

2020 No. 0000

EXITING THE EUROPEAN UNION

TRANSPORT

HARBOURS, DOCKS, PIERS AND FERRIES

COMPETITION

**The Pilotage and Port Services (Amendment) (EU Exit)
Regulations 2020**

<i>Sift requirements satisfied</i>	2020
<i>Made</i> - - - -	2020
<i>Laid before Parliament</i>	2020
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

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

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pilotage and Port Services (Amendment) (EU Exit) Regulations 2020 and come into force on IP completion day.

(2) Parts 1 and 2 extend to England and Wales, Scotland and Northern Ireland.

(3) Parts 3 and 4 extend to England and Wales and Scotland.

PART 2

Amendment of primary legislation

Amendment of the Pilotage Act 1987

2. In the Pilotage Act 1987(a)—
- (a) in section 3(1A) and (2A) (authorisation of pilots) omit “other than the United Kingdom”;
 - (b) in Schedule A1 (recognition of EEA qualifications and experience in relation to pilotage in inland waters)—
 - (i) in paragraphs 2(1)(b), 3(1)(b)(i), 5(2) and 6(2)(b), omit “other than the United Kingdom” in each place it occurs;
 - (ii) in paragraphs 7(1)(b) and 8(1)(b), omit “other than the United Kingdom”; and
 - (iii) in paragraph 11(2)(a), omit “other than the United Kingdom”.

PART 3

Amendment of retained direct EU legislation

Regulation (EU) 2017/352 of the European Parliament and of the Council

3. Regulation (EU) 2017/352 of the European Parliament and of the Council of 15th February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports is amended as follows.

4. In Article 1—
- (a) in paragraph 4, after “all” insert “United Kingdom”;
 - (b) omit paragraphs 5 and 6;
 - (c) in paragraph 7, for “Directives 2014/23/EU and 2014/24/EU of the European Parliament and of the Council and Directive 2014/25/EU” substitute “the Concession Contracts Regulations 2016(b), the Concession Contracts (Scotland) Regulations 2016(c), the Public Contracts Regulations 2015(d), the Public Contracts (Scotland) Regulations 2015(e), the Utilities Contracts Regulations 2016(f) and the Utilities Contracts (Scotland) Regulations 2016(g)”.

(a) 1987 c. 21. Section 3(1A) and (2A) and Schedule A1 were inserted by S.I. 2003/1230. Schedule A1 was amended by S.I. 2019/1305.

(b) S.I. 2016/273, amended by S.I. 2019/624 and prospectively amended by S.I. 2019/489 and S.I. 2019/560.

(c) S.S.I. 2016/65, amended by S.S.I. 2016/125, S.I. 2016/696, S.S.I. 2019/7, S.S.I. 2019/173 and prospectively amended by S.S.I. 2019/112.

(d) S.I. 2015/102, amended by S.I. 2015/1472, S.I. 2016/275, S.I. 2016/696, S.I. 2017/701, S.I. 2018/285 and S.I. 2019/624 and prospectively amended by S.I. 2019/560.

(e) S.S.I. 2015/446, amended by S.S.I. 2016/47, S.S.I. 2016/337, S.S.I. 2016/338, S.I. 2016/696, S.I. 2017/1011 and S.S.I. 2019/7 and prospectively amended by S.S.I. 2019/112.

(f) S.I. 2016/274, amended by S.I. 2016/696 and S.I. 2019/624 and prospectively amended by S.I. 2019/489 and S.I. 2019/560.

(g) S.S.I. 2016/49, amended by S.I. 2016/696, S.S.I. 2019/7 and S.S.I. 2019/173 and prospectively amended by S.S.I. 2019/112.

5. In Article 2—

- (a) in paragraph (2), for “Member State” substitute “relevant authority”;
- (b) in paragraph (10), for “Directive 2000/59/EC of the European Parliament and of the Council” substitute “regulation 2(1) of the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003(a)”;
- (c) after paragraph (14) insert—
 - “(14A) ‘relevant authority’ means—
 - (a) in the case of ports in England and reserved trust ports, the Secretary of State;
 - (b) in the case of ports in Wales except reserved trust ports, the Welsh Ministers;
 - (c) in the case of ports in Scotland, the Scottish Ministers;
 - (14B) ‘reserved trust port’ has the meaning given in section 32 of the Wales Act 2017(b);”.

6. In Article 3(2), for “Member States may decide by national law” substitute “The relevant authority may decide”.

7. In Article 4—

- (a) in paragraph 2—
 - (i) in point (f), omit “, Union”;
 - (ii) in point (g), for “Member State of the port concerned” substitute “relevant part of the United Kingdom”;
- (b) omit paragraph 3;
- (c) in paragraph 6, omit “and the procedure for the granting of the right to provide port services under those requirements by 24 March 2019 or, in the case of minimum requirements that are to apply after that date,”.

8. In Article 6—

- (a) in paragraph 1(e)—
 - (i) for “Article 35 of Directive 2014/25/EU” substitute “regulation 35 of the Utilities Contracts Regulations 2016 or regulation 33 of the Utilities Contracts (Scotland) Regulations 2016”;
 - (ii) for “a Member State” substitute “the United Kingdom”;
 - (iii) for “Article 34 of that Directive” substitute “regulation 34 of the Utilities Contracts Regulations 2016 or regulation 32 of the Utilities Contracts (Scotland) Regulations 2016”;
- (b) in paragraph 5, for “and in paragraph 7 of this Article and in Article 8” substitute “, regulation 4 of the Port Services Regulations 2019(c) and Article 8”.
- (c) in paragraph 6, for “Member State concerned” substitute “relevant authority”;
- (d) omit paragraph 7.

9. In Article 7—

- (a) in paragraph 1, for “Member States” substitute “The relevant authority”;
- (b) in paragraph 2, omit “, and shall guarantee equality of access to all providers of port services established in the Union”;
- (c) omit paragraph 3.

(a) S.I. 2003/1809, amended by S.I. 2009/1176, S.I. 2016/1211 and S.I. 2018/68 and prospectively by S.I. 2018/1221.

(b) 2017 c. 4.

(c) S.I. 2019/575.

10. In Article 9—

- (a) in paragraph 1, for “Member States” substitute “relevant part of the United Kingdom”;
- (b) in paragraph 2—
 - (i) omit “Union and”;
 - (ii) omit “Union law,”;
- (c) in paragraph 3, for “Directive 2001/23/EC” substitute “the Transfer of Undertakings (Protection of Employment) Regulations 2006(a)”.

11. Omit Article 10(2).

12. In Article 11—

- (a) in paragraph 5—
 - (i) omit “in the Member State concerned”;
 - (ii) omit “Such information shall be made available to the Commission by the relevant authority upon request.”;
- (b) omit paragraph 8.

13. In Article 12(3), omit “in the Member State concerned”.

14. In Article 13—

- (a) in paragraph 1, for “Member States shall ensure that a port infrastructure charge is levied. This” substitute “The charging of a port infrastructure charge”;
- (b) in paragraph 3, for “Member State concerned” substitute “relevant authority”;
- (c) in paragraph 6—
 - (i) omit “of the Member State concerned”;
 - (ii) omit “That authority shall make the information available to the Commission upon request.”.

15. In Article 16—

- (a) in paragraph 1, for “Member State” substitute “relevant authority”;
- (b) in paragraph 2, for “Member States” substitute “The relevant authority”;
- (c) in paragraph 3—
 - (i) for “in the Member State of” substitute “with the relevant authority for”;
 - (ii) after “origin” insert “in accordance with Part 3 of the Port Services Regulations 2019”;
 - (iii) for “Member States” substitute “The relevant authority”;
- (d) omit paragraph 4;
- (e) omit paragraph 7;
- (f) omit paragraph 8.

16. Omit Articles 17, 19 and 20.

17. In the text immediately after Article 22, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

(a) S.I. 2006/246, amended by S.R. 2006 No. 177, S.I. 2009/592, S.I. 2010/93, S.I. 2014/16, S.I. 2014/386, S.I. 2014/853 and S.R. 2020 No. 15.

PART 4

Amendment of the Annexes to the EEA Agreement

Amendment of Annex 13 to the EEA Agreement

18. Omit paragraph 56z of Annex 13 to the EEA Agreement so far as that Annex forms part of domestic law by virtue of section 3(2)(b) of the European Union (Withdrawal) Act 2018.

Signed by authority of the Secretary of State for Transport

Date

Name
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in the exercise of the powers in section 8(1) 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), (e) and (g) and paragraph 21 of Schedule 7) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of pilotage and port services. In particular, Part 2 amends the Pilotage Act 1987 and Part 3 amends Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (“Regulation (EU) 2017/352”).

Part 4 revokes the adaptations of Regulation (EU) 2017/352 in paragraph 56z of Annex 13 to the EEA Agreement.

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

An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk