

Report on the Statutory Instrument Consent Memorandum for The Waste (Circular Economy) (Amendment) Regulations 2020

September 2020

1. Background

1. The Waste (Circular Economy) (Amendment) Regulations 2020 (the Regulations)¹ were made by the UK Government on 25 August 2020 and laid before the UK Parliament on 27 August 2020.
2. Standing Order 30A states that a member of the government must lay a Statutory Instrument Consent Memorandum in relation to any relevant statutory instrument (e.g. regulations) laid before the UK Parliament by UK Ministers, if a UK statutory instrument makes provision in relation to Wales to amend primary legislation within the legislative competence of the Senedd.
3. On 1 September 2020, Hannah Blythyn MS, the Deputy Minister for Housing and Local Government (the Deputy Minister), laid before the Senedd a Statutory Instrument Consent Memorandum (the Memorandum)² for the Regulations, in accordance with Standing Order 30A. The following day, the Deputy Minister wrote to notify us of the Memorandum.³

¹ [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020](#)

² [Welsh Government Statutory Instrument Consent Memorandum: The Waste \(Circular Economy\) \(Amendment\) Regulations 2020](#)

³ [Letter from the Deputy Minister for Housing and Local Government, 2 September 2020](#)



2. The Statutory Instrument Consent Memorandum

4. The Memorandum states that:

“The objective of the Regulations is to transpose the 2020 EU Circular Economy Package (CEP) requirements in England and Wales, and Scotland and Northern Ireland for composite/UK or GB changes needed. The Devolved Administrations will make their own regulations for further amendments needed to legislation which fall outside this.”⁴

5. The Memorandum explains that the Regulations transpose the following six amending EU Directives in the field of waste:

- Directive (EU) 2018/849 amended Directives 2000/53/EC on end-of-life vehicles (“the ELV Directive”), 2006/66/EC on batteries and accumulators and waste batteries and accumulators (“the Batteries Directive”), and 2012/19/EU on waste electrical and electronic equipment (WEEE) (“the WEEE Directive”);
- Directive (EU) 2018/850 amended Directive 1999/31/EC on the landfill of waste (“the Landfill Directive”);
- Directive (EU) 2018/851 amended 2008/98/EC on waste (“the Waste Framework Directive”);
- Directive (EU) 2018/852 amended 94/62/EC on packaging and packaging waste (“the Packaging Directive”); and
- Commission Delegated Directive (EU) 2020/362 and Commission Delegated Directive (EU) 2020/363 amend Annex II of the ELV Directive.⁵

6. Paragraph 7 of the Memorandum states that the Regulations amend the following primary legislation consequential on updating the date/definitions to reflect the latest amendments to the Waste Framework Directive by 2018/851:

- Town and Country Planning Act 1990;
- Environmental Protection Act 1990;
- Environment Act 1995;
- Waste and Emissions Trading Act 2003;

⁴ Statutory Instrument Consent Memorandum, paragraph 3

⁵ Statutory Instrument Consent Memorandum, paragraph 4

- Marine and Coastal Access Act 2009.

7. The Regulations to which the Memorandum relates have been laid before the UK Parliament under the negative procedure. The provisions that amend the primary legislation, as set out above, will come into force on 1 October 2020.⁶

8. Paragraph 8 of the Memorandum confirms that it is the view of the Welsh Government that the provisions within the Regulations that amend the primary legislation listed above are within the legislative competence of the Senedd.⁷

9. Paragraphs 11 and 12 of the Memorandum set out why, in the view of the Welsh Government, it is appropriate for the Regulations to make those provisions, and states that the “changes made are purely technical and uncontroversial”.⁸ The Memorandum also indicates that the Welsh Government is of the view that this is a “proportionate” approach, and that the changes made via the Regulations do not amount to a change in policy.⁹

10. The Memorandum further states:

“The Waste (England and Wales) Regulations 2011 transposed the revised Waste Framework Directive in England and Wales on a composite basis. However, it was not possible to act compositely this time, as some amendments required are to UK/GB wide legislation. Part 4 of the SI’s Explanatory Memorandum sets out the territorial extent of each regulation in the SI.

This approach avoided the need to duplicate amendments, which would have been the case if each administration was to make the same amendments to the existing shared legislation.”¹⁰

3. Consideration

11. We considered the Memorandum at our meeting on 21 September 2020.¹¹

⁶ See also Statutory Instrument Consent Memorandum, paragraph 10

⁷ See also Statutory Instrument Consent Memorandum, paragraph 9

⁸ Statutory Instrument Consent Memorandum, paragraph 12

⁹ Ibid.

¹⁰ Statutory Instrument Consent Memorandum, paragraphs 13–14

¹¹ [Legislation, Justice and Constitution Committee, 21 September 2020](#)

4. Conclusion

- 12.** We are content with the Memorandum.
- 13.** We note the Deputy Minister's letter to us of 2 September 2020.
- 14.** We note that the Deputy Minister's letter does not confirm whether the Welsh Government will table a motion for debate in relation to this Memorandum. However, we note from the Business Statement and Announcement on 22 September 2020 that such a debate is scheduled to take place on 6 October 2020, which we welcome.