulations come into force and some minor drafting errors identified by the Delegated Powers and Law Reform Committee within this secondary legislation. This instrument is not intended to introduce any policy changes.

Explanation of the law being amended by the regulations

The Regulations amend the date the Town and Country Planning and Electricity Works (EU Exit) (Scotland) Amendment Regulations 2019 come into force and a few minor drafting errors that were identified after the Regulations were laid. The 2019 Regulations were themselves amending:

- The Town and Country Planning (Development Planning) (Scotland) Regulations 2008
- The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013
- The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017
- The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017

This instrument fulfils an undertaking given to the Delegated Powers and Law Reform Committee to amend the 2019 Regulations to correct the minor drafting errors identified.

Reasons for and effect of the proposed change or changes on retained EU law

The Regulations amend the date the 2019 Regulations come into force after the UK leaves the EU. There are also minor drafting corrections to clarify the amendments outlined in the 2019 Regulations, to ensure those applying the Regulations understand how to apply the original amendments.

Statements required by European Union (Withdrawal) Act 2018

Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Amendment Regulations 2019” do no more than is appropriate”.

Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view there are good reasons for the instrument, and I have concluded it is a reasonable course of action”. This is the case because the changes are minor in nature and correcting small drafting anomalies in the 2019 Regulations.

Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Amendment Regulations 2019 do 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.” This is because the amendments are minor in nature and correcting small drafting anomalies in the 2019 Regulations.

Statement that Scottish Ministers have, in preparing the regulations, 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

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view The Town and Country Planning and Electricity Works (Miscellaneous Amendments) (EU Exit) (Scotland) Regulations 2019 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.”

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

The Minister for Local Government, Housing and Planning, Kevin Stewart has made the following statement “In my view The Town and Country Planning and Electricity Works (Miscellaneous Amendments) (EU Exit) (Scotland) Regulations 2019 have had due regard to the guiding principles on the environment and animal welfare as derived from the equivalent principles provided for in Articles 13 and 191(2) in Titles II and XX respectively of the Treaty on the Functioning of the European Union.”.

Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

The above heading is not applicable.

An indication of how the regulations should be categorised in relation to the significance of the change proposed

The regulations are considered to be minor in nature, correcting small drafting anomalies in the 2019 Regulations. The significance of the changes is categorised as ‘low’.

Choice of procedure

The instrument is subject to the negative procedure. The amendments within the instrument are considered minor and are correcting small drafting anomalies in the 2019 Regulations.

Further information

Consultation

The amendments within the instrument are considered to be minor and technical in nature and are part of readiness preparations in the event that the UK exits the EU without a deal.

Consultation on the content was, therefore, not considered necessary.

Impact Assessments

Full impact assessments have not been prepared for this instrument because the changes are considered to be minor in nature, correcting small drafting anomalies in the 2019 Regulations.

The amendments do not alter Scottish Government’s current environmental policies and priorities and, therefore, do not have a significant impact on the environment. The impact on business, charities or voluntary bodies is expected to be minimal.

Financial Effects

No BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government

Directorate for Local Government and Communities

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