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WELSH STATUTORY INSTRUMENTS

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**2019 No. 390 (W. 95)**

**EXITING THE EUROPEAN UNION, WALES  
ENVIRONMENTAL PROTECTION, WALES**

**The Air Quality Standards (Wales)  
(Amendment) (EU Exit) Regulations 2019**

<i>Sift requirements satisfied</i>	<i>18 February 2019</i>
<i>Made</i> - - - -	<i>26 February 2019</i>
<i>Laid before the National Assembly for Wales</i> - -	<i>28 February 2019</i>

*Coming into force in accordance with regulation 1(1)*

The Welsh Ministers make these Regulations in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(1)</sup>. 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.

**Title, commencement and interpretation**

1.—(1) The title of these Regulations is as the Air Quality Standards (Wales) (Amendment) (EU Exit) Regulations 2019 and they come into force on exit day.

(2) In these regulations “the 2010 Regulations” means the Air Quality Standards (Wales) Regulations 2010<sup>(2)</sup>.

**Amendment of the 2010 Regulations**

2.—(1) The 2010 Regulations are amended as follows.

(2) In regulation 2, paragraph (2) is omitted.

(3) After regulation 2 insert the following—

**“Interpretation**

2A.—(1) When interpreting [Directive 2008/50/EC](#) for the purposes of these Regulations—

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(1) 2018 c. 16.

(2) [S.I. 2010/1433 \(W. 126\)](#), to which there are amendments not relevant to these Regulations.

- (a) Article 3(f) is to be read as if for “other Member States” there were substituted “Member States”;
  - (b) in Annex 1—
    - (i) in section A, footnote (1), is to be read as if—
      - (aa) for “Member States” there were substituted “the Welsh Ministers”;
      - (bb) the words “to the Commission” were omitted;
    - (ii) section C is to be read as if—
      - (aa) at each place it occurs, for “harmonised” there were substituted “designated”;
      - (bb) in point (i), the words “pursuant to Article 6 and 9” were omitted;
      - (cc) in point (iii), the words from “and that institutions” to the end were omitted;
      - (dd) in point (iv), in the first sentence, the words from “by the appropriate” to “Article 3” were omitted;
      - (ee) in point (iv), in the first sentence, the words from “the reference to” to “the European Union” were omitted;
      - (ff) in point (iv), in the second sentence, the words from “for the coordination” to “be responsible” were omitted;
      - (gg) points (v) and (vi) were omitted;
      - (hh) in paragraph 2, for “All reported data under Article 27” there were substituted “All data”;
  - (c) in Annex 2, in Section B, the second subparagraph is to be read as if for “Member States” there were substituted “the Welsh Ministers”;
  - (d) in Annex 3, in Section A, paragraph (2)(b) is to be read as if the words “in accordance with Article 2(1)” were omitted;
  - (e) in Annex 5, in Section A, footnotes (1) and (2) to the table are to be read as if for “a Member State” in each place where the words occur, there were substituted “the United Kingdom”;
  - (f) in Annex 6, Section B is to be read as if—
    - (i) in point 1—
      - (aa) for “A Member State” there were substituted “The Welsh Ministers”;
      - (bb) for “it” there were substituted “they”;
      - (cc) for “the Member State concerned” there were substituted “the Welsh Ministers”;
    - (ii) points 2, 3 and 4 were omitted;
  - (g) in Annex 8, in Section A, the paragraph after the table is to be read as if after the words “in the Community” there were inserted “in so far as it forms part of retained EU law”.
- (2) When interpreting [Directive 2004/107/EC](#) for the purposes of these Regulations—
- (a) in Annex 2, in Section 2, the second paragraph is to be read as if for “Member States” there were substituted “the Welsh Ministers”;
  - (b) in Annex 3, in Section 4, point (b) is to be read as if the words “as defined by Article 2(11) of [Directive 96/61/EC](#)” were omitted; and

- (c) in Annex 4, Section 1 is to be read as if for “Member State”, in each place the words occur, there were substituted “the Welsh Ministers”;
- (d) Annex 5 is to be read as if—
  - (i) in Section 1, in the second paragraph, for “A Member State” there were substituted “The Welsh Ministers”;
  - (ii) in Section 2—
    - (aa) in the first paragraph, for “Member States are allowed to” there were substituted “the Welsh Ministers may”;
    - (bb) in the second paragraph, for “A Member State” there were substituted “The Welsh Ministers”;
  - (iii) in Section 3, in the second paragraph for “A Member State” there were substituted “The Welsh Ministers”;
  - (iv) Section 5 were omitted.”
- (4) For regulation 13(4) substitute—

“(4) Where the Welsh Ministers consider that a limit value has been exceeded for a reason attributable to natural sources, that limit value will not be considered to be exceeded for the purposes of these Regulations.

(5) Where the Welsh Ministers consider that a limit value has been exceeded for a reason attributable to natural sources in accordance with paragraph (4), the Welsh Ministers must publish information, for the relevant zones and agglomerations, demonstrating that the exceedances are attributable to natural sources.”
- (5) In regulation 14—
  - (a) in paragraph (5)(b) for “[Directive 2008/1/EC](#)” substitute “the Environmental Permitting (England and Wales) Regulations 2016(3)”;
  - (b) in paragraph (6) for “Article 6 of [Directive 2001/81/EC](#)” substitute “regulation 9 of the National Emission Ceilings Regulations 2018(4)”;
  - (c) paragraph (7) is omitted.
- (6) In regulation 15, paragraph (2) is omitted.
- (7) In regulation 20—
  - (a) in paragraph (2), omit “in accordance with Article 21 of [Directive 2008/50/EC](#),”;
  - (b) for paragraph (7) substitute—

“(7) Wherever possible, air quality plans must be consistent with—

    - (a) the Transitional National Plan, which has the meaning given in regulation 2(1) of the Large Combustion Plants (Transitional National Plan) Regulations 2015(5);
    - (b) a national air pollution control programme drawn up in accordance with regulation 9 of the National Emission Ceilings Regulations 2018;
    - (c) an action plan drawn up in accordance with Part 4 of the Environmental Noise (Wales) Regulations 2006(6).”
- (8) In regulation 23(3), after “the European Community” insert “in so far as it has been transposed into the law that applies in Wales”.

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(3) [S.I. 2016/1154](#), to which there are amendments not relevant to these Regulations.

(4) [S.I. 2018/129](#).

(5) [S.I. 2015/1973](#), to which there are amendments not relevant to these Regulations.

(6) [S.I. 2006/2629 \(W.225\)](#), as amended by [S.I. 2018/1208 \(W. 245\)](#).

26 February 2019

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Affairs, one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in paragraph 1(1) of Schedule 2 and paragraph 21(b) 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 make amendments to the Air Quality Standards (Wales) Regulations 2010.

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.