

2019 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

The Town and Country Planning
(Miscellaneous Amendments)
(Wales) (EU Exit) Regulations 2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made 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 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies in retained EU law arising from the withdrawal of the United Kingdom from the European Union.

These Regulations amend—

- (a) The Town and Country Planning (Control of Advertisements) Regulations 1992;
- (b) The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005;
- (c) The Town and Country Planning (Development Management Procedure) (Wales) Order 2012; and
- (d) The Planning (Hazardous Substances) (Wales) Regulations 2015.

Regulation 6 contains transitional provision in relation to the Town and Country Planning (Control of Advertisements) Regulations 1992.

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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The Town and Country Planning
(Miscellaneous Amendment)
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Sift requirements satisfied ***

Made ***

Laid before the National Assembly for Wales

*Coming into force in accordance with
regulation 1*

The Welsh Ministers make these Regulations 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⁾.

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

Title and commencement

1. The title of these Regulations is the Town and Country Planning (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 and they come into force on exit day.

⁽¹⁾ 2018 c. 16.

Town and Country Planning (Control of Advertisements) Regulations 1992

2. In regulation 2(1) of the Town and Country Planning (Control of Advertisements) Regulations 1992⁽¹⁾—

- (a) omit the definition of “EEA State”;
- (b) in the definition of “statutory undertaker”—
 - (i) for the words “European licence” substitute “railway undertaking licence”;
 - (ii) omit the words from “or pursuant” to “a single European railway area (recast)”.

Town and Country Planning (Local Development Plan) (Wales) Regulations 2005

3. In regulation 13(1) of the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005⁽²⁾—

- (a) in sub-paragraph (c) omit “by pursuing those objectives through the controls described in Article 13 of Directive 2012/18/EU”;
- (b) for sub-paragraph (iii) of paragraph (d) substitute—
 - “(iii) in the case of existing establishments, to facilitate and encourage operators to take all necessary measures to prevent major accidents and to limit their consequences for human health and the environment.”

The Town and Country Planning (Development Management Procedure) (Wales) Order 2012

4. In Schedule 4 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012⁽³⁾—

- (a) in the table, in paragraph (w), in the column headed “Description of Development” in sub-paragraph (ii) for the words from “covered” to “2012/18/EU” substitute “which would require notification under regulation 6(6) of the Control of Major Accident Hazards Regulations 2015⁽⁴⁾”;
- (b) under the heading Interpretation of Table, for paragraph (m)(i) substitute—

(1) S.I. 1992/666, as amended by S.I. 2005/3050, 2016/645. There are other amending instruments but none is relevant.

(2) S.I. 2005/2839 (W.203) as amended by S.I. 2015/1597. There are other amendments but none are relevant.

(3) S.I. 2012/801 (W.110) as amended by S.I. 2016/59.

(4) S.I. 2015/483, to which there are amendments but none is relevant.

- “(i) the expressions “major accident” and “establishment” as they appear in that paragraph have the same meaning as in regulation 2 of the Control of Major Accident Hazards Regulations 2015.”

The Planning (Hazardous Substances) (Wales) Regulations 2015

5.—(1) The Planning (Hazardous Substances) (Wales) Regulations 2015⁽¹⁾ are amended as follows.

(2) In regulation 2(1)—

- (a) in the definition of “the Directive” after “dangerous substances” insert “as it had effect immediately before exit day”;
- (b) insert the following definitions in the appropriate places—

““the EIA Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment as it had effect immediately before exit day;”;

““major accident” has the meaning given in Article 3(13) of the Directive as it had effect immediately before exit day;”.

(3) In regulation 6(1)(a)—

- (a) in paragraph (ii) for the words from “or to consultations” to the end of the paragraph substitute “(which have the same meaning as in any provision of retained EU law which implemented the EIA Directive)”;
- (b) after paragraph (ii) insert—

“(iia) where applicable, the fact that the project to which the proposal relates is one in respect of which the COMAH competent authority is required to consult any country in accordance with Regulation 20 of the Control of Major Accident Hazards Regulations 2015⁽²⁾”.

(4) In regulation 10(3)(a)—

- (a) in paragraph (ii) for the words from “or to consultations” to the end of the paragraph substitute “(which have the same meaning as

(1) S.I. 2015/1597 (W.196) to which there are amendments but none are relevant.

(2) S.I. 2015/483 as amended by S.I. 2018/1370. There are other amending instruments but none is relevant.

in any provision of retained EU law which implemented the EIA Directive”);

(b) after paragraph (ii) insert—

“(ia) where applicable, the fact that the project to which the proposal relates is one in respect of which the COMAH competent authority is required to consult any country in accordance with Regulation 20 of the Control of Major Accident Hazards Regulations 2015;”.

(5) In regulation 26, at the end of paragraph (1)(b) insert “(with the reference in sub-paragraph (c) of that Article to Article 5 being read as a reference to regulation 5 of the Control of Major Accident Hazards Regulations 2015)”.

(6) In regulation 27(4) in the definition of “relevant plan or programme” in both sub-paragraphs (a) and (b), after “pursuant to” insert “any provision of retained EU law which implemented”.

(7) In regulation 28(2)(a)—

(a) in paragraph (ii) for the words from “or to consultations” to the end of the paragraph substitute “(which have the same meaning as in any provision of retained EU law which implemented the EIA Directive)”;

(b) after paragraph (ii) insert—

“(ia) where applicable, the fact that the project to which the proposal relates is one in respect of which the COMAH competent authority is required to consult any country in accordance with Regulation 20 of the Control of Major Accident Hazards Regulations 2015;”.

Transitional Provision

6.—(1) For the period of 2 years beginning with exit day, any reference in regulation 2 of the Town and Country Planning (Control of Advertisements) Regulations 1992 to a railway undertaking licence pursuant to the 2005 Regulations includes a reference to a relevant European licence.

(2) Any act or omission—

(a) in relation to, or in reliance on, a relevant European licence, and

(b) that has effect immediately before exit day,

continues to have effect on and after exit day.

(3) For the purposes of this regulation—

“the 2005 Regulations” means the Railway (Licensing of Railway Undertakings) Regulations 2005(1);

“European licence” has the same meaning as in regulation 2(1) of the 2005 Regulations (as modified by regulation 35 of the Railway (Licensing of Railway Undertakings) (Amendment etc) (EU Exit) Regulations 2019(2);

“relevant European licence” means a European licence, the holder of which has a valid SNRP that has not been suspended or revoked;

“SNRP” has the same meaning as in the 2005 Regulations(3).

Name

Minister for Housing and Local Government, one of the Welsh Ministers.

Date

(1) S.I. 2005/3050 to which there are amendments but none are relevant.

(2) S.I. 2019/xxx.

(3) Regulation 2 of the 2005 Regulations provides that “SNRP” means a statement of national regulatory provisions, issued pursuant to regulation 10 of those Regulations.