
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 138

The Environment and Trade in Animals
and Related Products (EU Exit) (Scotland)
(Miscellaneous Amendment) Regulations 2022

PART 3

Amendments to legislation concerning flood risk management

Amendment of the Flood Risk Management (Scotland) Act 2009

6.—(1) The Flood Risk Management (Scotland) Act 2009(1) is amended in accordance with paragraphs (2) to (8).

- (2) In section 6 (“the Directive”), after “Act,” insert “subject to section 6A,”,
- (3) After section 6, insert—

“6A. Interpretation of the Directive

- (1) The Directive is to be interpreted in accordance with this section.
- (2) When interpreting the Directive for the purposes this Act—
 - (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the Scottish Ministers,
 - (b) a reference to Community legislation is to be read as a reference to retained EU law,
 - (c) a reference to [Directive 2000/60/EC](#) is to be read as a reference to that Directive as interpreted in accordance with Part 1 of schedule 5 of the Water Environment and Water Services (Scotland) Act 2003(2),
 - (d) the Directive is to be read subject to the following rules.
- (3) The final paragraph of Article 3(2) is to be ignored.
- (4) Articles 4(3), 5(2) and 6(2) are to be ignored.
- (5) In Article 6(5)(c) the reference to “Annex I to Council [Directive 96/61/EC](#) of 24 September 1996 concerning integrated pollution and prevention control” is to be read as a reference to “Annex 1 of [Directive 2010/75/EU](#) of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)”(3).
- (6) Articles 7(4), 8(2) to (5), 11 to 13, 15, 16 and 17(2) are to be ignored.
- (7) Section 1 of Part A of the Annex is to be read as if—

(1) [2009 asp 6](#), as relevantly amended by [S.I. 2011/1043](#) and [S.S.I. 2018/391](#).
(2) [2003 asp 3](#); schedule 5 was inserted by [S.S.I. 2019/26](#).
(3) OJ L 334, 17.12.2010, p. 17.

- (a) in paragraph 4, for “other Community acts, including Council Directives [85/337/EEC](#) of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment and [96/82/EC](#) of 9 December 1996 on the control of major accident hazards involving dangerous substances” there were substituted “retained EU law which implemented [Directive 2011/92/EU](#) of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment⁽⁴⁾, [Directive 2012/18/EU](#) of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EC](#)⁽⁵⁾”,
 - (b) in paragraph 5, for “Member States concerned” there were substituted “Scottish Ministers”.”.
- (4) In section 23(2) (flood risk maps)⁽⁶⁾—
- (a) in paragraph (c), for “referred to”, where it first occurs, substitute “in which there is carried out any activity mentioned in”,
 - (b) in paragraph (d)(vi), after “pursuant to” insert “any retained EU law which implemented”.
- (5) In section 51(1) (power to give effect to EU obligations etc.), for “EU obligation of the United Kingdom” substitute “obligation arising from retained EU law”.
- (6) In section 95(2) (interpretation: general), for “as amended from time to time” substitute “as it had effect immediately before IP completion day”.
- (7) In Part 1 of schedule 1 (matters to be included in flood risk management plans), in paragraph 4—
- (a) at the beginning of each of sub-paragraphs (a), (b) and (c), insert “any retained EU law which implemented”,
 - (b) in sub-paragraph (d), for “EU instrument” substitute “retained EU law”.
- (8) In schedule 4 (index), in the entry for “the Directive”, for “Section 6” substitute “Sections 6 and 6A”.

Amendment of the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010

7.—(1) The Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010⁽⁷⁾ are amended in accordance with paragraphs (2) to (5).

- (2) In regulation 2 (interpretation), omit the definition of “Union legislation”.
- (3) In regulation 2A(3)(b) (meaning of “environmental impact assessment” etc.)⁽⁸⁾, after “protected under” insert “any retained EU law which implemented”.
- (4) In regulation 10A(2)(b) (monitoring measures, etc.)⁽⁹⁾ and paragraph 2(c)(vi) of schedule 1 (location of the scheme)⁽¹⁰⁾, for “Union legislation” substitute “retained EU law”.
- (5) In schedule 2 (information for inclusion in EIA reports)⁽¹¹⁾—
 - (a) in paragraph 5(2), in the second sentence —

(4) OJ L 26, 28.1.2012, p. 1.

(5) OJ L 197, 24.7.2012, p. 1.

(6) Section 23(2) was amended by [S.S.I. 2018/391](#).

(7) [S.S.I. 2010/426](#), amended by [S.S.I. 2017/112](#).

(8) Regulation 2A was inserted by [S.S.I. 2017/112](#).

(9) Regulation 10A was inserted by [S.S.I. 2017/112](#).

(10) Schedule 1 was substituted by [S.S.I. 2017/112](#).

(11) Schedule 2 was substituted by [S.S.I. 2017/112](#).

- (i) for “established at Union or Member State level” substitute “in retained EU law or otherwise under the law of any part of the United Kingdom”,
- (ii) after “established under” insert “any law in Scotland which implemented”,
- (b) in paragraph 8 for “legislation of the European Union such as” substitute “any law which implemented”.