

NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

The European Union (Future Relationship) Act 2020 (references to the Trade and Cooperation Agreement) Regulations 2021

The UK Government has informed the Scottish Government that it intends to bring forward the above Regulations under Section 31 of the European Union (Future Relationship) Act (EUFRA) 2020.

These regulations follow upon the final legal revision process of the text of the Trade and Cooperation Agreement (TCA). The process resulted in the renumbering of the Articles of the TCA from their provisional designations to sequential numbering Article 1-783. This has given rise to the need for the regulations which the UK Government proposes.

The TCA was enacted in the UK by the European Union (Future Relationship) Act 2020 ("EUFRA"). At that point the Act was passed, the TCA's Articles were numbered according to the group in which they were negotiated. The legal revision of the TCA has renumbered all its Articles in the normal, sequential manner. These Regulations amend the references to the TCA in EUFRA so that those references are to the updated Article numbers.

The SI is made under section 31 of EUFRA which is a power exercisable by the Scottish Ministers.

Is the notification Type 1 or Type 2

This is a Type 2 notification.

The version of the TCA which was provisionally applied between the UK and the EU used draft numbering for its Articles. During the process of final ratification of the TCA by the EU Parliament and Council in April 2021, the text of the TCA was subject to legal revision. On 21 April 2021, legal revision was completed and the final version of the TCA replaced the negotiation text which had been used until then. Previously, the Articles of the Treaty were allocated numbers which were used when they were negotiated. During the legal revision, the entire treaty was renumbered into a conventional, sequential format.

The regulations adjust the wording of EUFRA so that references to Articles in the TCA are references to the updated numbering scheme. There is no change to the substance of either the TCA or EUFRA.

Details of the provisions that Scottish Ministers are being asked to consent to.

Scottish Ministers were asked to consent to the above Regulations being brought forward under Section 31 of the European Union (Future Relationship) Act (EUFRA) 2020, as detailed above.

Summary of the proposals

This SI does not include any policy decision or the implementation of a policy decision. It is a technical measure as described above.

Does the SI relate to a common framework or other scheme?

This SI does not relate to a common framework or other scheme.

Summary of stakeholder engagement/consultation

Consultation is not necessary because this instrument makes purely technical changes to existing legislation, whose substance it does not change

The Minister of the Crown is making this instrument in England and Wales, Scotland and Northern Ireland, under Section 31 of the European Union (Future Relationship) Act (EUFRA) 2020. The Minister of the Crown has written to ministers from the Scottish Ministers about the preparation of this instrument. No other consultation is required or has been undertaken.

A note of other impact assessments, (if available)

This instrument makes purely technical changes, therefore no other impact assessments have been undertaken.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The Scottish Ministers have consented to this SI because it makes purely technical changes which do not affect any policy issues. There is no policy choice involved nor reason for a separate, parallel Scottish Statutory Instrument.

Intended laying date (if known) of instruments likely to arise

The SI will follow the draft affirmative procedure and will therefore be debated and voted on in both Houses of the UK Parliament. The UK Government laid the SI on 16 June, with the debates to be subsequently scheduled by Parliamentary business managers.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

Not applicable as this is a Type 2 notification. As such it is being notified to the Parliament after Scottish Ministers have consented to the SI.

Information about any time dependency associated with the proposal

None

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

There are no broader governance issues related to this proposal.

Any significant financial implications?

There are no financial implications with this SI

SI NOTIFICATION: SUMMARY

Title of Instrument
The European Union (Future Relationship) Act 2020 (references to the Trade and Cooperation Agreement) Regulations 2021
Proposed laying date at Westminster
The UK Government currently intends that the SI will be laid in the week of 14 June, with the debates subsequently scheduled by Parliamentary business managers.
Date by which Committee has been asked to respond
As this is a Type 2 notification it is for the Parliament to decide if they required any further information about the SI and the consent decision.
Power(s) under which SI is to be made
Section 31 of the European Union (Future Relationship) Act (EUFRA) 2020.
Categorisation under SI Protocol
Type 2
Purpose
The TCA was enacted in the UK by the European Union (Future Relationship) Act 2020 (“EUFRA”). At that point the Act was passed, the TCA’s Articles were numbered according to the group in which they were negotiated. The legal revision of the TCA has renumbered all its Articles in the normal, sequential manner. These Regulations amend the references to the TCA in EUFRA so that those references are to the updated Article numbers.
Other information
SG Policy contact:
Christopher Layden christopher.layden@gov.scot 07881 259 794