



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2019**

DATE **16 October 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2019 (the “2019 Regulations”)

The Law which is being amended/ revoked

- The Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019
- The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019
- Regulation (EU) 2019/1021 on Persistent Organic Pollutants
- Part 4 of the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018

The purpose of the amendments

The 2019 Regulations make the necessary corrections to ensure that Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants (POPs) functions once we leave the European Union (“EU”). This includes transferring legislative and administrative functions that are currently conferred by EU legislation upon the European Commission (“the Commission”) and the European Chemicals Agency (“ECHA”), to be exercisable instead by public authorities in the United Kingdom (“UK”), so that they can be exercised at national level after the UK leaves the EU.

The 2019 Regulations revoke the following regulations; part 4 of the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1405) which made corrections to the, now repealed, Regulation (EC) No 850/2004 on POPs; and regulation 2 of the Environment and Wildlife (Legislative Functions) (EU Exit) Regulation 2019 (S.I. 2019/473) which transferred legislative functions contained in Regulation (EC) No 850/2004 on POPs.

The 2019 Regulations also make consequential amendments to the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments are available at: <https://beta.parliament.uk/work-packages/HdaKby6V>

Any impact the SI may have on the legislative competence of the National Assembly for Wales and/or the Welsh Ministers' executive competence

The 2019 Regulations contain provision which enables the Welsh Ministers to exercise functions in relation to Wales without encumbrance and for the Welsh Ministers to provide consent to the Secretary of State to exercise functions in relation to Wales. Functions transferred to the Secretary of State on a concurrent basis may constitute functions of a Minister of the Crown for the purposes of paragraph 11 of Schedule 7B to the Government of Wales Act 2006.

This may operate as a constraint on the Assembly's legislative competence to remove or modify such functions without seeking the consent of the relevant UK Government Minister.

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, expediency and due to the technical nature of the amendments. 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.

The 2019 Regulations will follow the 'urgent made affirmative procedure' which is set out in paragraph 5 of Schedule 7 to the European Union (Withdrawal) Act 2018. In accordance with this procedure, the 2019 Regulations may be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament, provided a declaration is made by the relevant Minister that as a result of urgency, it is necessary to make the regulations without a draft being laid and approved.