



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019
DATE	19 December 2018
BY	Lesley Griffiths AM, Minister for Environment, Energy and Rural Affairs

The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019

The law which is being amended

The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 amends 12 domestic waste Regulations, which implement different European Directives related to waste management to ensure that the waste regime can continue to operate effectively after the UK leaves the EU.

This SI makes amendments to the following domestic legislation. The amendments to these Regulations will ensure the continued operability of the Regulations, largely by providing for how the relevant directives to which the legislation relate are to be read (by modification). No substantive changes are introduced and they do not remove or amend any environmental standards.

The End-of-Life Vehicles Regulations 2003

These Regulations partially implement Directive 2000/53/EC of the European Parliament and the Council on end-of-life vehicles. The Regulations outline the design requirements for materials and components of vehicles put on the market after the Regulations come into effect. They also introduce minimum treatment standards and the Certificate of Destruction, which deregisters the vehicle from the national vehicle database on notification by the Authorised Treatment Facility.

The End-of-Life Vehicles (Producer Responsibility) Regulations 2005

These Regulations transpose aspects of Directive 2000/53/EC (the EC End-of-Life Vehicles Directive) relating to producer responsibility for establishing collection systems to take back end-of-life vehicles free of charge and the arrangements for meeting re-use, recycling and recovery targets.

The Hazardous Waste (England and Wales) Regulations 2005

The Hazardous Waste Regulations set out the regime for the control and tracking of hazardous waste in England and Wales. These regulations introduced a process for registration of hazardous waste producers and new system for recording the movement of hazardous waste from the point of production to the final point of disposal or recovery.

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007

These Regulations implement Council Directive 94/62/EC on packaging and packaging waste as amended by Council Regulation (EC) No 1882/2003, Council Directive 2004/12/EC and Council Directive 2005/20/EC. The aim is to harmonise the management of packaging waste and prevent or reduce the impact of packaging and packaging waste on the environment by encouraging minimisation and reuse by setting recovery and recycling targets. At the same time, the aim is to avoid obstacles to trade and the distortion and restriction of competition within the Community.

The Batteries and Accumulators (Placing on the Market) Regulations 2008

These Regulations partially implement Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances. The main purpose of these Regulations is to protect the environment and human health. They provide that new batteries (single use cells) and accumulators (commonly known as rechargeable batteries) or appliances containing batteries or accumulators that are placed on the market must not contain prohibited levels of heavy metals and that they must be labelled to show the presence of lead-acid, cadmium or mercury and to promote recycling. They also provide that certain types of new electrical and electronic equipment must be designed in a way that facilitates the easy removal of waste batteries and accumulators for recycling purposes.

The Waste Batteries and Accumulators Regulations 2009

These Regulations partially implement Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances. These Regulations establish the scope of 'producer responsibility', requiring producers of batteries and accumulators to take responsibility for separately collecting and recycling batteries and accumulators once they become waste.

The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009

The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009 transpose specific elements of Article 6 of Directive 2006/21/EC on the management of waste from extractive industries (Mining Waste Directive) in England and Wales. Article 6 of the Mining Waste Directive requires that measures are taken in respect of 'Category A' facilities where the risks of harm to human health and the environment are greatest.

The Waste (England and Wales) Regulations 2011

These Regulations partially transpose Directive 2008/98/EC on waste in England and Wales they require the establishment of waste prevention programmes and waste management

plans for England and Wales including provision for public participation in their preparation and revision. They impose duties in relation to the improved use of waste as a resource and require the waste hierarchy in Article 4 of the Directive to be applied as a priority order. They also require the separate collection of waste paper, metal, plastic and glass and prohibit mixing of those wastes once separately collected. The instrument imposes duties on planning authorities when exercising certain functions under the planning Acts and imposes duties on authorities responsible for licensing deposits of waste at sea. It makes provision in relation to carriers of waste and brokers and dealers in waste and provides for the transfer note to be completed on the transfer of waste. It also provides for enforcement of the requirements and makes provision in relation to the reduction of administrative burden, radioactive waste and the amendment and revocation of other legislation.

The Controlled Waste (England and Wales) Regulations 2012

These Regulations revoke and replace the Controlled Waste Regulations 1992 (SI 1992/588). They classify waste as household, industrial or commercial waste, and list the types of waste for which local authorities may make a charge for collection and disposal. The instrument enables local authorities (as waste collection authorities under the Environmental Protection Act 1990) to charge under section 45 of that Act for the disposal of waste arising from a wider range of non-domestic premises than the 1992 Regulations permitted; it also consolidates previous amendments, and includes some amended and updated definitions and classifications to improve the clarity of the Regulations and bring them into line with other legislation. It also provides that certain litter and refuse is to be treated under Part 2 of the Environmental Protection Act 1990 in the same way as waste collected under section 45 of the Act.

The Restrictions of the Use and Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012

These Regulations implement Directive 2011/65/EU of the European Parliament and Council on the Restriction of the use of certain hazardous substances in electrical and electronic equipment (recast) (“RoHS Directive”), and revoke and replace the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008 (SI 2008/37). They restrict the use of hazardous substances including some heavy metals and certain flame retardants in a defined number of categories of electrical and electronic equipment (EEE), requiring compliant products to be CE marked. They place obligations on economic operators to meet certain requirements and provide the Secretary of State with powers for the enforcement of those obligations.

The Waste Electrical and Electronic Equipment Regulations 2013

These Regulations transpose the main provisions of Directive 2012/19/EU on waste electrical and electronic equipment (WEEE) which recasts Directive 2002/96/EC. The main purpose of the Directive is the protection of the environment and human health. They provide that producers of electrical and electronic equipment (EEE) will be financially responsible for managing the waste that arises from products they place on the Union market. Producers must also be registered with the national authorities in any Member State where they place EEE onto the market either directly or by appointing an authorised representative to act on their behalf. The Directive provides that Member States must establish systems for the collection, treatment, recovery and environmentally sound

disposal of most types of waste electrical and electronic equipment (WEEE); and that the costs of these systems must be largely borne by the producers of such equipment. Distributors of EEE also have obligations under the Directive to establish systems for the return of WEEE from private households (i.e. from consumers) free of charge.

The Packaging (Essential Requirements) Regulations 2015

These Regulations specifically implement Articles 9 and 11 of Directive 94/62/EC of the European Parliament and Council on Packaging and Packaging Waste. They set the essential requirements packaging must meet before it can be placed on the market. They provide enforcement authorities with powers for the enforcement of those obligations.

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 respectively in relation to waste, its prevention, reduction and management and the environment.

The purpose of the amendments

The purpose of this SI is to address 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 function of the EU law in this area is to minimise the negative effects of the generation and management of waste on human health and the environment and to help us become a recycling society that seeks to avoid waste and use waste as a resource.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-waste-miscellaneous-amendments-eu-exit-no-2-regulations-2019>

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. This is in line with the principles for correcting agreed by the Cabinet Sub-Committee on European Transition in May.