

STATUTORY INSTRUMENT CONSENT MEMORANDUM
The Waste (Circular Economy) (Amendment) Regulations 2020

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before Senedd Cymru if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.
2. The Waste (Circular Economy) (Amendment) Regulations 2020 were laid before Parliament on 27 August 2020 and before the Senedd on 1 September 2020. The Regulations can be found at:
<https://www.legislation.gov.uk/uksi/2020/904/contents/made>

Summary of Statutory Instrument and its objective

3. The objective of the Regulations is to transpose the 2020 EU Circular Economy Package (CEP) requirements in England and Wales, and Scotland and Northern Ireland for composite/UK or GB changes needed. The Devolved Administrations will make their own regulations for further amendments needed to legislation which fall outside this.
4. The Statutory Instrument (SI) transposes six amending EU Directives in the field of waste:
 - Directive (EU) 2018/849 amended Directives 2000/53/EC on end-of-life vehicles (“the ELV Directive”), 2006/66/EC on batteries and accumulators and waste batteries and accumulators (“the Batteries Directive”), and 2012/19/EU on waste electrical and electronic equipment (WEEE) (“the WEEE Directive”);
 - Directive (EU) 2018/850 amended Directive 1999/31/EC on the landfill of waste (“the Landfill Directive”);
 - Directive (EU) 2018/851 amended 2008/98/EC on waste (“the Waste Framework Directive”);
 - Directive (EU) 2018/852 amended 94/62/EC on packaging and packaging waste (“the Packaging Directive”); and
 - Commission Delegated Directive (EU) 2020/362 and Commission Delegated Directive (EU) 2020/363 amend Annex II of the ELV Directive.
5. Those amending Directives make the majority of changes to the Waste Framework Directive and the Landfill Directive. Minor changes are made in

relation to the Packaging Directive. References are updated in the ELV Directive, the Batteries Directive and the WEEE Directive.

6. The SI and accompanying Explanatory Memorandum are available here:
<https://www.legislation.gov.uk/ukxi/2020/904/contents/made>
7. The SI amends the following primary legislation consequential on updating the date/definitions to reflect the latest amendments to the Waste Framework Directive by 2018/851:
 - Town and Country Planning Act 1990
 - Environmental Protection Act 1990
 - Environment Act 1995
 - Waste and Emissions Trading Act 2003
 - Marine and Coastal Access Act 2009.

Provision to be made by the Regulations for which consent is sought

8. It is the view of the Welsh Government that the provision of the SI that amend the primary legislation listed at paragraph 7 above is within the legislative competence of the Senedd:
 - Town and Country Planning Act 1990 – regulation 2 updates reference to 2018/851;
 - Environmental Protection Act 1990 – regulation 3 updates reference to 2018/851;
 - Environment Act 1995 – regulation 4 updates reference to 2018/851;
 - Waste and Emissions Trading Act 2003 – regulation 5 updates the definition of “municipal waste”, inserts “recovery and disposal”, and updates reference to 2018/851; and
 - Marine and Coastal Access Act 2009 – regulation 6 updates reference to 2018/851.
9. The SI amends the legislation that transposed the relevant Directives in England and Wales and some legislation that partially transposed the relevant Directives in Scotland and Northern Ireland to ensure compliance with the relevant Directives as amended. Taken together this transposes the EU Circular Economy Package (CEP) in England and Wales for the changes that are required to be transposed by the end of 2020, apart from some amendments including those to hazardous waste which the Secretary of State is making on an England only basis. In parallel, any amendment to Wales only legislation including hazardous waste will be made by the Welsh Ministers, in free-standing

Wales-only regulations.

10. The SI to which this Statutory Instrument Consent Memorandum relates has been laid in the UK Parliament under the negative procedure, which will automatically become law unless there is an objection from a member of either House of Parliament. If there is no such objection, the provisions that amend the primary legislation referenced in this Memorandum will come into force on 1 October 2020.

Why it is appropriate for the SI to make this provision

11. As set out in paragraph 6, there is a need to amend out of date references to European law.
12. It is the view of the Welsh Government that it is appropriate and proportionate to deal with these amendments in these Regulations. The changes made are purely technical and uncontroversial and there is no change in policy.
13. The Waste (England and Wales) Regulations 2011 transposed the revised Waste Framework Directive in England and Wales on a composite basis. However, it was not possible to act compositely this time, as some amendments required are to UK/GB wide legislation. Part 4 of the SI's Explanatory Memorandum sets out the territorial extent of each regulation in the SI.
14. This approach avoided the need to duplicate amendments, which would have been the case if each administration was to make the same amendments to the existing shared legislation.

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