



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019**

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The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019

The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019 makes amendments to three waste-related Acts of Parliament, 14 waste related EU Regulations and Decisions and the Environmental Permitting Regulations 2016, to enable their continued operability as retained EU law under the European Union (Withdrawal) Act 2018, following the UK's withdrawal from the European Union. It also revokes some EU directly applicable legislation relating to waste which it is not necessary to retain in a domestic context, following exit.

The law which is being amended

Amended EU Legislation:

Regulations

1. Commission Regulation (EU) No 1103/2010 establishing, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, rules as regards capacity labelling of portable secondary (rechargeable) and automotive batteries and accumulators
2. Council Regulation (EU) No 333/2011 establishing criteria determining when certain types of scrap metal cease to be waste under Directive 2008/98/EC of the European Parliament and of the Council
3. Commission Regulation (EU) No 493/2012 laying down detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators
4. Commission Regulation (EU) No 1179/2012 establishing criteria determining when glass cullet ceases to be waste under Directive 2008/98/EC of the European Parliament and of the Council
5. Commission Regulation (EU) No 715/2013 establishing criteria determining when copper scrap ceases to be waste under Directive 2008/98/EC of the European Parliament and of the Council

Decisions

1. Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of waste pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste.
2. Commission Decision 2001/171/EC establishing the conditions for a derogation for glass packaging in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste.
3. Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills.
4. Commission Decision 2009/292/EC establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste.
5. Commission Decision 2009/335/EC on technical guidelines for the establishment of the financial guarantee in accordance with Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries.
6. Commission Decision 2009/337/EC on the definition of the criteria for the classification of waste facilities in accordance with Annex III of Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries.
7. Commission Decision 2009/359/EC completing the definition of inert waste in implementation of Article 22(1)(f) of Directive 2006/21/EC of the European Parliament and the Council concerning the management of waste from extractive industries.
8. Commission Decision 2009/360/EC completing the technical requirements for waste characterisation laid down by Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries.
9. Commission Decision 2011/753/EU establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive 2008/98/EC.

Amended Domestic Legislation

1. Environmental Permitting (England and Wales) Regulations 2016
2. Environmental Protection Act 1990
3. Waste and Emissions Trading Act 2003
4. Control of Pollution (Amendment) Act 1989

Revocations

1. Commission Regulation (EU) No 1357/2014 replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives.
2. Council Regulation (EU) 2017/997 amending Annex III to Directive 2008/98/EC of the European Parliament and of the Council as regards the hazardous property HP 14 'Ecotoxic'
3. It also revokes the following EC Decisions on waste:
4. Commission Decision 76/431/EEC setting up a Committee on Waste Management.
5. Commission Decision 94/741/EC concerning questionnaires for Member States reports on the implementation of certain Directives in the waste sector.

6. Commission Decision 97/129/EC establishing the identification system for packaging materials pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste.
7. Commission Decision 97/622/EC concerning questionnaires for Member States reports on the implementation of certain Directives in the waste sector.
8. Commission Decision 2000/738/EC concerning a questionnaire for Member States reports on the implementation of Directive 1999/31/EC on the landfill of waste.
9. Commission Decision 2001/753/EC concerning a questionnaire for Member States reports on the implementation of Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles.
10. Commission Decision 2002/151/EC on minimum requirements for the certificate of destruction issued in accordance with Article 5(3) of Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles.
11. Commission Decision 2003/138/EC establishing component and material coding standards for vehicles pursuant to Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles.
12. Commission Decision 2004/249/EC concerning a questionnaire for Member States reports on the implementation of Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE).
13. Commission Decision 2005/270/EC establishing the formats relating to the database system pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste.
14. Commission Decision 2005/293/EC laying down detailed rules on the monitoring of the reuse/recovery and reuse/recycling targets set down in Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles.
15. Commission Decision 2005/369/EC laying down rules for monitoring compliance of Member States and establishing data formats for the purposes of Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment.
16. Commission Decision 2007/151/EC amending Decisions 94/741/EC and 97/622/EC as regards the questionnaires for the report on the implementation of Directive 2006/12/EC of the European Parliament and of the Council on waste and on the implementation of Council Directive 91/689/EEC on hazardous waste.
17. Commission Decision 2008/350/EC on the rules of England, Wales, Northern Ireland and Scotland concerning permit exemptions for undertakings and establishments recovering hazardous waste under Article 3 of Council Directive 91/689/EEC.
18. Commission Decision 2008/763/EC establishing, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, a common methodology for the calculation of annual sales of portable batteries and accumulators to end-users.
19. Commission Decision 2009/358/EC on the harmonisation, the regular transmission of the information and the questionnaire referred to in Articles 22(1)(a) and 18 of Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries.
20. Commission Decision 2009/851/EC establishing a questionnaire for Member States reports on the implementation of Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators.

21. Council Decision (EU) 2015/1156 on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement (Batteries and Accumulators).

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. With the exception of the regulations that relate to product standards and safety and technical standards and requirements in relation to products, which are reserved matters, the other areas in relation to waste are devolved.

Amendments are made to three waste-related Acts of Parliament, the Environmental Protection Act 1990, the Waste and Emissions Trading Act 2003 and the Control of Pollution (Amendment) Act 1989, and a number of waste related EU Regulations and Decisions.

Due to the exceptional circumstances of EU exit, on this occasion, it has been agreed that the relevant amendments can be made in a UK SI.

The purpose of the amendments

The purpose of this SI (affirmative procedure) is to ensure retained EU law continues to operate effectively and to correct other deficiencies arising from the withdrawal of the UK from the EU on the basis of a no-deal scenario.

This instrument will address deficiencies in the converted EU law known as retained EU law and ensure that protections relating to: waste batteries and accumulators, end of waste criteria, packaging waste, end-of-life vehicle destruction certification, landfill acceptance criteria, the management of waste from extractive industries, and calculation methods for verifying recycling target compliance are maintained and continue to be operative once the United Kingdom has left the European Union.

The SI and accompanying Explanatory Memorandum, setting out the effect of the SI is available here: <https://beta.parliament.uk/work-packages/bQ6Qmvky>

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.

A Statutory Instrument Consent Memorandum has also been laid in the National Assembly in respect of the amendments to The Environmental Protection Act 1990; The Waste and Emissions Trading Act 2003 and The Control of Pollution (Amendment) Act 1989