



Llywodraeth Cymru  
Welsh Government

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

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**TITLE**            **The Environment (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019**

**DATE**            **15 February 2019**

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

**The Environment (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019 (“2019 Regulations”)**

**The law which is being amended**

European Directly Applicable Instruments

- Commission Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein
- Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market
- Commission Regulation (EU) No 546/2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards uniform principles for evaluation and authorisation of plant protection products
- Commission Implementing Regulation (EU) No 844/2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market

Amendment of secondary legislation

- The Trade in Endangered Species of Wild Fauna and Flora (Amendment) (EU Exit) Regulations 2018

- The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019
- The Control of Mercury (Amendment) (EU Exit) Regulations 2019
- The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019
- The Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019
- The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019

The following provisions of retained direct EU legislation are revoked:

**1.** Commission Decision (EU) 2018/1590 amending Decisions 2012/481/EU, 2014/391/EU, 2014/763/EU and 2014/893/EU as regards the period of validity of the ecological criteria for the award of the EU Ecolabel for certain products, and of the related assessment and verification requirements.

**2.** Commission Implementing Regulation (EU) 2018/1913 renewing the approval of the active substance tribenuron in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

**3.** Commission Implementing Regulation (EU) 2018/1914 concerning the non-renewal of approval of the active substance quinoxifen, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011.

**4.** Commission Implementing Regulation (EU) 2018/1915 approving the active substance *Metschnikowia fructicola* strain NRRL Y-27328 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

**5.** Commission Implementing Regulation (EU) 2018/1916 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval period of the active substance bispyribac.

**6.** Commission Implementing Regulation (EU) 2018/1917 concerning the non-renewal of approval of the active substance flurtamone, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011.

**7.** Commission Implementing Regulation (EU) 2018/1981 renewing the approval of the active substances copper compounds, as candidates for substitution, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

**8.** Commission Regulation (EU) 2018/2026 amending Annex IV to Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

**9.** Commission Regulation (EU) 2019/50 amending Annexes II, III, IV and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for chlorantraniliprole, clomazone, cyclaniliprole, fenazaquin, fenpicoxamid, fluoxastrobin, lambda-cyhalothrin, mepiquat, onion oil, thiacloprid and valifenalate in or on certain products.

**10.** Commission Decision (EU) 2019/61 on the sectoral reference document on best environmental management practices, sector environmental performance indicators and benchmarks of excellence for the public administration sector under Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

**11.** Commission Decision (EU) 2019/62 on the sectoral reference document on best environmental management practices, sector environmental performance indicators and benchmarks of excellence for the car manufacturing sector under Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

**12.** Commission Decision (EU) 2019/63 on the sectoral reference document on best environmental management practices, sector environmental performance indicators and benchmarks of excellence for the electrical and electronic equipment manufacturing sector under Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

**13.** Commission Decision (EU) 2019/70 establishing the EU Ecolabel criteria for graphic paper and the EU Ecolabel criteria for tissue paper and tissue products.

**14.** Commission Regulation (EU) 2019/88 amending Annex II to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for acetamiprid in certain products.

**15.** Commission Implementing Regulation (EU) 2019/139 approving the active substance *Beauveria bassiana* strain IMI389521, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

**16.** Commission Implementing Regulation (EU) 2019/147 approving the active substance *Beauveria bassiana* strain PPRI 5339, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

**17.** Commission Implementing Regulation (EU) 2019/148 concerning the non-approval of the active substance propanil, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market.

**18.** Commission Implementing Regulation (EU) 2019/168 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances abamectin, *Bacillus subtilis* (Cohn 1872) Strain QST 713, *Bacillus thuringiensis* subsp. Aizawai, *Bacillus thuringiensis* subsp. israeliensis, *Bacillus thuringiensis* subsp. kurstaki, *Beauveria bassiana*, benfluralin, clodinafop, clopyralid, *Cydia pomonella* Granulovirus (CpGV), cyprodinil, dichlorprop-P, epoxiconazole, fenpyroximate, fluazinam, flutolanil, fosetyl, *Lecanicillium muscarium*, mepanipyrim, mepiquat, *Metarhizium anisopliae* var. Anisopliae, metconazole, metrafenone, *Phlebiopsis gigantea*, pirimicarb, *Pseudomonas chlororaphis* strain: MA 342, pyrimethanil, *Pythium oligandrum*, rimsulfuron, spinosad, *Streptomyces* K61, thiacloprid, tolclofos-methyl, *Trichoderma asperellum*, *Trichoderma atroviride*, *Trichoderma gamsii*, *Trichoderma harzianum*, triclopyr, trinexapac, triticonazole, *Verticillium albo-atrum* and ziram.

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

There is no impact on the Assembly's legislative competence. These Regulations do not confer legislative functions, however they confer administrative functions on the Welsh Ministers without encumbrance.

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

The 2019 Regulations makes a number of miscellaneous amendments and revocations to ensure certain environmental laws function after the UK's Exit from the European Union ("EU") as summarised below.

Regulations 2, 4 and 5 amend other EU Exit SIs to correct minor errors, or consequential changes needed, in the amendments made by those instruments to retained direct EU legislation or domestic legislation relating to CITES, control of mercury and water abstraction.

Regulation 3 amends the Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019 to amend the change made to the cross reference to Article 9 of the Industrial Emissions Directive, so that regulators are not required to include in permits additional provisions in respect of emission limit values for greenhouse gas emissions from, or energy efficiency requirements for, the installations specified in Article 9. This is presently the case and this change will ensure that there is continuity in the approach.

Regulation 6 makes two amendments to the transitional provisions in Schedule 1 to the Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019 as a result of subsequent changes to Regulation (EC) No 396/2005.

Regulation 7 amends the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019, principally as a result of recent amendments made by the EU Commission to Regulation (EC) No 1107/2009 and Commission Implementing Regulation (EU) No 844/2012 by Commission Implementing Regulation (EU) 2018/1659. Regulation 9 amends Article 46 of Regulation (EC) No 1107/2009 and the Annex to Commission Regulation (EU) No 546/2011 which governs plant protection product grace periods. The original amendment inadvertently altered the operation of that Article, and the amendment made by regulation 9 rectifies this. Regulation 10 makes a minor amendment to the Annex to Commission Regulation (EU) No 546/2011, in place of a previous amendment which contained a minor error. The original amendments of those provisions by the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019 are also omitted from those Regulations. Regulation 11 amends provisions which are inserted into Commission Implementing Regulation (EU) No 844/2012 by Commission Implementing Regulation (EU) 2018/1659, in order to ensure the operability of those provisions following EU exit. Regulation 8 amends Article 44j of Commission Regulation (EC) No 865/2006 to correct a deficiency arising from EU exit.

Regulation 12(1) and the Schedule revoke various retained direct EU legislation relating to pesticides, eco-management and audit and ecolabelling, and regulation 12(2) contains a saving provision in relation to some of the revoked legislation relating to pesticides. The saving provision ensures that any grace periods for the use of plant protection products which contain active substances for which approval has been withdrawn, where those grace periods expire after exit day, continue to remain in force in the United Kingdom after exit until their ordinary expiry date. In this way the pesticides legislation will continue to function appropriately.

The amendments made by these Regulations do not amount to a change in policy, but ensure that retained EU law continues to operate effectively after the UK leaves the EU. Regulation 3 is being made to reflect greenhouse gas emissions reduction policy, which has now been clarified, including how the emissions from affected installations will continue to be regulated. In effect, the amendments being made to the Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019 maintain the current approach.

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://beta.parliament.uk/work-packages/blvqbmh2>

### **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 and present no

divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU.