

2018 No.

EXITING THE EUROPEAN UNION

ENVIRONMENTAL PROTECTION

ELECTRICITY

CONTROL OF FUEL AND ELECTRICITY

**The Pipe-lines, Petroleum, Electricity Works and Oil Stocking
(Miscellaneous Amendments) (EU Exit) Regulations 2018**

Sift requirements satisfied ***

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1

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

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Pipe-lines, Petroleum, Electricity Works and Oil Stocking (Miscellaneous Amendments) (EU Exit) Regulations 2018 and come into force on exit day.

(2) Subject to paragraph (3), the amendments made by these Regulations have the same extent and application as the provisions they amend.

(3) Regulation 5 does not extend to Northern Ireland.

Amendments to the Hydrocarbon Licensing Directive Regulations 1995

2.—(1) The Hydrocarbon Licensing Directive Regulations 1995^(b) are amended as follows.

(a) 2018 c. 16.

(b) S.I. 1995/1434, amended by S.I. 2016/912, 2018/56 and 2018/980 and modified by S.I. 2018/56 and 2018/980.

(2) In regulation 3(4), omit “where the applicant is effectively controlled by, or by nationals of, a State other than a member State”.

(3) In regulation 5—

(a) in paragraph (1)(b), for “Official Journal” substitute “relevant Gazette and on a public web site”;

(b) after paragraph (3) insert—

“(4) In this regulation—

(a) “landward area” has the meaning given in regulation 2 (interpretation) of the Petroleum Licensing (Applications) Regulations 2015(a);

(b) “relevant Gazette” means—

(i) the London Gazette for any notice inviting applications for licences in a landward area;

(ii) the Belfast Gazette, Edinburgh Gazette and London Gazette for any notice inviting applications for licences in a seaward area;

(c) “seaward area” has the meaning given in regulation 2 of the Petroleum Licensing (Applications) Regulations 2015.”.

Amendments to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999

3.—(1) The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999(b) are amended as follows.

(2) In regulation 3, in paragraph (b) of the definition of “appropriate particulars”, for “EU legislation other than” substitute “retained EU law other than any law that implemented”.

(3) In regulation 3A(2)(a)(ii), after “habitats protected under” insert “any law of any part of the United Kingdom that implemented”.

(4) In regulation 3B(2), for “EU or national legislation” substitute “the law of any part of the United Kingdom”.

(5) In regulations 5A(5)(b) and 11(8E)(b), for “EU legislation other than the Directive, or under national legislation” substitute “the law of any part of the United Kingdom other than any law that implemented the Directive”.

(6) In regulation 6(3), for “EU legislation other than” substitute “retained EU law other than any law that implemented”.

(7) In regulations 6(5)(d), 12A(1) and 13(4)(b), for “another EEA State” substitute “an EEA State”.

(8) In the first place it occurs in regulations 11(7) and 12(2), in both places it occurs in regulation 12(1) and in the heading of regulation 12A, omit “other”.

(9) In regulation 12A(1), omit “, pursuant to Article 7(1) or 7(2) of the Directive,”.

(10) In regulation 12A(1)(b), omit “pursuant to Article 7(3)(b) of the Directive”.

(11) In regulation 13(4)—

(a) after sub-paragraph (a) insert “and”;

(b) omit sub-paragraph (c) and the “, and” immediately preceding it.

(12) In Schedule 1—

(a) S.I. 2015/766, amended by S.I. 2016/912, 2017/855, 2018/56 and 2018/980 and modified by S.I. 2018/56 and 2018/980.

(b) S.I. 1999/360, amended by S.I. 2007/933, 2015/1431, 2016/529, 2016/912 and 2017/582 and applied with modifications under S.I. 2010/1513.

- (a) in paragraph 2(c)(v), for the words after “national legislation” to the end substitute “or Natura 2000 as defined in regulation 3(1) of the Conservation of Habitats and Species Regulations 2017;”;
- (b) in paragraph 2(c)(vi), for “EU legislation” substitute “retained EU law”.

(13) In Schedule 2, in paragraph 10—

- (a) for “EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances or Council Directive 2009/71/Euratom establishing a community framework for the nuclear safety of nuclear installations or relevant assessments carried out pursuant to national legislation” substitute “retained EU law or relevant assessments carried out pursuant to any other law of any part of the United Kingdom”;
- (b) after “requirements of” insert “any law of any part of the United Kingdom that implemented”.

Amendments to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999

4.—(1) The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999^(a) are amended as follows.

(2) In regulation 2(1), in paragraph (b) of the definition of “appropriate particulars”, for “EU legislation other than” substitute “retained EU law other than any law that implemented”.

(3) In regulation 2A(2)(a)(ii), after “habitats protected under” insert “any law of any part of the United Kingdom that implemented”.

(4) In regulations 2B(2), for “EU or national legislation” substitute “the law of any part of the United Kingdom”.

(5) In regulation 3A—

- (a) in paragraph (1)(b), after “providing that the objectives of” insert “any law of any part of the United Kingdom that implemented”;
- (b) in paragraph (4), omit sub-paragraph (c) and the “, and” immediately preceding it.

(6) In regulations 3A(4)(b), 10(3)(b), 13(1) in both places in which it occurs, 13(2) and 14(2), for “another EEA State” substitute “an EEA State”.

(7) In regulation 6(2)(a), for “European Union legislation other than” substitute “retained EU law other than any law that implemented”.

(8) In regulations 13(1)(i), 14(2)(b) and 14(2)(c)(ii), omit “other”.

(9) In regulation 14(1D)(b), for “EU legislation other than the Directive, or under national legislation,” substitute “the law of any part of the United Kingdom, other than any law that implemented the Directive.”.

(10) In Schedule 1—

- (a) in paragraph 4, for “Article 3(1) of the Directive” substitute “regulation 2A(2)(a)”;
- (b) in paragraph 5, for “Article 3(1) of the Directive” substitute “regulation 2A(2)(a)”;
- (c) in paragraph 10—
 - (i) for “EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances or Council Directive 2009/71/Euratom establishing a community framework for the nuclear safety of nuclear installations or relevant assessments carried out pursuant to national legislation” substitute “retained EU law or relevant assessments carried out pursuant to any other law of any part of the United Kingdom”;

(a) S.I. 1999/1672, amended by S.I. 2000/3252, 2007/1996, 2010/460, 2011,1824, 2013/755, 2014/557, 2016/58, 2017/567, 2017/582 and 2017/1012.

- (ii) after “requirements of” insert “any law of any part of the United Kingdom that implemented”.
- (11) In Schedule 2—
 - (a) in paragraph 2(c)(v), for the words after “national legislation” to the end substitute “or Natura 2000 as defined in regulation 3(1) of the Conservation of Habitats and Species Regulations 2017;”;
 - (b) in paragraph 2(c)(vi), for “EU legislation” substitute “retained EU law”;
 - (c) In paragraph 3, for “Article 3(1) of the Directive” substitute “regulation 2A(2)(a)”.

Amendments to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000

5.—(1) The Pipe-line Works (Environmental Impact Assessment) Regulations 2000(a) are amended as follows.

(2) In regulation 2, in paragraph (b) of the definition of “appropriate particulars”, for “EU legislation other than” substitute “retained EU law other than any law that implemented”.

(3) In regulation 2A(2)(a)(ii), after “habitats protected under” insert “any law of any part of the United Kingdom that implemented”.

(4) In regulation 2B(2), for “EU or national legislation” substitute “the law of any part of the United Kingdom”.

(5) In regulation 2C(1)(b), after “providing that the objectives of” insert “any law of any part of the United Kingdom that implemented”.

(6) In regulation 2C(4), omit sub-paragraph (c) and the “, and” immediately preceding it.

(7) In regulations 2C(4)(b), 3(3), 4(4)(c), 7(5)(a), 10(1)(a), 10(1)(b) and 10(2), for “another EEA State” substitute “an EEA State”.

(8) In regulations 2C(4)(b), 3(3)(b), 3(4)(b)(ii), 3(5A)(a)(iii), 10(1)(i) and in the heading of regulation 10, omit “other”.

(9) In regulation 3(2D)(b), for “EU legislation other than the Directive, or under national legislation,” substitute “any law of any part of the United Kingdom, other than any law which implemented the Directive,”.

(10) In regulation 4(2), for “EU legislation other than” substitute “retained EU law other than any law that implemented”.

(11) In Schedule 1—

(a) in paragraphs 4 and 5, for “Article 3(1) of the Directive” substitute “regulation 2A(2)(a)”;

(b) in paragraph 10—

(i) for “EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances or Council Directive 2009/71/Euratom establishing a community framework for the nuclear safety of nuclear installations or relevant assessments carried out pursuant to national legislation” substitute “retained EU law or relevant assessments carried out pursuant to any other law of any part of the United Kingdom”;

(ii) after “requirements of” insert “any law of any part of the United Kingdom that implemented”.

(12) In Schedule 2—

(a) in paragraph 2(c)(v), for the words after “national legislation” to the end substitute “or Natura 2000 as defined in regulation 3(1) of the Conservation of Habitats and Species Regulations 2017;”;

(b) in paragraph 2(c)(vi), for “EU legislation” substitute “retained EU law”;

(a) S.I. 2000/1928, amended by S.I. 2000/3253, 2007/1992, 2011/2453, 2013/755, 2017/582 and 2017/1012.

- (c) in paragraph 3, for “Article 3(1) of the Directive” substitute “regulation 2A(2)(a)”.

Amendments to the Hydrocarbons Licensing Directive Regulations (Northern Ireland) 2010

6.—(1) The Hydrocarbons Licensing Directive Regulations (Northern Ireland) 2010(a) are amended as follows.

(2) In regulation 2(1), omit the definitions of—

- (a) “the Official Journal”;
- (b) “EEA State”.

(3) In regulation 3, for “Official Journal”, in each place it occurs, substitute “Belfast Gazette and on a public website”.

(4) In regulation 4(5), omit “where the applicant is effectively controlled by, or by nationals of, a State other than an EEA State”.

(5) In regulation 5(b), for “Official Journal” substitute “Belfast Gazette and on a public website”.

Amendments to the Oil Stocking Order 2012

7.—(1) The Oil Stocking Order 2012(b) is amended as follows.

(2) In article 2(1), omit the definition of “another member State”.

(3) In each place it occurs in article 2(1) and in articles 7(1), 9, 11(1) and in the heading of article 9, for “another member State” substitute “a member State”.

(4) In the heading of Part 4, omit “Other”.

(5) In article 13(2), omit sub-paragraph (a).

Amendments to the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013

8.—(1) The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013(c) are amended as follows.

(2) In regulation 2, after paragraph (2) insert—

“(3) Subject to the exception in regulation 11A(b), any provision of the 2010 Directive referred to in these Regulations is to be read as if requirements imposed under the provision on a member State were requirements imposed on the Secretary of State.”.

(3) In the headings of regulations 6 and 20, in regulation 6(2) and (3) and in regulation 20(2)(a) and (b), (3) and (4), omit “other”.

(4) In both places it occurs in regulations 5(2)(e) and 6(1) and in regulations 7(1)(a)(ii), 8(2)(a)(ii), 9(2)(f), 12(5) and 20(1), for “another member State” substitute “a member State”.

(5) In regulation 7(1)(b)—

- (a) omit “where Article 4 of the EIA Directive applies”;
- (b) for “under Articles” substitute “under retained EU law that implemented Articles 4,”.

(6) At the end of regulation 11A(b), insert “except that the Secretary of State has no obligation to inform the Commission of any derogation granted under paragraph (5) or (6)”.

(7) In regulation 12—

- (a) omit paragraph (3)(b) and the word “and” immediately preceding it;
- (b) for “under Articles” substitute “under retained EU law that implemented Articles 4,”.

(a) S.R. 2010/170.

(b) S.I. 2012/2862.

(c) S.I. 2013/971, amended by S.I. 2016/912 and 2018/798.

Amendments to the Petroleum Licensing (Applications) Regulations 2015

9.—(1) Regulation 2 of the Petroleum Licensing (Applications) Regulations 2015 is amended as follows.

(2) In the definition of “application notice”, for “Official Journal of the European Union” substitute “relevant Gazette and on a public web site”.

(3) After the definition of “petroleum exploration and development licence” insert—

““relevant Gazette” means—

- (a) the London Gazette for any notice inviting applications for licences in a landward area;
- (b) the Belfast Gazette, Edinburgh Gazette and London Gazette for any notice inviting applications for licences in a seaward area.”.

Amendments to the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017

10.—(1) The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017^(a) are amended as follows.

(2) In regulation 7(2)(b), after “species protected under” insert “any law of any part of the United Kingdom that implemented”.

(3) In regulations 12(3)(a) and 15(1)(b), for “European Union legislation other than” substitute “retained EU law other than any law that implemented”.

(4) In regulation 17(4), for “European Union legislation or under domestic legislation” substitute “the law of any part of the United Kingdom”.

(5) In each place it occurs in regulation 22(2) and (5), omit “(other than the United Kingdom)”.

(6) In regulation 22(2)(b), omit “other”.

(7) In regulation 24—

- (a) in the heading, omit “other”;
- (b) in both places it occurs in paragraph (1), omit “(other than the United Kingdom)”;
- (c) in paragraph (1)(a), omit “other than the United Kingdom”;
- (d) in paragraph (4), for “referred to in Article 6(1) of the EIA Directive” substitute “designated by the EEA state concerned to be consulted about the project”.

(8) In regulation 39—

- (a) in paragraph (2)(b), after “the requirements of” insert “the law of any part of the United Kingdom that implemented”;
- (b) in paragraph (5), after “to comply with” insert “the law of any part of the United Kingdom that implemented”.

(9) In regulation 42, after paragraph (4) insert—

“(4A) For the purposes of this regulation, the 2000 Regulations^(b) must be treated as if, immediately before being revoked, they had been amended as follows—

- (a) in regulations 4(2)(b) and 12(1)(i) and in the heading of regulation 12, omit “other”;
- (b) in regulation 9(2)(a) and both places it occurs in regulation 12(1), for “another EEA State” substitute “an EEA State”;

^(a) S.I. 2017/580, amended by S.I. 2017/1012.

^(b) S.I. 2000/1928, amended by S.I. 2000/3253, 2007/1992, 2011/2453, 2013/755, 2017/582 and 2017/1012.

- (c) in regulation 12(3), for “referred to in Article 6(1) of Council Directive 85/337/EEC” substitute “designated by the EEA State concerned to be consulted about the project”;
- (d) in Schedule 3—
 - (i) in paragraph 2(c)(v), for “EEA States’ legislation” substitute “domestic legislation or legislation of EEA States;”;
 - (ii) in paragraph 2(c)(vi), for the words after “designated by” to the end substitute “national legislation or Natura 2000 as defined in regulation 3(1) of the Conservation of Habitats and Species Regulations 2017;”;
 - (iii) in paragraph 2(c)(vii), for “legislation of the European Union” substitute “retained EU law”.

(10) In Schedule 3—

- (a) in paragraph 2(c)(v), omit “other”;
- (b) in paragraph 2(c)(vii), for “European Union legislation” substitute “retained EU law”.

(11) In Schedule 4—

- (a) in paragraph 5(2), omit the words “, including in particular those established under the Habitats Directive or the Wild Birds Directive”;
- (b) in paragraph 8(2)—
 - (i) for “European Union legislation such as the Seveso III Directive or the Nuclear Safety Directive and relevant assessments undertaken under domestic legislation” substitute “retained EU law and relevant assessments undertaken under any other law of any part of the United Kingdom”;
 - (ii) after “requirements of” insert “any law of any part of the United Kingdom that implemented”.

Date

Parliamentary Under Secretary of State
Department for Business, Enterprise and Industrial Strategy

Name

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of 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), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the fields of hydrocarbon licensing, oil stocking and the assessment of environmental effects for electricity works, pipe-lines and oil and gas projects.

These Regulations amend—

- (a) the Hydrocarbon Licensing Directive Regulations 1995 (S.I. 1995/1434);
- (b) the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/360);
- (c) the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (S.I. 1999/1672);
- (d) the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (S.I. 2000/1928);

- (e) the Hydrocarbons Licensing Directive Regulations (Northern Ireland) 2010 (S.R. 2010/170);
- (f) the Oil Stocking Order 2012 (S.I. 2012/2862);
- (g) the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013 (S.I. 2013/971);
- (h) the Petroleum Licensing (Applications) Regulations 2015 (S.I. 2015/766); and
- (i) the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 (S.I. 2017/580).

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

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