

UK Withdrawal from the European Union (Continuity) (Scotland) Bill

SEA Pre-Screening Notification

June 2020



Scottish Government
Riaghaltas na h-Alba
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PRE-SCREENING NOTIFICATION

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Responsible Authority:

[Box 1.](#)

Scottish Ministers

Title of the plan:

[Box 2.](#)

UK Withdrawal from the European Union (Continuity)(Scotland) Bill

What prompted the plan:

[Box 3.](#)

The Bill follows on from the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, which included legislative provisions to provide for continuity of provisions in response to the notification of the UK's intention to leave the EU.

That Bill passed stage 3 in the Scottish Parliament but did not receive Royal Assent. Subsequently, the Bill was referred to the Supreme Court under section 33(1) of the Scotland Act 1998. After cross-party discussions on the implications of the Supreme Court's decision, the Scottish Government set out a commitment (i) to bring forward new legislation to ensure Scots law can continue to align with EU law, where appropriate and (ii) to strengthen environmental protection.

Plan subject:

[Box 4.](#)

Legislative proposals have potential to affect all sectors.

Brief summary of the plan:

[Box 5.](#)

It is the Scottish Government's view that the extent to which devolved law aligns itself with the law of the EU should be a decision for the Scottish Parliament to take, not the UK Government. The purpose of introducing the UK Withdrawal from the European Union (Continuity) (Scotland) Bill is to allow Scots law to 'keep pace' with EU law in devolved areas, where appropriate, to ensure that there continue to be guiding principles on the environment in Scotland, and to establish an environmental governance body, Environmental Standards Scotland, to continue the role and functions of the European institutions in ensuring the complete and effective implementation of environmental law.

These changes are designed to ensure certainty, stability and predictability for the people who live and work in Scotland and those who do business here and with Scotland in Europe by updating or aligning devolved law with new EU law where that is appropriate and practicable. They are also necessary to ensure that Scotland's environmental standards can continue to keep pace with those in the EU level.

The UK Withdrawal from the European Union (Continuity)(Scotland) Bill will apply across Scotland.

Brief summary of the likely environmental consequences:

The Scottish Government is satisfied that there are no significant environmental effects arising from the proposals in the Bill, which are designed to ensure continuity of effect despite exit from the EU.

Taking the three proposals in turn, the characteristics of the proposals can be considered:-

The **keeping pace power** does not itself set a framework for projects or activities, as it provides a power for Scottish Ministers to introduce regulations in future. The characteristics of any future regulations made under the power would have to be assessed before they were made. There is no direct or immediate impact of the power, nor does the power itself have any impact on sustainable development or environmental protection. While it can be anticipated that future provision in Scots law corresponding to EU law after the end of the implementation period introduced under the power will form a part of the overall implementation of environmental standards derived from EU law, this effect will only occur if the power is used in particular instances.

The introduction of the EU environmental principles into domestic law as **guiding principles on the environment** will continue the current effect of these principles. This will influence the design of policies and programmes, and can be expected to promote sustainable development and the implementation of EU level standards. This will be a clear continuation of the current effect of the EU principles through their impact on EU legislation and policy.

The introduction of **proportionate domestic environmental governance** will continue the effect of the EU institutions in ensuring the complete and effective implementation of environmental law. This will ensure the effective implementation of the intention at the time of the design and introduction of regulations with respect to design of policies and programmes, the promotion of sustainable development and the implementation of EU level standards. This will be a continuation of the current effect of the EU governance arrangements.

In consideration of the effects of the proposals, any effects of regulations introduced under the keeping pace power will be considered when the individual proposals are being developed. In many areas of environmental law, there are existing regulation-making powers that Ministers could use to change regulatory environmental standards, subject to appropriate assessment and parliamentary approval. The

keeping pace power ensures that Ministers have clear powers to implement future EU standards, subject to appropriate assessment and parliamentary approval.

The proposals on environmental principles and governance will be a continuation of the situation within the EU, and thus will have no significant effects.

Contact details:

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Date of opinion:

02 June 2020

When completed send to: SEA.gateway@scotland.gsi.gov.uk or to SEA Gateway, Scottish Government, Area 2H (South), Victoria Quay, Edinburgh, EH6 6QQ

¹ Please note: (A) The plan has to fall into Section 5(4) of the Environmental Assessment (Scotland) Act 2005 & (B) you should apply the criteria specified within Schedule 2 of this Act to reach a conclusion on no or minimal environmental effects: www.legislation.gov.uk/asp/2005/15/contents (*delete this note before submission*)



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