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WELSH STATUTORY INSTRUMENTS

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**2020 No. 1179 (W. 265)**

**ENVIRONMENTAL PROTECTION, WALES**

**The Waste (Wales) (Miscellaneous  
Amendments) Regulations 2020**

<i>Made</i>	- - - -	<i>27 October 2020</i>
<i>Laid before Senedd Cymru</i>		<i>28 October 2020</i>
<i>Coming into force</i>	- -	<i>19 November 2020</i>

The Welsh Ministers are designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> (“the ECA 1972”) in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste<sup>(3)</sup> and the prevention, reduction and management of waste<sup>(4)</sup>.

The Welsh Ministers, in exercise of the powers conferred by section 2(2) of the ECA 1972, make the following Regulations.

**Title and commencement**

1.—(1) The title of these Regulations is the Waste (Wales) (Miscellaneous Amendments) Regulations 2020.

(2) These Regulations come into force on 19 November 2020.

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- (1) By virtue of section 59(2) of the Government of Wales Act 2006 (c.32) (“GOWA 2006”) the Welsh Ministers may exercise the power conferred by section 2(2) of the European Communities Act 1972 (c.68) (“the ECA 1972”) in relation to any matter, or for any purpose, if they have been designated in relation to that matter or for that purpose. Paragraph 28(1) of Schedule 11 to GOWA 2006 provides that designations made under section 2(2) of the ECA 1972 by virtue of section 29(1) of the Government of Wales Act 1998 (c.38) which are in force immediately before the commencement of the repeal of that subsection by GOWA 2006 continue to have effect after the commencement of that repeal as if made by virtue of section 59(1) of GOWA 2006.
- (2) 1972 c. 68. The ECA 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) (“the 2018 Act”) with effect from exit day. “Exit day” is defined in section 20 of the 2018 Act as 31 January 2020 at 11pm. Despite that repeal the ECA 1972 continues to have effect with modifications until IP completion day, by virtue of section 1A of the 2018 Act. Section 1A was inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (“the 2020 Act”). “IP completion day” is defined in section 1A as 31 December 2020 at 11pm (the meaning given in section 39 of the 2020 Act). Section 2(2) of the ECA 1972 was previously amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
- (3) S.I. 2005/850.
- (4) S.I. 2010/1552.

### **Amendment of the Waste (Wales) Measure 2010**

- 2.—(1) The Waste (Wales) Measure 2010(5) is amended as follows.
- (2) In section 9(3), for “Council Directive 2011/97/EU” substitute “Directive (EU) 2018/850”.
- (3) In section 17(2), for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

### **Amendment of the Landfill Allowances Scheme (Wales) Regulations 2004**

- 3.—(1) The Landfill Allowances Scheme (Wales) Regulations 2004(6) are amended as follows.
- (2) In regulation 2(1), in the definition of “waste facility” for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.
- (3) In regulation 7(10), for “Council Regulation 2011/97/EU” substitute “Directive (EU) 2018/850”.

### **Amendment of the Hazardous Waste (Wales) Regulations 2005**

- 4.—(1) The Hazardous Waste (Wales) Regulations 2005(7) are amended as follows.
- (2) In regulation 2(1)(a), for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.
- (3) In regulation 5(2), in the definition of “management”, after “recovery” insert “(including sorting)”.
- (4) For regulation 19(4) substitute—
- “ (4) Paragraph (1) applies to the mixing of waste oil only where such mixing would impede regeneration or another recycling operation delivering an equivalent or a better overall outcome than regeneration.
- (5) In paragraph (4)—
- “recycling” means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes, including the reprocessing of organic material but not including energy recovery or reprocessing into materials that are to be used as fuels;
- “regeneration” means any recycling operation whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, the oxidation products and the additives contained in such oils.”.
- (5) In regulation 20—
- (a) in paragraph (1)—
- (i) for “This regulation” substitute “Paragraph (2)”;
- (ii) in sub-paragraph (b)(i), omit “and economically”;
- (b) after paragraph (2) insert—
- “(2A) Where separation is not required pursuant to paragraph (2), the holder must make arrangements for mixed hazardous waste to be treated at a facility authorised by a waste permit to treat that waste.”.
- (6) In regulation 47(5B)—

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(5) 2010 nawm 8. Amended by S.I. 2019/414 (W. 96). There are other amendments not relevant to these Regulations.

(6) S.I. 2004/1490 (W. 155) amended by S.I. 2005/1820 (W. 148), 2015/1417 (W. 141) and 2019/414 (W. 96). There are other amendments not relevant to these Regulations.

(7) S.I. 2005/1806 (W. 138) amended by S.I. 2009/2861 (W. 250), 2011/971 (W. 141), 2013/755 (W. 90), 2018/721 (W. 140) and 2019/414 (W. 96). There are other amendments not relevant to these Regulations.

- (a) for “Council [Directive 2011/97/EU](#)” substitute “Directive (EU) 2018/850”;
  - (b) at the end insert “or (3)”.
- (7) In regulation 48(6B)—
- (a) “for Council [Directive 2011/97/EU](#)” substitute “Directive (EU) 2018/850”;
  - (b) at the end insert “or (3)”.

#### **Amendment of the Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011**

5.—(1) The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011<sup>(8)</sup> are amended as follows.

(2) In regulation 2(1), in the definition of “Waste Framework Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

#### **Amendment of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017**

6.—(1) The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017<sup>(9)</sup> are amended as follows.

- (2) In Schedule 1—
- (a) in paragraph 9, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
  - (b) in paragraph 10, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

27 October 2020

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

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<sup>(8)</sup> [S.I. 2011/1014 \(W. 154\)](#) amended by [S.I. 2019/414 \(W. 96\)](#). There are other amendments not relevant to these Regulations.

<sup>(9)</sup> [S.I. 2017/567 \(W. 136\)](#) amended by [S.I. 2018/1216 \(W. 249\)](#). There are other amendments not relevant to these Regulations.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend certain Welsh primary and secondary legislation by bringing up to date references in the legislation to two EU Directives that have been amended as part of the European “Circular Economy Package” (“CEP”), so as to refer to the latest versions of those Directives. The CEP consists of the amendment of a number of EU Directives for the purpose of moving towards a more resource efficient, circular economy. There are additional amendments to the Hazardous Waste (Wales) Regulations 2005 (S.I. 2005/1806 (W. 138)), implementing other EU obligations arising from the Circular Economy Package.

The Directives are [Directive 2008/98/EC](#) of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312 22.11.2008, p. 3) (“the Waste Framework Directive”) and Council [Directive 1999/31/EC](#) of 26 April 1999 on the landfill of waste (OJ L 182 16.7.1999, p. 1) (“the Landfill Directive”).

The Waste Framework Directive was last amended by Directive (EU) 2018/851 (OJ L 150 14.6.2018, p. 109) and the Landfill Directive, by Directive (EU) 2018/850 (OJ L 150 14.6.2018, p. 100).

These Regulations apply in relation to Wales. In conjunction with UK regulations made by the Secretary of State, they form part of the transposition into domestic law, of the amendments made to the Waste Framework Directive and the Landfill Directive.

Regulation 2 amends the Waste (Wales) Measure 2010 ([2010 nawm 8](#)) to bring up to date references to the Landfill Directive and the Waste Framework Directive.

Regulation 3 amends the Landfill Allowances Scheme (Wales) Regulations 2004 (S.I. 2004/1490 (W. 155)), to bring up to date references to the Landfill Directive and the Waste Framework Directive.

Regulation 4 amends the Hazardous Waste (Wales) Regulations 2005 (S.I. 2005/1806 (W. 138)). Amendments to regulations 2, 47 and 48 bring up to date references to the Waste Framework Directive and Landfill Directive. The amendment of regulation 5 gives effect to changes in the definition of “management” of waste. Amendments to regulations 19 and 20 give effect to changes made by the CEP in relation to the mixing of waste oils and the mixing of hazardous waste, respectively.

Regulation 5 amends the Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011 (S.I. 2011/1014(W. 152) ), to bring up to date references to the Waste Framework Directive.

Regulation 6 amends the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (S.I. 2017/567 (W. 136)), to bring up to date references to the Waste Framework Directive.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.