

Rt Hon Carwyn Jones AM
First Minister of Wales
Welsh Government

11 December 2018

Dear Carwyn

The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2018
The Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018

The Constitutional and Legislative Affairs Committee considered the Welsh Government written statements issued under Standing Order 30C for the above named regulations at its meeting on 10 December 2018.

I would like to draw your attention to concerns we have with these written statements. Both statements dated 27 November 2018 incorrectly summarise the legislation that is being amended by the respective regulations (see the annexe).

It is also not clear from the statements the impact the Regulations have on the National Assembly's legislative competence or the Welsh Minister's executive competence.

Please could you therefore provide clarification on these matters.

I am copying this letter to Julie James AM, Leader of the House and Chief Whip.

I would be grateful for a response, from your successor, by 3 January 2019. I would also like to take this opportunity to thank you for your constructive engagement as First Minister with this Committee and its predecessor.



Yours sincerely

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw AM

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.



Annexe

The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2018

The statement incorrectly summarises the legislation which is being amended by the Regulations. The statement notes that the following legislation is being amended by the Regulations:

- The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2018
 - Regulation (EC) No. 116/2006
 - Commission Implementing Decision 2011/850/EC –
 - Commission Decision 2015/6674/EU
 - Directive (Directive 2004/42/EC).
 - Commission Implementing Decision 2012/115/EU
 - Directive (2010/75/EU).
 - Directive (2010/75/EU).

However, assessment undertaken for the Committee by the Assembly Commission's Legal Services indicates that the Regulations amend:

- The Air Quality Standards Regulations 2010;
- The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012;
- The National Emission Ceilings Regulations 2018.

The Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018

The statement incorrectly summarises the legislation which is being amended by the Regulations. The statement notes that the following legislation is being amended by the Regulations:

- The Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018
 - Directive 2008/50/EC
 - Directive 2004/107/EC
 - Directive 2004/42/EC
- Domestic Legislation



- The Air Quality Standards Regulations 2010
- The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012
- The National Emission Ceilings Regulations 2018

However, assessment undertaken for the Committee by the Assembly Commission's Legal Services indicates that the Regulations amend and revoke the following retained direct EU legislation:

- Regulation (EC) No 166/2006 of the European Parliament and of the Council concerning the establishment of a European Pollutant Release and Transfer Register
- Decision 2004/279/EC concerning guidance for implementation of Directive 2002/3/EC of the European Parliament and of the Council relating to ozone in ambient air
- Decision 2011/850/EU laying down rules for Directives 2004/107/EC and 2008/50/EC of the European Parliament and of the Council as regards the reciprocal exchange of information and reporting on ambient air quality
- Decision 2012/115/EU laying down rules concerning the transitional national plans referred to in Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions
- Decision 2012/134/EU establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for the manufacture of glass
- Decision 2012/135/EU establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for iron and steel production 2
- Decision 2012/249/EU concerning the determination of start-up and shut-down periods for the purposes of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions
- Decision 2013/84/EU establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for the tanning of hides and skins
- Decision 2013/163/EU establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for the production of cement, lime and magnesium oxide



- Decision 2013/732/EU establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions, for the production of chlor-alkali
- Decision 2014/687/EU establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the production of pulp, paper and board
- Decision 2014/738/EU establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions, for the refining of mineral oil and gas
- Decision 2014/768/EU establishing the type, format and frequency of information to be made available by the Member States on integrated emissions management techniques applied in mineral oil and gas refineries, pursuant to Directive 2010/75/EU of the European Parliament and of the Council
- Decision 2015/6674/EU establishing a common format for the submission of Member State reports on the implementation of Directive 2004/42/EC of the European Parliament and of the Council on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products
- Decision 2015/2119/EU establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the production of wood-based panels
- Decision 2016/902/EU establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for common waste water and waste gas treatment/management systems in the chemical sector
- Decision 2016/1032/EU establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the non-ferrous metals industries
- Decision 2017/302/EU establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs
- Decision 2017/1442/EU establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for large combustion plants
- Decision 2017/2117/EU establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the production of large volume organic chemicals



- Decision 2018/1135/EU establishing the type, format and frequency of information to be made available by the Member States for the purposes of reporting on the implementation of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions
- Decision 2018/1147/EU establishing best available techniques (BAT) conclusions for waste treatment, under Directive 2010/75/EU of the European Parliament and of the Council 3
- Decision 2018/1522 laying down a common format for national air pollution control programmes under Directive (EU) 2016/2284 of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants
- Annex 20 to EEA agreement

