



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Persistent Organic Pollutants (Amendments) (EU Exit) Regulations 2020**

DATE **13 October 2020**

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

SI laid in Parliament, which amends secondary legislation in a devolved area

The Persistent Organic Pollutants (Amendments) (EU Exit) Regulations 2020

Following the UK's withdrawal from the European Union, the amendments to Regulation (EU) 2019/1021 will enable the UK to implement the Stockholm Convention by regulating the production, placing on the market and use of persistent organic pollutants. The amendments will also enable the UK authorities to regulate stockpiles and manage waste where persistent organic pollutants are present, and set out monitoring and reporting requirements. Furthermore, the amendments will create a power which will enable UK to put in place the necessary measures to ensure the control and traceability of waste contaminated by relevant pollutants.

European Directly Applicable Instruments amended by the 2019 Regulations

- Regulation (EU) 2019/1021

Subordinate legislation

- Persistent Organic Pollutants Regulations 2007
- The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1405)
- The Environment and Wildlife (Legislative Functions) (EU Exit) Regulation 2019 (SI.2019/473)

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

There is no impact on the Senedd's legislative competence. Under the 2019 Regulations, functions of the EU Commission are transferred to Welsh Ministers for areas within

competence. Alternatively, the 2020 Regulations provide for these functions to be exercised by the Secretary of State in relation to Wales, but only with the consent of the Welsh Ministers.

The purpose of the amendments

This affirmative 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 2019 Regulations make a number of corrections to retained EU law, relating to legislative functions. These are necessary to preserve the underpinning legislation for the areas set out above and below. They also ensure EU legislation can continue to work across the UK once the UK leaves the EU. It brings together changes to legislative functions which triggers the affirmative resolution procedure, whereas the non-legislative functions were included in earlier negative Defra SIs laid in late 2018 for each of the legislative areas.

The 2020 Regulations make corrections to address deficiencies within the legislation to enable the legislation to function post exit day. The 2020 Regulations change the identity of bodies carrying out the specified functions of a legislative nature and converts the EU procedures to UK procedures as appropriate.

The 2020 Regulations amend:

The Persistent Organic Pollutants Regulations 2007. Persistent Organic Pollutant (“POPs”) are substances identified as toxic, persistent bioaccumulative and subject to long range transportation. The intention is to have a UK regulation which, after EU Exit, sets out the same restrictions as the EU Regulation on production, placing on the market, and use of POPs. It also sets out the same exemptions to those restrictions. Additionally, it will also prohibit the import of intentionally produced POPs. It will set limits for the concentration of POPs in products and for the destruction of POPs in waste products. It will require stockpiles and wastes be identified and managed to reduce or eliminate POPs releases from these sources. Parties to the Stockholm Convention are required to report on their management of POPs and this is set out in the regulation. The changes covered by this instrument include:

- (a) amending references to the EU and EU institutions and administrative processes to GB equivalents;
- (b) updating legal references to refer to relevant GB legislation; and
- (c) retaining the requirements for the governments of the United Kingdom to monitor and report.

Regulation (EU) 2019/1021 on persistent organic pollutants. The 2020 Regulations amends Regulation (EU) 2019/1021 in order to ensure it remains operable after the completion of the implementation period when the UK will have fully left the EU.

Part 4 of the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018

is revoked, which made corrections to the, now repealed, Regulation (EC) No 850/2004 on POPs.

Regulation 2 of the Environment and Wildlife (Legislative Functions) (EU Exit) Regulation 2019 is revoked, which transferred legislative functions contained in Regulation (EC) No 850/2004 on POPs

The 2020 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here:

<https://statutoryinstruments.parliament.uk/timeline/1MRfOFTK/SI-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. The amendments have been considered fully and there is no divergence in policy. These amendments are to ensure the statute book remains functional following the UK's exit from the EU.