

2019 No. (W.)

**EXITING THE EUROPEAN
UNION**

SEA FISHERIES, WALES

**MARINE MANAGEMENT,
WALES**

The Fisheries and Marine
Management (Amendment) (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 arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to subordinate legislation, which apply in relation to Wales and the Welsh zone, in the fields of fisheries and marine management.

An amendment made by these Regulations has the same application as the enactment amended.

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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Sift requirements satisfied ***

Made ***

Laid before the National Assembly for Wales

*Coming into force in accordance with
regulation 1(2)*

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⁾, make the following Regulations.

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

Title, commencement and application

1.—(1) The title of these Regulations is the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019.

(1) 2018 c.16.

(2) These Regulations come into force on exit day.

(3) An amendment made by these Regulations has the same application as the enactment amended.

The Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites (Wales) Regulations 2006

2. In the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites (Wales) Regulations 2006⁽¹⁾, in regulation 2(1), in the definition of “licenced fishing vessel”, omit “by another Member State or”.

The Marine Licensing (Exempted Activities) (Wales) Order 2011

3.—(1) The Marine Licensing (Exempted Activities) (Wales) Order 2011⁽²⁾ is amended as follows.

(2) After article 3, insert—

“3A Modification of the Waste Framework Directive

(1) For the purposes of this Order, the Waste Framework Directive is to be read in accordance with this article.

(2) A reference to one or more Member States in a provision imposing an obligation or conferring a discretion on a Member State or Member States is to be read as a reference to the appropriate authority or local authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in respect of Wales.

(3) Article 2 is to be read as if—

(a) in paragraph 2—

(i) in the words immediately before point (a), for “other Community legislation” there were substituted “retained EU law”;

(ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;

(iii) in point (d), for the words from “Directive 2006/21/EC⁽¹⁾” to the

(1) S.I. 2006/1495 (W. 145) as amended by S.I. 2018/1095 (W. 228).

(2) S.I. 2011/559 (W. 81) as amended by S.I. 2013/414 (W. 50), S.I. 2013/755 (W. 90), S.I. 2016/690 (W. 188), S.I. 2017/1012, S.I. 2017/1013, S.I. 2018/724 (W. 141), and by the Wales Act 2017 (c. 4).

- end there were substituted “the Mining Waste Directive”;
- (b) in paragraph 3, the words from “Without prejudice” to “Community legislation” were omitted;
 - (c) paragraph 4 were omitted.
- (4) Article 5 is to be read as if paragraph 2 were omitted.
- (5) Article 6 is to be read as if—
- (a) paragraphs 1 to 3 were omitted;
 - (b) in paragraph 4—
 - (i) in the first sentence, for the words from “Where criteria” to “paragraphs 1 and 2” there were substituted “Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013”;
 - (ii) the second sentence were omitted.
- (6) Article 7 is to be read as if—
- (a) in paragraph 1—
 - (i) the first and second sentences were omitted;
 - (ii) in the third sentence, for “shall be binding” there were substituted “shall, subject to paragraph 1A, be binding”;
 - (b) after paragraph 1, there were inserted—
 - “**1A.** Paragraph 1 is subject to—
 - (a) a determination by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005⁽²⁾ that a specific batch of waste is to be treated as hazardous waste;
 - (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (England and Wales) Regulations 2005⁽³⁾ that a specific batch of waste is to be treated as non-hazardous waste;

(1) OJ No L 102, 11.4.2006, p 15, as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).

(2) S.I. 2005/1806 (W. 183).

(3) S.I. 2005/894.

- (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulation 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;
 - (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990⁽¹⁾ (lists of waste displaying hazardous properties).”;
- (c) paragraphs 2, 3 and 5 were omitted;
- (d) after paragraph 6, there were inserted—
- “6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;
- (e) paragraph 7 were omitted.
- (7) Article 23 is to be read as if—
- (a) a reference to the “competent authority” were a reference to the “appropriate authority”;
 - (b) in paragraph 5, “or Community” were omitted.
- (8) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- (9) In reading the Waste Framework Directive in accordance with this article—
- (a) “appropriate authority” (“*awdurdod priodol*”) means the Welsh Ministers or the Natural Resources Body for Wales;
 - (b) “local authority” (“*awdurdod lleol*”) means a county council or county borough council in Wales.

3B Meaning of “Mining Waste Directive”

- (1) In reading Article 2 of the Waste Framework Directive in accordance with article 3A, the reference to “the Mining Waste Directive” (as inserted by article 3A(3)(a)(iii)) means Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with paragraphs (2) to (4).
- (2) Article 2 is to be read as if—

⁽¹⁾ 1990 c. 43.

(a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive 2000/60/EC(1) were a reference to that Article read in accordance with paragraph (4) of this article;

(b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, for “Article 1(a) of Directive 75/442/EEC” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.

(4) In reading the Mining Waste Directive in accordance with this article, the reference to the “Waste Framework Directive” (as inserted by paragraph (3)) has the meaning given by article 3 of this Order read in accordance with article 3A.

(5) For the purposes of paragraph (2), Article 11(3)(j) of Directive 2000/60/EC is to be read as if—

(a) the references to “Member States” were references to the “Welsh Ministers or the Natural Resources Body for Wales”;

(b) at the end, there were inserted—

“and “environmental objective”, in relation to a river basin district (within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017)(2), has the same meaning as in those Regulations.””

(3) In article 33(2)—

(a) in sub-paragraph (a), for “(other than Gibraltar) which is not a Member State; and” substitute “other than the United Kingdom.”;

(b) omit sub-paragraph (b).

The European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016

4.—(1) The European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016(3) are amended as follows.

(2) In regulation 2—

(a) in paragraph (1)—

(1) OJ No L 327, 22.12.2000, p 1, as last amended by Commission Directive 2014/101/EU (OJ No L 311, 31.10.2014, p 32).

(2) S.I. 2017/407, to which there are amendments not relevant to these Regulations.

(3) S.I. 2016/665 (W. 182).

- (i) in the definition of “approved operation”, at the end, insert “(see paragraph 3)”;
 - (ii) in the definition of “authorised person”, omit “, and includes any duly appointed official of the Commission who accompanies such an authorised person”;
 - (iii) omit the definition of “the Commission”;
 - (iv) omit the definition of “EU assistance”;
 - (v) in the definition of “operation”, in paragraph (b), for “EU assistance” substitute “assistance pursuant to Regulation 508/2014”.
- (b) after paragraph (2), insert—
- “(3) For the avoidance of doubt, an “approved operation” includes an operation which the Welsh Ministers have approved in writing for the receipt of financial assistance under regulation 4 before exit day.”
- (3) In regulation 8(2)(d), for “EU assistance” substitute “assistance pursuant to Regulation 508/2014”.
- (4) In regulation 11—
- (a) omit paragraph (1)(j)(i);
 - (b) omit paragraph (3).

Name

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers

Date