



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **The Environment (Amendment etc.) (EU Exit) (Amendment)  
(England and Wales) Regulations 2020**

**DATE**            **27 May 2020**

**BY**                **Rebecca Evans AS, Minister for Finance and Trefnydd**

### **The Environment (Amendment etc.) (EU Exit) (Amendment) (England and Wales) Regulations 2020 (“2020 Regulations”)**

The 2020 Regulations amend legislation which apply in Wales. The Regulations also amends other legislation on an England-only basis. The legislation that is being amended in relation to Wales is as follows:

#### EU Regulations

- Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos;
- Council Directive 91/271/EEC concerning urban waste-water treatment;
- Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources;
- European Parliament and Council Directive 94/62/EC on packaging and packaging waste;
- European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations;
- Council Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT);
- Council Directive 1999/31/EC on the landfill of waste;

- Directive 2000/14/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors;
- Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles;
- Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy;
- Directive 2002/49/EC of the European Parliament and of the Council relating to the assessment and management of environmental noise;
- Directive 2003/35/EC of the European Parliament and of the Council providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment;
- Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage;
- Directive 2005/64/EC of the European Parliament and of the Council on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability;
- Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality;
- Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries; Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators;
- Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration;
- Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe;
- Directive 2008/98/EC of the European Parliament and of the Council on waste;
- Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy;
- Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide;
- Commission Directive 2009/90/EC laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status;
- Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations;
- Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control);
- Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment;
- Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency;
- Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation;
- Commission Directive (EU) 2015/996 establishing common noise assessment methods according to Directive 2002/49/EC of the European Parliament and of the Council;

- Directive 2015/2193/EU of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants;
- Directive (EU) 2016/2284 of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants, and
- Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment.

Secondary legislation.

- The Environment (Amendments etc.) (EU Exit) Regulations 2019;
- The Pollution Prevention and Control (Designation of Directives) (England and Wales) Order 2019

### **Any impact the SI may have on the Senedd’s legislative competence and/or the Welsh Ministers’ executive competence**

The 2020 Regulations relates to areas within devolved competence. The amendments ensure existing functions of the Welsh Ministers are retained as far as possible in relation to retained EU law. Existing powers of the Welsh Ministers, in order to address deficiencies, have been amended to ensure post exit day they will be able to continue introducing legislation for example in relation to pollution and emissions control.

### **The purpose of the amendments**

This negative procedure SI addresses the failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the EU.

The SI makes technical, legal amendments to ensure the law continues to function in the UK after EU exit.

The Environment (Amendments etc.) (EU Exit) Regulations 2019 amended the power to make regulations that were made or capable of being made under section 2(2) of the European Communities Act 1972 (ECA) in the Pollution Prevention and Control Act 1999 (“PPCA 1999”) so as to remove the reference to section 2(2) of the ECA.

The PPCA 1999 contains a wide subordinate legislation making power relating to integrated pollution prevention and control – including regulation of polluting activities and/or controlling emissions capable of causing pollution. The Act initially conferred powers on the Secretary of State. Those powers have since been fully transferred in relation to Wales to the Welsh Ministers.

Regulation 2 of the 2020 Regulations amends the Environment (Amendment etc.) (EU Exit) Regulations 2019, which, in Regulation 4, amends the PPCA. These amendments will enable Welsh Ministers to continue making regulations in connection with the directives listed in the PPCO after the transition period ends. The directives designated relate to: waste; water quality; air quality; asbestos pollution;

public participation in environmental plans and programmes; environmental liability (to prevent or remedy environmental damage); environmental noise; and chemicals.

The amendments in the PPPCA are to enable regulations currently made under section 2 of the PPCA to continue to be made in relation to pollution/emissions control within the scope of the retained EU law listed within the Schedule of the Act.

The SI and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-environment-amendment-etc-eu-exit-amendment-england-and-wales-regulations-2020>

### **Why consent was given**

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency and to ensure consistency and coherence of the statute book. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU.