

WELSH STATUTORY INSTRUMENTS

2019 No. 456 (W. 109)

EXITING THE EUROPEAN UNION, WALES TOWN AND COUNTRY PLANNING, WALES

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

<i>Sift requirements satisfied</i>	<i>18 February 2019</i>
<i>Made - - - -</i>	<i>4 March 2019</i>
<i>Laid before the National Assembly for Wales - -</i>	<i>6 March 2019</i>
<i>Coming into force in accordance with regulation 1</i>	

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 ^{M1}.

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.

Marginal Citations

M1 [2018 c. 16](#).

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.

Commencement Information

11 Reg. 1 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1](#)

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 ^{M2}—

- (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)”.

Commencement Information

I2 Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1](#)

Marginal Citations

M2 [S.I. 1992/666](#), as amended by [S.I. 2005/3050](#), 2016/645. There are other amending instruments but none is relevant.

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 ^{M3}—

- (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.”

Commencement Information

I3 Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1](#)

Marginal Citations

M3 [S.I. 2005/2839](#) (W.203) as amended by [S.I 2015/1597](#). There are other amendments but none are relevant.

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 ^{M4}—

- (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 ^{M5} ”;
- (b) under the heading Interpretation of Table, for paragraph (m)(i) substitute—
 - “(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.”

Commencement Information

- I4** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1

Marginal Citations

- M4** S.I. 2012/801 (W.110) as amended by S.I. 2016/59.
M5 S.I. 2015/483, to which there are amendments but none is relevant.

The Planning (Hazardous Substances) (Wales) Regulations 2015

5.—(1) The Planning (Hazardous Substances) (Wales) Regulations 2015^{M6} 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 [F¹IP completion day] ”;
- (b) insert the following definitions in the appropriate places—

““the EIA Directive” (“*Gyfarwydddeb AEA*”) 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 [F²IP completion day] ;”;

““major accident” (“*damwain fawr*”) has the meaning given in Article 3(13) of the Directive as it had effect immediately before [F²IP completion 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)^{M7} ”;
- (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^{M8};”.

(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 in any provision of retained EU law which implemented the EIA Directive)^{M9} ”;
- (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^{M10} ”.

(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) ^{M11} ”;
- (b) after paragraph (ii) insert—

“(ia) pan fo'n gymwys, y ffaith bod y prosiect y mae'r cynnig yn ymwneud ag ef yn un y mae'n ofynnol i'r awdurdod COMAH cymwys ymgynghori ag unrhyw wlad yn unol â Rheoliad 20 o Reoliadau Rheoli Peryglon Damweiniau Difrifol 2015 ^{M12}.”.

F1 Words in [reg. 5\(2\)\(a\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Environmental Assessments and Town and Country Planning \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1324\)](#), regs. 1(2), **3(2)(a)**

F2 Words in [reg. 5\(2\)\(b\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Environmental Assessments and Town and Country Planning \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1324\)](#), regs. 1(2), **3(2)(b)**

Commencement Information

I5 Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1](#)

Marginal Citations

M6 [S.I. 2015/1597](#) (W.196) to which there are amendments but none are relevant.

M7 Directive 2011/92/EU is implemented by the [Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017 \(S.I. 2017/567](#) (W. 136)).

M8 [S.I. 2015/483](#) as amended by [S.I. 2018/1370](#). There are other amending instruments but none is relevant.

M9 Directive 2011/92/EU is implemented by the [Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017 \(S.I. 2017/567](#) (W. 136)).

M10 Directive 2012/18/EU is implemented by the [Planning \(Hazardous Substances\) \(Wales\) Regulations 2015 \(S.I. 2015/1597](#) (W.196)).

M11 Directive 2011/92/EU is implemented by the [Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017 \(S.I. 2017/567](#) (W.136)).

M12 O.S. 2015/483 fel y'i diwygiwyd gan O.S. 2018/1370. Mae offerynnau diwygio eraill ond nid yw'r un ohonnynt yn berthnasol.

Transitional Provision

6.—(1) For the period of 2 years beginning with [^{F3}IP completion 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 [^{F4}IP completion day],

continues to have effect on and after [^{F4}IP completion day].

(3) For the purposes of this regulation—

“the 2005 Regulations” (“*Rheoliadau 2005*”) means the [Railway \(Licensing of Railway Undertakings\) Regulations 2005](#) ^{M13};

“European licence” (“*trwydded Ewropeaidd*”) 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^{M14};

“relevant European licence” (“*trwydded Ewropeaidd berthnasol*”) means a European licence, the holder of which has a valid SNRP that has not been suspended or revoked;

“SNRP” (“*DDdRhC*”) has the same meaning as in the 2005 Regulations^{M15}.

- F3** Words in reg. 6(1) substituted (31.12.2020 immediately before IP completion day) by [The Environmental Assessments and Town and Country Planning \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1324\)](#), regs. 1(2), **3(3)(a)**
- F4** Words in reg. 6(2) substituted (31.12.2020 immediately before IP completion day) by [The Environmental Assessments and Town and Country Planning \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1324\)](#), regs. 1(2), **3(3)(b)**

Commencement Information

- I6** Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1](#)

Marginal Citations

- M13** [S.I. 2005/3050](#) to which there are amendments but none are relevant.
- M14** [S.I. 2019/700](#).
- M15** Regulation 2 of the 2005 Regulations provides that “SNRP” means a statement of national regulatory provisions, issued pursuant to regulation 10 of those Regulations.

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

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.

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.