

2019 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

AGRICULTURE, WALES

EDUCATION, WALES

**ENVIRONMENTAL
PROTECTION, WALES**

FOOD, WALES

HEALTH SERVICES, WALES

**LOCAL GOVERNMENT,
WALES**

SEEDS, WALES

TAXES, WALES

WELSH LANGUAGE, WALES

The Retained EU Law
(Miscellaneous Amendments)
(Wales) (EU Exit) Regulations
2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (apart from regulation 10) are made in exercise of the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) in

order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Regulation 2 (in Part 2) makes amendments to the Welsh Language (Wales) Measure 2011 (2011 nawm 1) to deal with references to “an institution of the European Union”. This regulation comes into force on exit day.

Regulation 3 (in Part 3) amends the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/732 (W. 137)) (“the 2019 Food Regulations”) which make provision correcting deficiencies in domestic food legislation which arise as a result of the United Kingdom withdrawing from the European Union.

Regulation 3(2) amends regulation 2(7) of the 2019 Food Regulations by substituting “the appropriate authorities” for “the relevant authorities”. Regulation 3(3) amends regulation 7(5)(a) of the 2019 Food Regulations by substituting “British Islands” for “United Kingdom”. These amendments are necessary to ensure the legislation aligns with changes being made to other retained EU law.

Regulation 4 (in Part 4) amends the Flood and Water (Amendments) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/460 (W. 110)) (“the 2019 Flood Regulations”) which make provision correcting deficiencies in domestic flood and water legislation which arise as a result of the United Kingdom withdrawing from the European Union. Regulation 4(2) amends regulation 5(3)(a) of the 2019 Flood Regulations to address an erroneous reference.

Regulation 5 (in Part 5) amends the Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/738 (W. 141)) (“the 2019 Seed Potatoes Regulations”). The 2019 Seed Potatoes Regulations amend the Seed Potatoes (Wales) Regulations 2016 which make provision governing the marketing and certification of seed potatoes in Wales.

Regulation 5(2) and (3) amends the Welsh language text of the 2019 Seed Potatoes Regulations to address drafting errors.

Regulation 5(4) substitutes the Welsh language text of regulation 2(17)(b)(iii) of the 2019 Seed Potatoes Regulations to include a reference to Union grade S potatoes which was previously erroneously omitted.

Regulation 6 (in Part 6) makes an amendment to regulation 7 of the Central Rating List (Wales) Regulations 2005 (S.I. 2005/422 (W. 40)) (“the 2005 Regulations”) to remove the definition of “EEA State”. This definition is now redundant as result of the

amendment made to regulation 7 of the 2005 Regulations by regulation 3 of the Local Government Finance (Amendment) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/436 (W. 104)). This regulation comes into force on exit day.

The amendments made by regulations 7 and 8 (in Part 7) are required as a consequence of the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419) (“the Data Protection SI”). The Data Protection SI makes amendments to the General Data Protection Regulation (Regulation (EU) 2016/679) (“the GDPR”) as it forms part of domestic law on the UK’s exit from the EU. As the GDPR will no longer apply directly in the UK, the Data Protection SI introduces a single regime for general processing activities known as the UK GDPR. It is necessary to make changes throughout the Data Protection Act 2018, and to other legislation, as a result of this.

Regulation 7 amends the Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008 (S.I. 2008/3239 (W. 286)) to correct references to the GDPR and replace these with references to the UK GDPR.

Regulation 8 makes similar amendments to the Pupil Information (Wales) Regulations 2011 (S.I. 2011/1942 (W. 209)), again correcting references to the GDPR and replacing these with references to the UK GDPR.

Regulations 7 and 8 come into force on exit day.

Regulation 9 (in Part 7) makes an amendment to Schedule 3 to the Data Protection SI as a consequence of making regulations 7 and 8 of these Regulations. This amendment removes the amendments made by the Data Protection SI to the Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008 and the Pupil Information (Wales) Regulations 2011 as these amendments will have been made by regulations 7 and 8 of these Regulations. The amendments made by the Data Protection SI are to come into force on exit day. In order to ensure that the amendments made by the Data Protection SI do not come into force, regulation 9 comes into force immediately before exit day.

Regulation 10 (in Part 8) is made in exercise of the power conferred on Welsh Ministers by section 78(1) of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (2017 anaw 1) (“the 2017 Act”) and makes an amendment to section 36(12) of the 2017 Act to remove the definition of “collective investment scheme”. This definition is now redundant as a consequence of the repeal of section 36(6) of the 2017 Act by the Welsh Tax Acts

(Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/833 (W. 153)) which comes into force on exit day. Regulation 10 comes into force on exit day.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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(Wales) (EU Exit) Regulations
2019

Sift requirements satisfied ***

Made ***

Laid before the National Assembly for Wales

The Welsh Ministers, in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018⁽¹⁾ and section 78(1) of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017⁽²⁾, make the following Regulations.

The requirements of paragraph 4(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate National Assembly for Wales scrutiny procedure for these Regulations) have been satisfied.

As required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽³⁾, there has been open and transparent public consultation in relation to the amendments made by Part 3 of these Regulations.

As required by paragraph 4(a) of Schedule 2 to the European Union (Withdrawal) Act 2018, the Secretary of State has been consulted during the preparation of these Regulations.

PART 1

Introductory

Title, commencement and application

1.—(1) The title of these Regulations is the Retained EU Law (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

(2) Subject to paragraph (3), these Regulations come into force on exit day.

(3) Regulations 3, 4, 5 and 9 come into force immediately before exit day.

(4) These Regulations apply in relation to Wales.

(1) 2018 c. 16. See section 20(1) of that Act for the definition of “devolved authority”.

(2) 2017 anaw 1.

(3) OJ No. L 31, 1.2.2002, p. 1, to which there are amendments not relevant to these Regulations.

PART 2

Amendments to primary legislation concerning the Welsh Language

Welsh Language (Wales) Measure 2011

2.—(1) The Welsh Language (Wales) Measure 2011(1) is amended as follows.

(2) In paragraph 3 of Schedule 5 (categories of person that may be added to Schedule 6), in the definition of “public money” omit the following words from paragraph (a)—

“or

(v) an institution of the European Union;”.

(3) In paragraph 2 of Schedule 7 (categories of person that may be added to Schedule 8), in the definition of “public money” omit the following words from paragraph (a)—

“or

(v) an institution of the European Union;”.

PART 3

Amendments to secondary legislation concerning food

The Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

3.—(1) The Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019(2) are amended as follows.

(2) In regulation 2(7), for “the relevant authorities” substitute “the appropriate authorities”.

(3) In regulation 7(5)(a), for “United Kingdom” substitute “British Islands”.

PART 4

Amendments to secondary legislation concerning the environment

The Flood and Water (Amendments) (England and Wales) (EU Exit) Regulations 2019

4. In regulation 5(3)(a) of the Flood and Water (Amendments) (England and Wales) (EU Exit)

(1) 2011 nawm 1.

(2) S.I. 2019/732 (W. 137).

Regulations 2019(1), for “Council Directive 98/83/EC on the quality of water intended for human consumption” substitute “Council Directive 98/83/EC on the quality of water intended for human consumption, as last amended by Commission Directive (EU) 2015/1787”.

PART 5

Amendments to secondary legislation concerning seeds

The Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019

5.—(1) Regulation 2 of the Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019(2) is amended as follows.

(2) In the Welsh language text of paragraph (12), omit “, 8”.

(3) After paragraph (12) insert—

“(12A) In the Welsh language text of paragraph 8(b) of Part 3 of Schedule 1—

- (a) in paragraph (i), after “gradd S” insert “y DU”,
- (b) in paragraph (ii), after “gradd SE” insert “y DU”, and
- (c) in paragraph (iii), after “gradd E” insert “y DU”.”

(4) In the Welsh language text, for paragraph (17)(b)(iii) substitute—

“(iii) yn y rhes sy’n ymwneud â gradd “SE”, yng nghlofn 2, yn lle “radd S yr Undeb neu’n radd SE yr Undeb” rhodder “radd S y DU, gradd SE y DU, gradd S yr Undeb neu radd SE yr Undeb”.”

(1) S.I. 2019/460 (W. 110).

(2) S.I. 2019/738 (W. 141).

PART 6

Amendments to secondary legislation
concerning local government finance

The Central Rating List (Wales) Regulations 2005

6. In regulation 7(3) of the Central Rating List (Wales) Regulations 2005(1), omit the definition of “EEA State”.

PART 7

Amendments to secondary legislation
concerning the supervision of management and
use of controlled drugs and the disclosure of
educational records and consequential
amendments to secondary legislation
concerning data protection

The Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008

7.—(1) The Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008(2) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) omit the definition of “the GDPR”;

(b) at the appropriate place insert—

““the UK GDPR” (“*GDPR y DU*”) has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act);”.

(3) In regulation 25(7) (duty to co-operate by disclosing information as regards relevant persons), for “GDPR” substitute “UK GDPR”.

(4) In regulation 26(6) (responsible bodies requesting additional information be disclosed about relevant persons), for “GDPR” substitute “UK GDPR”.

(5) In regulation 29(3) (occurrence reports), for “GDPR” substitute “UK GDPR”.

(1) S.I. 2005/422 (W. 40), amended by S.I. 2005/3050, S.I. 2016/645 and S.I. 2019/436 (W. 104); there are other amending instruments but none is relevant.

(2) S.I. 2008/3239 (W. 286), amended by section 211(1)(b) of, and paragraph 334 of Schedule 19 to, the Data Protection Act 2018 (c. 12). Relevant amendments are made by S.I. 2019/419 but these do not come into force until exit day. There are other amending instruments but none is relevant.

The Pupil Information (Wales) Regulations 2011

8.—(1) Regulation 5 of the Pupil Information (Wales) Regulations 2011(1) is amended as follows.

(2) In paragraph (5)(a) and (b), for “GDPR” substitute “UK GDPR”.

(3) For paragraph (6) substitute—

“(6) In this regulation, “the UK GDPR” (“*GDPR y DU*”) has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act).”

The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019

9. In Schedule 3 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019(2), omit paragraphs 71 to 75 and paragraphs 90 and 91.

PART 8

Amendments to primary legislation concerning
the taxation of land transactions

Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017

10. In section 36(12) of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017(3), omit the definition of “collective investment scheme”.

Name

Minister for Finance and Trefnydd, one of the Welsh Ministers

Date

(1) S.I. 2011/1942 (W. 209), amended by section 211(1)(b) of, and paragraphs 365(1), 365(2)(a) and 365(3)(a) of Schedule 19 to, the Data Protection Act 2018. Relevant amendments are made by S.I. 2019/419 but these do not come into force until exit day. There are other amending instruments but none is relevant.

(2) S.I. 2019/419, to which there are amendments not relevant to these Regulations.

(3) 2017 anaw 1.