



Llywodraeth Cymru  
Welsh Government

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

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**TITLE**            **The Environmental Permitting (England & Wales) (Amendment) (EU Exit) Regulations 2018**

**DATE**            **3 December 2018**

**BY**                **Julie James AM, Leader of the House and Chief Whip**

### **The Environmental Permitting (England & Wales) (Amendment) (EU Exit) Regulations 2018**

The 2018 Regulations amends:

Domestic Legislation

- Environmental Permitting (England and Wales) Regulations 2016 (2016 Regulations).

Regulation 2(8) of, and the Schedule to this SI inserts a new Schedule 1A into the 2016 Regulations. That new Schedule contains the modifications that are applied to the following Directives for the purposes of the post EU exit interpretation of the references to those Directives in the 2016 Regulations:

- Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos;
- Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation;
- Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators;
- Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles;
- Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency;
- Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control);
- Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste;
- Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants;

- Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from the extractive industries;
- European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations;
- Directive 2009/126/EC of the European Parliament and of the Council of 21 October 2009 on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations;
- Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste;
- Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for the Community action in the field of water policy;
- Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment

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

The National Assembly for Wales and Welsh Ministers have legislative and executive competence in relation to the environmental permitting regime.

This is a composite SI but due to the exceptional circumstances of EU exit, on this sole occasion, it has been agreed to make the relevant amendments in a UK SI.

### **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 on the basis of a no-deal scenario.

The 2016 Regulations contain more than 300 cross-references (directly and indirectly) to more than 20 EU Directives and other EU instruments. On exit from the EU, many of the cross-references will not function legally. In addition, the 2016 Regulations contain, and reference, terminology, which will not function, such as references to “Member States”, and obligations as a “Member State”.

The amendments to the 2016 Regulations made by the EU Exit SI ensure the law continues to function in the same way after the UK has left the EU. There are no substantive policy changes, and no immediate change in how operators are regulated. .

The amendments are required to ensure continued legal stability for those sectors covered by the 2016 Regulations and the regime will, so far as is possible, continue to function as before, delivering regulatory continuity.

The main change is the insertion of a new Schedule (Schedule 1A) into the 2016 Regulations. This new Schedule contains non-textual modifications of the various EU Directives transposed by the 2016 Regulation. These modifications are to be taken into account when reading those Directives for the purposes of the 2016 Regulations only – the

modifications do not apply outside the scope of the 2016 Regulations. The Schedule modifies the effect of the EU Directives, cross-referred to directly and indirectly in the 2016 Regulations in order for the cross-references to continue to work after EU exit. These existing cross-references in the 2016 Regulations to the EU Directives would not be operable without the modifications applied by the new Schedule 1A that is inserted by this EU Exit SI.

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

### **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, expediency and due to the technical nature of the amendments. 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.