

Ionising Radiation

The Ionising Radiation (Basic Safety Standards) (Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2018 and The Justification Decision Powers (EU Exit) Regulations 2018

Notification to the Scottish Parliament

Name of the instrument and summary of proposal

The Ionising Radiation (Basic Safety Standards) (Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2018 and The Justification Decision Powers (EU Exit) Regulations 2018 address minor and technical deficiencies arising from the withdrawal of Scotland as part of the United Kingdom from the European Union. The Regulations do not affect the scope of powers exercisable by UK and Scottish Ministers and respect the devolution settlement.

The regulations contain amendments to two existing sets of UK Regulations for Ionising Radiation that include devolved responsibilities:

- The Ionising Radiation (Basic Safety Standards) (Miscellaneous Provisions) Regulations 2018
- The Justification of Practices Involving Ionising Radiation Regulations 2004

Explanation of law that the proposals amend

The Ionising Radiation (Basic Safety Standards) (Miscellaneous Provisions) Regulations 2018 transpose certain elements of Council Directive 2013/59/Euratom, which lays down basic safety standards across the Community (the BSSD), and cover both reserved and devolved responsibilities.

The Justification of Practices Involving Ionising Radiation Regulations 2004 give the relevant UK and Scottish Ministers the power to approve new practices involving ionising radiation, across devolved and reserved responsibilities.

Summary of the proposals

This notification covers proposals to fix the following deficiencies:

The Ionising Radiation (Basic Safety Standards) (Miscellaneous Provisions) Regulations 2018 contain definitional references throughout which are derived from the Euratom Basic Safety Standards Directive 2013. Two of these references will no longer be operable post exit and will be corrected by amending the references to remove the deficiencies and to replace definitions by reference to the Directive, with the text of the definitions.

The Justification of Practices Involving Ionising Radiation Regulations 2004 draw upon the European Communities Act 1972 to give UK and Scottish Ministers power to make specific regulations to approve practices. Regulations to approve

practices are currently made under section 2(2) of the 1972 Act. The Justification Decision Powers (EU Exit) Regulations 2018 will create a new regulation making power for that purpose exercisable by UK and Scottish Ministers, and the 2004 Regulations will be updated to refer to that new power.

Why is the change necessary?

These changes are necessary to allow the continuation of the effective function of these regulations, which are key elements in the overall regulation of practices involving radioactive substances.

Scottish Government categorisation of significance of proposals

Category A. The provisions are making small, minor technical changes to preserve the functioning of the regulations.

Impact on devolved areas

There is no impact on devolved powers exercised under the regulations, or on future devolved discretion over future changes to the regulations.

Stakeholder engagement/consultation

We are in regular contact with all our stakeholders regarding the move towards leaving the EU. However, these measures are aimed solely at preserving the functioning of the regulations as it is at present and we have not undertaken any focussed engagement on this basis. We have not undertaken any formal consultation.

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

The guiding principles on the environment as set out in Article 191(2) in Title XX of the Treaty on the Functioning of the European Union are not relevant to these proposals. The two instruments being amended are part of the UK implementation of the Basis Safety Standards Directive which is made under the Treaty Establishing the European Atomic Energy Community, which does not include the environmental principles.

However, the Basic Safety Standards Directive does require radiation protection legislation to be based on the principles of justification, optimisation and dose limitation which provide a similar function to the environmental principles in TFEU. As the provisions are making small, minor technical changes to preserve the functioning of the regulations, which adhere to the spirit of the underlying EU regime, Ministers are satisfied the proposals are sufficiently aligned with the radioation protection principles.

Any other impact assessments?

We have discussed with the UK Government and on the basis that this does not infer any policy changes, there is not a requirement to undertake an impact assessment.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The provisions were made at the UK level to reflect overlapping reserved and devolved responsibilities, and it is most effective to make the changes to address deficiencies at the same level.

Intended laying date

Late October 2018

Does the Scottish Parliament have 28 days to scrutinise Scottish Minister's proposal to consent?

Yes

Information about any time dependency associated with the proposal

As the provisions are making small, minor technical changes to preserve the functioning of the regulations, there is no time dependency associated with the proposals.

Any significant financial implications

As the provisions are making small, minor technical changes to preserve the functioning of the regulations, there are no significant financial implications associated with the proposals.