

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

## **Child Rights and Wellbeing Impact Assessment**

**June 2020**

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

| <b>Child Rights and Wellbeing Impact Assessment</b> |  |
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| <b>Policy/measure</b>                               | <p>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 Scottish Government is committed to no regression in standards or protections following EU exit, and the replacement of regulatory powers lost in consequence of EU exit will be essential to ensuring that this is achieved.</p> <p>The purpose of introducing the Bill is to allow Scots law to 'keep pace' with EU law in devolved areas, where appropriate, at the end of the implementation period and ensure that we maintain the role of the environmental principles of EU law as well as effective and proportionate environmental governance in Scots law once the United Kingdom exits the transition period.</p> <p>To achieve this, the Bill provides for:</p> <ul style="list-style-type: none"> <li>- the introduction of a power to make provision in Scots law corresponding to EU law as appropriate after the end of the implementation period;</li> <li>- the introduction of the guiding principles of the environment into Scots law;</li> <li>- the formation of Environmental Standards Scotland.</li> </ul> |
| <b>Project initiation document</b>                  | -  |
| <b>Initiating department</b>                        | Constitution and External Affairs – Constitution and Cabinet Directorate   |
| <b>Policy aims</b>                                  | <p>The Scottish Government considers that there will be fields where its policy will be to voluntarily maintain regulatory alignment with EU rules. Therefore, the purpose of introducing the Bill is to allow Scots law to 'keep pace' with EU law in devolved areas, where appropriate, and ensure that we maintain the role of the environmental principles of EU law as well as effective and proportionate environmental governance in Scots law.</p> <p>The Bill covers a range of issues, which are as follows:</p> <ul style="list-style-type: none"> <li>- Provision for a power to make provision in Scots law corresponding to EU law as appropriate after the end of the implementation period;</li> </ul>   |

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|-------------------------|--|
|                         | <ul style="list-style-type: none"> <li>- Provision for the duration and extension of that power and its scrutiny;</li> <li>- Provision for explanatory statements on a range of topics to accompany any regulations made under that;</li> <li>- The insertion into domestic law of the guiding principles of EU law;</li> <li>- The duty of Scottish Ministers and other bodies to have regard to the principles;</li> <li>- The requirement for Scottish Ministers to publish guidance on the principles and their related duties;</li> <li>- The formation of Environmental Standards Scotland, including the appointment of members and staff and the organisation's structure; and the powers and functions of Environmental Standards Scotland.</li> </ul>  |
| <p><b>Timetable</b></p> | <p>Provisions similar to the 'keeping pace' provision contained within the Bill previously completed three stages of parliamentary scrutiny as part of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill ("the 2018 Bill"). For that reason, it was not considered necessary to conduct any formal consultation with regard to the keeping pace power in this Bill.</p> <p>A consultation did, however, take place on the environmental provisions in the Bill. The environmental provisions in the Bill were influenced by the analysis of responses to the public consultation<sup>1</sup>.</p> <p>The consultation paper invited responses to a series of questions covering the role of environmental principles in developing future policy and legislation and maintaining effective, appropriate and proportionate environmental governance in Scotland, following EU exit. The consultation received a strong response from 40 individuals and 59 organisations. The responses have been published on the Scottish Government website, along with the results of an independent analysis of those responses.<sup>2</sup> Overall there was a general agreement with the proposals set out for environmental principles, and a broad consensus that something should be done to fill a governance gap in the event of EU exit.</p> <p>The profile of respondent organisations featured environmental charities, membership organisations, private business, academic</p> |

<sup>1</sup> The Consultation on Environmental Principles and Governance in Scotland 16 February 2019 to the 11 May 2019. <https://consult.gov.scot/environment-forestry/environmental-principles-and-governance/>

<sup>2</sup> Environmental Principles and Governance after brexit: responses to consultation. Published on the 4<sup>th</sup> October 2019 <https://www.gov.scot/publications/analysis-responses-consultation-environmental-principles-governance/pages/2/>

|                  |   |
|------------------|---|
|                  | <p>institutions, local authorities and third sector organisations. Engagement from children and young people was evident through a number of these groups.</p> <p>Responses were received from one primary school and one young activists group, both of which called for government to act to protect our natural environment. A number of responses from children and young people under 18 years of age were received through the Scottish Environmental LINK campaign.</p> <p>The purpose of the environmental principles and governance provisions is to ensure the complete and effective implementation of environmental law. Any potential impacts of future environmental law will be considered when that legislation is developed.</p> |
| <b>Date</b>      | 02 June 2020  |
| <b>Signature</b> | Donald Cameron  |

**Child Rights and Wellbeing Impact Assessment: Stage 1  
Screening - key questions**

**1. What aspects of the policy/measure will affect children and young people up to the age of 18?**

The Bill proposes the introduction of a discretionary power for the Scottish Ministers to make legislative provision in devolved areas corresponding to EU law following the end of the implementation period. This power is sometimes referred to as the 'keeping pace' power. At this point, it cannot be predicted precisely the impact the Bill may have in future on specific sectors or groups.

However, it should be noted that the main policy driver behind the Bill is the Scottish Government's recognition of the beneficial impact which EU law has had in promoting standards and protections – including those specifically relating to children and young people. The broad policy intention of the Bill is to prevent any regression in standards or protections following the UK's exit from the European Union.

**2. What likely impact - direct or indirect - will the policy/measure have on children and young people?**

As the keeping pace power is broad and enabling in nature, any instruments made under the power could have impacts on children and young people that cannot be foreseen at this juncture. However, the Bill contains substantial provisions which will ensure that equalities considerations are at the heart of the policy making process for those instruments made under the keeping pace power ensuring protection to the interests of children and young people as the provisions of the Bill are applied in practice. For example, provisions in the Bill require all instruments made under the power to be accompanied by written explanatory statements, setting out certain matters relating to the making of the instrument, including whether the instrument modifies any provision of equalities legislation and, if so, what its effect is. In addition, a statement must be made confirming that the Scottish Ministers have had regard to their duties under equalities legislation.

**3. Are there particular groups of children and young people who are more likely to be affected than others?**

No.

**4. Who else have you involved in your deliberations?**

Provision similar to the keeping pace provision contained within the Bill previously completed three stages of parliamentary scrutiny as part of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill ("the 2018 Bill"). For that reason, it was not considered necessary to conduct any formal consultation with regard to the keeping pace power in this Bill.

A consultation did, however, take place on the environmental provisions in the Bill. The environmental provisions in the Bill were influenced by the analysis of responses to the public consultation<sup>1</sup>.

The consultation paper invited responses to a series of questions covering the role of environmental principles in developing future policy and legislation and maintaining effective, appropriate and proportionate environmental governance in Scotland, following EU exit. The consultation received a strong response from 40 individuals and 59 organisations. The responses have been published on the Scottish Government website, along with the results of an independent analysis of those responses.<sup>2</sup> Overall there was a general agreement with the proposals set out for environmental principles, and a broad consensus that something should be done to fill a governance gap in the event of EU exit.

The profile of respondent organisations featured environmental charities, membership organisations, private business, academic institutions, local authorities and third sector organisations. Engagement from children and young people was evident through a number of these groups.

Responses were received from one primary school and one young activists group, both of which called for government to act to protect our natural environment. A number of responses from children and young people under 18 years of age were received through the Scottish Environmental LINK campaign.

## **5. Will this require a CRWIA?**

For the reasons outlined above, we do not consider that a CRWIA is required.

The keeping pace power is broad and enabling and at this stage it cannot be predicted where and how the power may be used in future. That said, substantial provisions are in place to ensure that equalities considerations – which would include the likely impacts on children and young people - are at the heart of the policy making process for those instruments made under the keeping pace power.

The purpose of the environmental principles and governance provisions is to ensure the complete and effective implementation of environmental law. Any potential impacts of future environmental law will be considered when that legislation is developed.

### **CRWIA Declaration**

Tick relevant section, and complete the form.

<sup>1</sup> The Consultation on Environmental Principles and Governance in Scotland 16 February 2019 to the 11 May 2019. <https://consult.gov.scot/environment-forestry/environmental-principles-and-governance/>

<sup>2</sup> Environmental Principles and Governance after brexit: responses to consultation. Published on the 4<sup>th</sup> October 2019 <https://www.gov.scot/publications/analysis-responses-consultation-environmental-principles-governance/pages/2/>

| CRWIA required   | CRWIA not required          |
|--|-----------------------------|
|  | X                           |
| Authorisation  |                             |
| <b>Policy lead</b><br>Alex Mowat, CUKR   | <b>Date</b><br>02 June 2020 |
| <b>Deputy Director or equivalent</b><br>Donald Cameron, Head of Constitution and UK Relations Division | <b>Date</b><br>02 June 2020 |



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