



Response

The Law Society of Scotland is the professional body for almost 12,000 Scottish solicitors. We seek to influence the creation of a fairer and more just society and are strongly committed to our statutory duty to work in the public interest and to both protect and promote the rule of law.

Regulations

The Regulations concern the EU Emissions Trading System (EU ETS). The EU ETS is an international market for emissions trading which supports the EU's policy to combat climate change. The system is established by a number of pieces of legislation. We note that the implementation of the EU ETS has been carried out by virtue of the UK Greenhouse Gas Regulations 2012, made by the UK Government with the consent of Scottish Ministers using powers under section 57 of the Scotland Act 1998.

The Regulations have been prepared as part of the arrangements for the possibility of the UK leaving the EU without a withdrawal agreement in place. If a withdrawal agreement is not in place, the UK will be excluded from participating in the EU ETS. The system would no longer be able to operate within the UK as UK participants will not have access to the EU Registry to manage their allowances. The Regulations attempt to save the relevant aspects of the EU ETS by pulling operable provisions into UK law.

Comments

We have not had sight of the proposed SI and are therefore not in a position to make full comment on its terms. We note that from the information provided that the SI retains existing EU ETS emissions monitoring and reporting requirements and enforcement provisions, while removing requirements to obtain and surrender EU ETS emissions allowances.

We consider that it is necessary for provisions to be in place to ensure that EU ETS arrangements can continue to operate in the event of a no deal Brexit. The planned approach which retains the majority of current arrangements appears to be sensible in the circumstances and will help to ensure legal continuity and certainty for those operating in the sector. Strong collaboration between the UK Government and devolved administrations and engagement with relevant stakeholder groups will be of considerable importance.

We note the possibility of future arrangements being made in relation to the Emissions Trading Scheme and there may be discussion at that time as to the interaction with climate change policy.