

STATUTORY INSTRUMENT CONSENT MEMORANDUM

The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before the National Assembly for Wales (“Assembly”) if a UK Statutory Instrument (SI) makes provision in relation to Wales amending primary legislation within the legislative competence of the Assembly.
2. The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 were laid before Parliament on 24 October 2018. The Regulations can be found at:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-environmental-assessments-and-miscellaneous-planning-amendment-eu-exit-regulations-2018>

Summary of the Statutory Instrument and its objective

3. The objective of the SI is to address failures of retained EU law to operate effectively and other deficiencies arising from the UK leaving the European Union as provided for by the European Union (Withdrawal) Act 2018. It also corrects out-of-date references to EU legislation.
4. The SI makes amendments to a number of pieces of legislation:
 - Town and Country Planning Act 1990;
 - Planning and Compulsory Purchase Act 2004;
 - Planning Act 2008;
 - Environmental Assessment of Plans and Programmes Regulations 2004;
 - Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and
 - Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Relevant provision to be made by the SI

5. In particular this SI makes a technical correction to the definition of waste in section 336 of the Town and Country Planning Act 1990, which applies to both England and Wales. This correction is required to ensure that the statute book is up to date.

6. It is the view of the Welsh Government that the provision described in the paragraph above falls within the legislative competence of the National Assembly for Wales in so far as it relates to planning; which is not listed as a specific reservation under Part 2 of Schedule 7A to the Government of Wales Act 2006, as amended by the Wales Act 2017.
7. Where there is Welsh equivalent legislation in place, corrections to deficiencies will be addressed in Wales EU Exit SIs

Why it is appropriate for the SI to make this provision

8. There is no divergence between the Welsh Government and the UK Government on the policy of the correction. Therefore, making separate SIs in Wales and England to correct the reference in question would lead to duplication, and unnecessary complication of the statute book. Consenting to this SI ensures that there is a single legislative framework across England and Wales, which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

Lesley Griffiths AM
Cabinet Secretary for Energy, Planning and Rural Affairs

October 2018