

2018 No.

EXITING THE EUROPEAN UNION
ENVIRONMENTAL PROTECTION

**The Persistent Organic Pollutants (Amendment) (EU Exit)
Regulations 2018**

Sift requirements satisfied ***
Made - - - - - ***
Laid before Parliament ***
Coming into force in accordance with regulation 2

The Secretary of State makes these Regulations in exercise of the powers conferred by—

- (a) section 2(2) of the European Communities Act 1972(a);
- (b) section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(b).

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to persistent organic pollutants(c).

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1

Introductory

Citation

1. These Regulations may be cited as the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018.

Commencement

2.—(1) This Part and Part 2 come into force on 21st January 2019.

(a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). The European Communities Act 1972 Act is repealed with effect from exit day by section 1 of the European Union (Withdrawal) Act 2018.
(b) 2018 c. 16.
(c) S.I. 2006/608.

(2) Parts 3 and 4 come into force on exit day.

PART 2

Amendments to subordinate legislation under section 2(2) of the ECA 1972

Amendments to POPR 2007

3. The Persistent Organic Pollutants Regulations 2007(a) are amended in accordance with regulations 4 and 5 (also see Part 3).

Amendment to regulation 3

4. In regulation 3(1)(b), for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

Amendment to regulation 9

5. In regulation 9(2)(b), for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

PART 3

Amendments to subordinate legislation made under the European Union (Withdrawal) Act 2018

Amendments to POPR 2007

6. The Persistent Organic Pollutants Regulations 2007 are amended in accordance with regulations 7 and 8.

Amendments to regulation 3

7.—(1) Regulation 3 is amended as follows.

(2) In paragraph (1), for the words before sub-paragraph (a) substitute—

“The competent authority for the purposes of these Regulations is”.

(3) In paragraph (2), for “They are also the enforcement authorities” substitute “The competent authority is also the enforcement authority”.

Omission of regulation 4

8. Omit regulation 4.

(a) S.I. 2007/3106, amended by S.I. 2010/675, 2012/360, 2013/755 (W. 90), 2016/1154; there are other amending instruments but none is relevant.

PART 4

Amendments to retained direct EU legislation

Amendments to EU POP Regulation

9. Regulation (EC) No. 850/2004 of the European Parliament and of the Council on persistent organic pollutants is amended in accordance with regulations 10 to 27.

Amendments to Article 2

10.—(1) Article 2 is amended as follows.

(2) The existing paragraph becomes paragraph 1 of that Article.

(3) In paragraph 1—

(a) in point (a)—

(i) after “available” insert “in the United Kingdom”;

(ii) for “customs territory of the Community” substitute “United Kingdom from a country other than one which is a member state on exit day”;

(b) in point (b), for “preparations” substitute “mixtures”;

(c) for points (c) to (g) substitute—

“(c) ‘substance’ has the meaning given by Article 2(7) of Regulation (EC) No 1272/2008;

(d) ‘mixture’ has the meaning given by Article 2(8) of Regulation (EC) No 1272/2008;

(e) ‘waste’ has the meaning given by Article 3(1) of Directive 2008/98/EC(a);

(f) ‘disposal’ has the meaning given by Article 3(19) of Directive 2008/98/EC;

(g) ‘recovery’ has the meaning given by Article 3(15) of Directive 2008/98/EC;

(h) ‘third country’ means a country other than the United Kingdom;

(i) ‘competent authority’ means—

(i) for England, the Environment Agency;

(ii) for Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

(iii) for Scotland, the Scottish Environment Protection Agency;

(iv) for Wales, the Natural Resources Body for Wales.”.

(4) After paragraph 1 insert—

“2. In this Regulation, “Directive 2008/98/EC” means Directive 2008/98/EC as amended by—

(a) Commission Regulation (EU) No 1357/2014(b);

(b) Commission Directive (EU) 2015/1127(c); and

(c) Council Regulation (EU) 2017/997(d),

and read in accordance with paragraphs 3 and 4.

3. Article 5 of Directive 2008/98/EC is to be read as if paragraph 2 were omitted.

4. Article 6 of Directive 2008/98/EC is to be read as if—

(a) paragraphs 1 to 3 were omitted;

(a) OJ No. L 312, 22.11.2008, p. 3.

(b) OJ No. L 365, 19.12.2014, p. 89.

(c) OJ No. L 184, 11.7.2015, p. 13.

(d) OJ No. L 150, 14.6.2017, p. 1.

- (b) in paragraph 4—
 - (i) in the first sentence, for the words from the beginning to “Member States” there were substituted “Except where Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013 applies, the competent authority within the meaning given by Article 2(1)(i) of Regulation (EC) No. 850/2004”;
 - (ii) the second sentence were omitted.”.

Amendments to Article 3

11.—(1) Article 3 is amended as follows

- (2) In paragraph 1, for “preparations” substitute “mixtures”.
- (3) In paragraph 2, for “preparations” substitute “mixtures”.
- (4) In paragraph 3—
 - (a) for “Member States and the Commission” substitute “The Secretary of State, the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, the Scottish Ministers, and the Welsh Ministers”;
 - (b) for “Community legislation” substitute “retained EU law”.

Amendments to Article 4

12.—(1) Article 4 is amended as follows.

- (2) In paragraph 1(b), for “preparations” substitute “mixtures”.
- (3) In paragraph 2—
 - (a) in the third subparagraph—
 - (i) for “a Member State” substitute “the Secretary of State”;
 - (ii) for “Commission” substitute the “Secretariat of the Convention”;
 - (b) omit the fourth subparagraph.
- (4) In paragraph 3—
 - (a) in the first subparagraph—
 - (i) for “a Member State” substitute “the competent authority”;
 - (ii) for “accordingly” substitute “the Secretary of State who shall, in turn, notify”;
 - (b) in the second subparagraph, in point (c), for “Commission Directive 2001/59/EC” substitute “Regulation (EC) No 1272/2008”;
 - (c) in the third subparagraph, omit the words from “shall be communicated” to “Commission and”;
 - (d) in the fourth subparagraph, for “Member State concerned” substitute “Secretary of State”.

Amendments to Article 5

13.—(1) Article 5 is amended as follows.

- (2) In paragraph 2, in the first subparagraph, in first sentence omit “of the Member State in which the stockpile is established”.
- (3) In paragraph 3, for “Member States” substitute “The competent authority”.

Amendments to Article 6

14.—(1) Article 6 is amended as follows.

- (2) In paragraph 1—

- (a) for the words from the beginning to “Member States” substitute “The Secretary of State”;
 - (b) for “their” substitute “the United Kingdom’s”.
- (3) In paragraph 2—
- (a) for the first subparagraph substitute—

“The Secretary of State shall include in the report referred to in Article 8(1)(a) an action plan on measures to identify, characterise and minimise the substances in Annex 3 with a view to eliminating where feasible and as soon as possible the total releases developed in accordance with the United Kingdom’s obligations under the Convention.”;
 - (b) in the second subparagraph, for “it deems” substitute “the Secretary of State deems it appropriate”.
- (4) In paragraph 3—
- (a) for “Member States” substitute “The relevant authority”;
 - (b) for “Council Directive 1996/61/EC” substitute “the relevant regulations”.
- (5) After paragraph 3 insert—
- “4. In paragraph 3—
- “relevant authority” means—
- (a) for England and Wales, the authority responsible for discharging functions in accordance with regulation 32 of the Environmental Permitting (England and Wales) Regulations 2016(a);
 - (b) for Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
 - (c) for Scotland, the Scottish Environment Protection Agency;
- “relevant regulations” means—
- (a) for England and Wales, the Environmental Permitting (England and Wales) Regulations 2016;
 - (b) for Northern Ireland, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(b);
 - (c) for Scotland, the Pollution Prevention and Control (Scotland) Regulations 2012(c).”.

Amendments to Article 7

15.—(1) Article 7 is amended as follows.

- (2) In paragraph 2—
- (a) in the first subparagraph, for “Directive 96/59/EC” substitute “the relevant regulations”;
 - (b) after the first subparagraph insert—

“In the first subparagraph, “relevant regulations” means—

 - (a) for England and Wales, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000(d);
 - (b) for Northern Ireland, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) Regulations (Northern Ireland) 2000(e);
 - (c) for Scotland, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000(a).”.

(a) S.I. 2016/1154, amended by S.I. 2016/475, 2018/110, 2018/428.
 (b) S.R. 2013 No. 160, amended by S.R. 2014 No. 304, 2016 No. 309, 2018 No. 33.
 (c) S.S.I. 2012/360, amended by S.S.I. 2014/267, 2016/39, 2017/446.
 (d) S.I. 2000/1043, amended by S.I. 2000/3359.
 (e) S.R. 2000/232.

- (3) In paragraph 4(b)—
- (a) in the words before point (i), for the words from the beginning to “that Member State” substitute “the competent authority”;
 - (b) in point (i) omit “of the Member State concerned”;
 - (c) in point (ii), for “Community legislation” substitute “retained EU law”;
 - (d) for point (iii) substitute—
 - “(iii) where the competent authority in question is that for England, Scotland or Wales, the competent authority has informed the relevant authority of its authorisation and the justification for it.”.
- (4) After paragraph 4 insert—
- “4A. In paragraph 4(b)(iii), “relevant authority” means—
 - (a) for England, the Secretary of State;
 - (b) for Scotland, the Scottish Ministers;
 - (c) for Wales, the Welsh Ministers.”.
- (5) Omit paragraph 7.

Amendments to Article 8

- 16.**—(1) For Article 8 substitute—

“Article 8

Reporting under Article 15 of the Convention

1. The Secretary of State must—
 - (a) report to the Conference of the Parties of the Convention in accordance with Article 15(1) of the Convention; and
 - (b) provide information to the Secretariat of the Convention in accordance with Article 15(2) of the Convention.
2. Such reporting must be at the intervals and in the format referred to in Article 15(3) of the Convention.
3. Before reporting under Article 15(1) of the Convention, the Secretary of State must—
 - (a) consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, the Scottish Ministers and the Welsh Ministers;
 - (b) following that consultation, consult the public.”.

Amendments to Article 9

- 17.**—(1) Article 9 is amended as follows.
- (2) The existing paragraph becomes paragraph 1.
- (3) In paragraph 1, for “Commission and the Member States” substitute “Secretary of State and the relevant devolved authority”.
- (4) After paragraph 1 insert—
- “2. In paragraph 1, “relevant devolved authority” means—
 - (a) for Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
 - (b) for Scotland, the Scottish Ministers;

(a) S.S.I. 2000/95.

- (c) for Wales, the Welsh Ministers.”.

Amendments to Article 10

18.—(1) Article 10 is amended as follows.

(2) In paragraph 1—

- (a) for “Commission and the Member States” substitute “Secretary of State”;
- (b) for “Community” substitute “United Kingdom”.

(3) In paragraph 2—

- (a) in the words before point (a), for “Commission and Member States” substitute “Secretary of State and the relevant devolved authority”;
- (b) after point (c) insert—

“In the first subparagraph, “relevant devolved authority” has the meaning given in Article 9(2).”.

(4) In paragraph 3—

- (a) in the first sentence, for “Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information” substitute “the relevant regulations”;
- (b) in the second sentence—
 - (i) for the words from the beginning to “exchange” substitute “If the Secretary of State exchanges”;
 - (ii) after “country” insert “, the Secretary of State”.

(5) In paragraph 3, after the paragraph insert—

“In the first subparagraph, “relevant regulations” means—

- (a) for England and Wales and Northern Ireland, the Environmental Information Regulations 2004(a);
- (b) for Scotland, the Environmental Information (Scotland) Regulations 2004(b).”.

Amendment to Article 11

19. In Article 11, for the words from “Commission” to “cooperate” substitute “Secretary of State shall cooperate with other Parties to the Convention”.

Amendments to Article 12

20. For Article 12 substitute—

“Article 12

Reporting within the United Kingdom

1. The competent authority must provide the Secretary of State with —

- (a) for the calendar year in which exit day falls, and each subsequent calendar year, statistical data on the actual or estimated total production and placing on the market of any substance listed in Annex 1 or 2; and
- (b) for the 3-year period ending with 31st December in the year in which exit day falls, and each subsequent 3-year period (each “reporting period”)—
 - (i) information on infringements and penalties; and

(a) S.I. 2004/3391.

(b) S.S.I. 2004/520, amended by S.S.I. 2013/127.

- (ii) summary information compiled from the notifications, concerning stockpiles, received pursuant to Article 5(2).
2. The competent authority must provide information to the Secretary of State under paragraph 1 promptly after the end of the calendar year or reporting period in question.
 3. The Secretary of State must develop a common format for the submission of information under paragraph 1.
 4. The Secretary of State must, for each reporting period—
 - (a) compile information on the application of this Regulation;
 - (b) integrate that information with—
 - (i) the information available in the context of the European Pollutant Release and Transfer Register established under Regulation (EC) No 166/2006;
 - (ii) the information referred to in paragraph 1;
 - (iii) summary information from the release inventories drawn up pursuant to Article 6(1);
 - (iv) summary information on the presence in the environment of the dioxins, furans and PCBs referred to in Annex 3; and
 - (v) information on the use of derogations under Article 7(4); and
 - (c) form a report from the integrated information referred to in point (b).
 5. The Secretary of State must form the report referred to in paragraph 4(c) within a reasonable period following the end of the reporting period in question.
 6. The Secretary of State must then promptly publish a summary of the report, in a manner which the Secretary of State considers appropriate.”.

Omission of Article 13

21. Omit Article 13.

Omission of Article 15

22. Omit Article 15.

Omission of Articles 18 and 19

23. Omit Articles 18 and 19.

Omission of text following Article 19

24. After Article 19, omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendments to Annex 1

- 25.—(1) The fourth column of the table in Part A of Annex 1 is amended as follows—

<i>Substance</i>	<i>Amendments</i>
Tetrabromodiphenyl ether C ₁₂ H ₆ Br ₄ O	<p>In point 1, for “preparations” substitute “mixtures”.</p> <p>In point 2(a), for “preparations” substitute “mixtures”.</p>

	In point 2(b), for “Directive 2002/95/EC of the European Parliament and Council” substitute “the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012(a)”.
Pentabromodiphenyl ether C ₁₂ H ₅ Br ₅ O	In point 1, for “preparations” substitute “mixtures”. In point 2(a), for “preparations” substitute “mixtures”. In point 2(b), for “Directive 2002/95/EC of the European Parliament and Council” substitute “the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012”.
Hexabromodiphenyl ether C ₁₂ H ₄ Br ₆ O	In point 1, for “preparations” substitute “mixtures”. In point 2(a), for “preparations” substitute “mixtures”. In point 2(b), for “Directive 2002/95/EC of the European Parliament and Council” substitute “the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012”.
Heptabromodiphenyl ether C ₁₂ H ₃ Br ₇ O	In point 1, for “preparations” substitute “mixtures”. In point 2(a), for “preparations” substitute “mixtures”. In point 2(b), for “Directive 2002/95/EC of the European Parliament and Council” substitute “the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012”.
Perfluorooctane sulfonic acid and its derivatives (PFOS) C ₈ F ₁₇ SO ₂ X (X = OH, Metal salt (O-M ⁺), halide, amide, and other derivatives including polymers)	In point 1, for “preparations” substitute “mixtures”. In point 3, in the second sentence, for “and fourth subparagraphs” substitute “subparagraph”. In point 5, in the words before point (a), for “Member States report to the Commission” substitute “the competent authority reports to

(a) S.I. 2012/3032.

the Secretary of State”.

In point 5, in the second sentence for “Directive 2008/1/EC”, in the first place it occurs, substitute “relevant regulations”.

In point 5, in the second sentence omit the words from “described in the information” to “Directive 2008/1/EC”.

In point 5, in the third sentence, in the words before point (i) for “Commission” substitute “Secretary of State”.

In point 5, at the end, insert “In this point, “relevant regulations” means: (a) for England and Wales, the Environmental Permitting (England and Wales) Regulations 2016; (b) for Northern Ireland, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013; (c) for Scotland, the Pollution Prevention and Control (Scotland) Regulations 2012.”.

In point 6, for “preparations” substitute “mixtures”.

Endosulfan

In point 3, for “and fourth subparagraphs” substitute “subparagraph”.

Polychlorinated Biphenyls (PCB)

For “Directive 96/59/EC” substitute “the relevant regulations”.

After the sentence insert “In the first sentence, “relevant regulations” means: (a) for England and Wales, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000; (b) for Northern Ireland, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) Regulations (Northern Ireland) 2000; (c) for Scotland, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000.”.

Hexabromocyclododecane
‘Hexabromocyclododecane’ means:
hexabromocyclododecane, 1,2,5,6,9,10-
hexabromocyclododecane and its main
diastereoisomers: alpha-
hexabromocyclododecane; beta-
hexabromocyclododecane; and gamma-
hexabromocyclododecane

In point 1, for “preparations” substitute “mixtures”.

In point 2, in the second paragraph for “preparations” substitute “mixtures”.

In point 4, for “and fourth subparagraphs” substitute “subparagraph”.

In point 6, for “other Union provisions” substitute “other retained EU law”.

(2) The fourth column of the table in Part B of Annex 1 is amended as follows—

<i>Substance</i>	<i>Amendments</i>
Hexachlorobutadiene	In point 3, for “and fourth subparagraphs” substitute “subparagraph”.
Polychlorinated naphthalenes	In point 3, for “and fourth subparagraphs” substitute “subparagraph”.
Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs)	In point 1, for “preparations” substitute “mixtures”. In point 3, for “and fourth subparagraphs” substitute “subparagraph”.

Amendment to Annex 4

26. The fourth column of the table in Annex 4 is amended as follows—

<i>Substance</i>	<i>Amendments</i>
Hexabromocyclododecane	For “Commission” substitute “Secretary of State”.

Amendments to Annex 5

27.—(1) Annex 5 is amended as follows.

(2) In Part 1—

- (a) in the first paragraph, for “provided for in Annex IIA and IIB of Directive 75/442/EEC” substitute “listed in Annexes 1 and 2 of Directive 2008/98/EC(a)”;
- (b) in the entry for “R4”, in the sentence beginning “The operations are restricted”, for the words from “requirements the emission limit” to the end substitute “the following emission limit value for PCDDs and PCDFs.”;
- (c) after the entry for “R4” insert—

“The emission limit value for PCDDs and PCDFs is the average emission limit value of 0.1ng/Nm³ over a sampling period of a minimum of 6 hours and a maximum of 8 hours. The emission limit value refers to the total concentration of PCDDs and PCDFs.

To determine the total concentration of PCDDs and PCDFs, the mass concentration of a dibenzo-p-dioxin or dibenzofuran in the first column of the following table shall be multiplied by the corresponding equivalence factor in the second column before summing:

<i>Substance</i>	<i>Toxic equivalence factor</i>
2,3,7,8 — Tetrachlorodibenzodioxin	1

(a) OJ No. L 312, 22.11.2008, p. 3.

(TCDD)	
1,2,3,7,8 — Pentachlorodibenzodioxin (PeCDD)	0.5
1,2,3,4,7,8 — Hexachlorodibenzodioxin (HxCDD)	0.1
1,2,3,6,7,8 — Hexachlorodibenzodioxin (HxCDD)	0.1
1,2,3,7,8,9 — Hexachlorodibenzodioxin (HxCDD)	0.1
1,2,3,4,6,7,8 — Heptachlorodibenzodioxin (HpCDD)	0.01
Octachlorodibenzodioxin (OCDD)	0.001
2,3,7,8 — Tetrachlorodibenzofuran (TCDF)	0.1
2,3,4,7,8 — Pentachlorodibenzofuran (PeCDF)	0.5
1,2,3,7,8 — Pentachlorodibenzofuran (PeCDF)	0.05
1,2,3,4,7,8 — Hexachlorodibenzofuran (HxCDF)	0.1
1,2,3,6,7,8 — Hexachlorodibenzofuran (HxCDF)	0.1
1,2,3,7,8,9 — Hexachlorodibenzofuran (HxCDF)	0.1
2,3,4,6,7,8 — Hexachlorodibenzofuran (HxCDF)	0.1
1,2,3,4,6,7,8 — Heptachlorodibenzofuran (HpCDF)	0.01
1,2,3,4,7,8,9 — Heptachlorodibenzofuran (HpCDF)	0.01
Octachlorodibenzofuran (OCDF)	0.001”.

(3) In Part 2—

(a) in the table—

(i) in the final column (operation)—

(aa) in point (2), for “Council Directive 1999/31/EC and Council Decision 2003/33/EC” substitute “the relevant regulations”;

(bb) after point (3) insert—

“In point (2), “relevant regulations” means—

(a) for England and Wales, the Environmental Permitting (England and Wales) Regulations 2016;

(b) for Northern Ireland, the Landfill Regulations (Northern Ireland) 2003(a);

(c) for Scotland, the Landfill (Scotland) Regulations 2003(b).”;

(ii) in endnote (2)—

(aa) for “considered” substitute “categorised”;

(bb) for the words from “pursuant” to the end substitute “under Commission Decision 2000/532/EC”;

(a) S.R. 2003 No. 496, amended by S.R. 2004 No. 297, 2007 No. 179, 2007 No. 258, 2011 No. 101, 2013 No. 161.

(b) S.S.I. 2003/235, amended by S.S.I. 2003/343, 2013/222.

(iii) omit endnotes (5) and (6).

Date *Name*
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by—

- (b) section 2(2) of the European Communities Act 1972 (c. 68), and
- (c) section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16), in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c) and (g) which apply to this instrument) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation in the field of environmental protection and, in particular, amend legislation relating to the regulation of persistent organic pollutants. Parts 2 and 3 amend secondary legislation. Part 4 amends other legislation.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.