



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **Environment (Amendment Etc.) (EU Exit) Regulations 2018**

**DATE**            **10 December 2018**

**BY**                **Julie James AM, Leader of the House and Chief Whip**

### **Environment (Amendment Etc.) (EU Exit) Regulations 2018**

The 2018 Regulations amend legislation which apply in Wales. The Regulations also amends other legislation on an England-only basis. The legislation that is being amended in relation to Wales is as follows:

#### Domestic Primary Legislation - Amended

1. Environmental Protection Act 1990 (EPA 1990);
2. Environment Act 1995 (EA 1995) ; and
3. Pollution Prevention and Control Act 1999 (PPCA 1999);

#### European Directly Applicable - Revoked

#### EU Regulations

4. Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC.
5. Regulation (EC) No 66/2010 of the European Parliament and of the Council on the EU Ecolabel.
6. Commission Regulation (EU) No 782/2013 amending Annex III to Regulation (EU) No 66/2010 of the European Parliament and of the Council on the EU Ecolabel.
7. Commission Regulation (EU) 2017/1505 amending Annexes I, II and III to Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
8. Commission Regulation (EU) 2017/1941 amending Annex II to Regulation (EC) No 66/2010 of the European Parliament and of the Council on the EU Ecolabel.

## EU Decisions

9. Decision No 2179/98/EC of the European Parliament and of the Council on the review of the European Community programme of policy and action in relation to the environment and sustainable development 'Towards sustainability'.
10. Commission Decision 2010/709/EU establishing the European Union Ecolabelling Board.
11. Commission Decision 2011/330/EU on establishing the ecological criteria for the award of the EU Ecolabel for notebook computers.
12. Commission Decision 2011/333/EU on establishing the ecological criteria for the award of the EU Ecolabel for copying and graphic paper.
13. Commission Decision 2011/337/EU on establishing the ecological criteria for the award of the EU Ecolabel for personal computers.
14. Commission Decision 2011/381/EU on establishing the ecological criteria for the award of the EU Ecolabel to lubricants.
15. Commission Decision 2011/740 amending Decisions 2006/799/EC, 2007/64/EC, 2007/506/EC, 2007/742/EC, 2009/543/EC and 2009/544/EC in order to prolong the validity of the ecological criteria for the award of the EU Ecolabel to certain products.
16. Commission Decision 2011/832/EU concerning a guide on EU corporate registration, third country and global registration under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
17. Commission Decision 2012/448/EU establishing the ecological criteria for the award of the EU Ecolabel for newsprint paper.
18. Commission Decision 2012/481/EU establishing the ecological criteria for the award of the EU Ecolabel for printed paper.
19. Commission Decision 2013/131/EU establishing the user's guide setting out the steps needed to participate in EMAS, under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
20. Commission Decision 2013/135/EU amending Decisions 2007/506/EC and 2007/742/EC in order to prolong the validity of the ecological criteria for the award of the EU Ecolabel to certain products.
21. Commission Decision 2013/250/EU establishing the ecological criteria for the award of the EU Ecolabel for sanitary tapware.
22. Commission Decision 2013/295/EU amending Decisions 2006/799/EC, 2007/64/EC, 2009/300/EC, 2009/543/EC, 2009/544/EC, 2009/563/EC, 2009/564/EC, 2009/567/EC, 2009/568/EC, 2009/578/EC, 2009/598/EC, 2009/607/EC,

- 2009/894/EC, 2009/967/EC, 2010/18/EC and 2011/331/EU in order to prolong the validity of the ecological criteria for the award of the EU Ecolabel to certain products.
23. Commission Decision 2013/641/EU establishing the ecological criteria for the award of the EU Ecolabel for flushing toilets and urinals.
  24. Commission Decision 2013/806/EU establishing the ecological criteria for the award of the EU Ecolabel for imaging equipment.
  25. Decision No 1386/2013/EU of the European Parliament and of the Council on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet'.
  26. Commission Decision 2014/256/EU establishing the ecological criteria for the award of the EU Ecolabel for converted paper products.
  27. Commission Decision 2014/312/EU establishing the ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes.
  28. Commission Decision 2014/314/EU establishing the criteria for the award of the EU Ecolabel for water-based heaters.
  29. Commission Decision 2014/336/EU amending Decisions 2006/799/EC, 2007/64/EC, 2009/300/EC, 2009/894/EC, 2011/330/EU, 2011/331/EU and 2011/337/EU in order to prolong the validity of the ecological criteria for the award of the EU Ecolabel to certain products.
  30. Commission Decision 2014/345/EU amending Decision 2012/481/EU establishing the ecological criteria for the award of the EU Ecolabel for printed paper.
  31. Commission Decision 2014/350/EU establishing the ecological criteria for the award of the EU Ecolabel for textile products.
  32. Commission Decision 2014/391/EU establishing the ecological criteria for the award of the EU Ecolabel for bed mattresses.
  33. Commission Decision 2014/763/EU establishing the ecological criteria for the award of the EU Ecolabel for absorbent hygiene products.
  34. Commission Decision 2014/893/EU establishing the ecological criteria for the award of the EU Ecolabel for rinse-off cosmetic products.
  35. Commission Decision (EU) 2015/801 on reference document on best environmental management practice, sector environmental performance indicators and benchmarks of excellence for the retail trade sector under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
  36. Commission Decision (EU) 2015/877 amending Decisions 2009/568/EC, 2011/333/EU, 2011/381/EU, 2012/448/EU and 2012/481/EU in order to prolong the validity of the ecological criteria for the award of the EU Ecolabel to certain products.

37. Commission Decision (EU) 2015/886 amending Decision 2014/312/EU establishing the ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes.
38. Commission Decision (EU) 2015/2099 establishing the ecological criteria for the award of the EU Ecolabel for growing media, soil improvers and mulch.
39. Commission Decision (EU) 2016/397 amending Decision 2014/312/EU establishing the ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes.
40. Commission Decision (EU) 2016/611 on the reference document on best environmental management practice, sector environmental performance indicators and benchmarks of excellence for the tourism sector under Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
41. Commission Decision (EU) 2016/1332 establishing the ecological criteria for the award of the EU Ecolabel for furniture.
42. Commission Decision (EU) 2016/1371 establishing the ecological criteria for the award of the EU Ecolabel for personal, notebook and tablet computers.
43. Commission Decision (EU) 2017/175 on establishing EU Ecolabel criteria for tourist accommodation.
44. Commission Decision (EU) 2017/176 on establishing EU Ecolabel criteria for wood-, cork- and bamboo-based floor coverings.
45. Commission Decision (EU) 2017/1214 establishing the EU Ecolabel criteria for hand dishwashing detergents.
46. Commission Decision (EU) 2017/1215 establishing the EU Ecolabel criteria for industrial and institutional dishwasher detergents.
47. Commission Decision (EU) 2017/1216 establishing the EU Ecolabel criteria for dishwasher detergents.
48. Commission Decision (EU) 2017/1217 establishing the EU Ecolabel criteria for hard surface cleaning products.
49. Commission Decision (EU) 2017/1218 establishing the EU Ecolabel criteria for laundry detergents.
50. Commission Decision (EU) 2017/1219 establishing the EU Ecolabel criteria for industrial and institutional laundry detergents.
51. Commission Decision (EU) 2017/1392 amending Decision 2014/350/EU establishing the ecological criteria for the award of the EU Ecolabel for textile products.
52. Commission Decision (EU) 2017/1508 on the reference document on best environmental management practice, sector environmental performance indicators and benchmarks of excellence for the food and beverage manufacturing sector under

Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

53. Commission Decision (EU) 2017/1525 amending Decision 2014/256/EU in order to prolong the validity of the ecological criteria for the award of the EU Ecolabel to converted paper products.
54. Commission Decision (EU) 2017/2076 amending Decision 2009/607/EC as regards the period of validity of the ecological criteria for the award of the EU Ecolabel to hard coverings.
55. Commission Decision (EU) 2017/2285 of 6 December 2017 amending the user's guide setting out the steps needed to participate in EMAS, under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
56. Commission Implementing Decision (EU) 2017/2286 on the recognition of the requirements of the Eco-Lighthouse environmental management system as complying with the corresponding requirements of the eco-management and audit scheme (EMAS) in accordance with Article 45 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
57. Commission Decision (EU) 2018/59 amending Decision 2009/300/EC as regards the content, and period of validity, of the ecological criteria for the award of the EU Ecolabel to televisions.
58. Commission Decision (EU) 2018/666 amending Decision 2014/312/EU as regards the period of validity of the ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes.
59. Commission Decision (EU) 2018/680 establishing EU Ecolabel criteria for indoor cleaning services.
60. Commission Decision (EU) 2018/813 on the sectoral reference document on best environmental management practices, sector environmental performance indicators and benchmarks of excellence for the agriculture sector under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
61. Commission Decision (EU) 2018/993 amending Decisions (EU) 2017/1214, (EU) 2017/1215, (EU) 2017/1216, (EU) 2017/1218 and (EU) 2017/1219 as regards the duration of the transitional period.

#### Domestic Subordinate Legislation - Revoked

62. Pollution Prevention and Control (Designation of the Industrial Emissions Directive) (Offshore) Order 2013; and

## 63. Pollution Prevention and Control (Designation of Medium Combustion Plant Directive) (Offshore) Order 2018

### **Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence**

The SI relates to areas within devolved competence. The amendments ensure existing functions of the Welsh Ministers are retained as far as possible in relation to retained EU law. Existing powers of the Welsh Ministers, in order to address deficiencies, have been amended to ensure post exit day they will be able to continue introducing legislation for example in relation to pollution and emissions control.

### **The purpose of the amendments**

This affirmative procedure SI addresses the failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the EU.

The SI makes technical, legal amendments to ensure the law continues to function in the UK after EU exit. For example, the EPA 1990, the EA 1995 and the PPCA 1999 all refer to obligations as an EU Member State, and to EU legislation, these references are either inappropriate after exit, or will no longer work legally without amendment.

In the EA1995, there are amendments to the power for appropriate agencies to impose charges in relation to retained EU law. For Wales, the appropriate agency is Natural Resources Wales, who will now be able to charge fees in relation to performing functions conferred by Regulation (EC) No 1005/2009 (Ozone Depleting substances) and Regulation (EU) No 517/2014 (Fluorinated Greenhouse Gases), which are provided in the EU Exit SI on Fluorinated Greenhouse Gases and Ozone-Depleting Substances (EU Exit) Regulations to be laid before the Houses of Parliament in December.

In the EPA 1990, the amendment retains the Welsh Minister's power to introduce subordinate legislation previously in relation to 'EU Obligations' but post exit day in relation to "Retained EU Obligations" as inserted into the Interpretation Act 1978 by the EU (Withdrawal) Act 2018 Schedule 8.

The amendments in the PPPCA 1999 are to enable regulations currently made under section 2 of the PPCA to continue to be made in relation to pollution/emissions control within the scope of the retained EU law listed within the Schedule of the Act.

The revocations contained within this SI are necessary as in the case of Eco-Management and Audit and Ecolabel schemes, which will be out-of-date or have no further function once the UK has left the EU, these will be revoked and will cease on exit day. As a result of exiting the EU, neither of these schemes can apply in the UK. National bodies will no longer have the authority to register businesses under EMAS or grant Ecolabels, and existing UK registrations and Ecolabels will no longer be valid.

The SI and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments>

### **Why consent was given**

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency and to ensure consistency and coherence of the statute book. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU.