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WELSH STATUTORY INSTRUMENTS

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**2018 No. 1216 (W. 249)**

**AGRICULTURE, WALES**

LIVESTOCK INDUSTRIES

**ANIMALS, WALES**

ANIMAL HEALTH

ANIMAL WELFARE

**ENVIRONMENTAL PROTECTION, WALES**

**FREEDOM OF INFORMATION, WALES**

**HORTICULTURE, WALES**

**PLANT HEALTH, WALES**

**SEA FISHERIES, WALES**

CONSERVATION OF SEA FISH

**SEEDS, WALES**

**TOWN AND COUNTRY PLANNING, WALES**

**WASTE, WALES**

**WATER, WALES**

**WATER INDUSTRY, WALES**

**WATER RESOURCES, WALES**

The Environment, Planning and Rural Affairs  
(Miscellaneous Amendments) (Wales) Regulations 2018

<i>Made</i>	- - - -	<i>20 November 2018</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>23 November 2018</i>
<i>Coming into force</i>	- -	<i>17 December 2018</i>

The Welsh Ministers make these Regulations in exercise of the powers conferred by—

- (a) section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 (“the 1972 Act”)(**1**), except so far as relating to regulations 2, 5, 15, 16, 36 and 37;
- (b) section 58B of the Government of Wales Act 2006(**2**), so far as relating to regulations 2 and 5;
- (c) sections 103(1) to (3), (7), 104(4) and (6) of the Water Act 2003(**3**), so far as relating to regulation 15;
- (d) sections 33A and 219(2)(f) of the Water Resources Act 1991(**4**), so far as relating to regulation 16;
- (e) sections 1 and 8 of the Animal Health Act 1981(**5**), so far as relating to regulations 36 and 37.

The Welsh Ministers are designated(**6**) for the purposes of section 2(2) of the 1972 Act in relation to—

- (a) the quality of water intended for domestic purposes or for use in a food production undertaking(**7**);
- (b) measures relating to the prevention, reduction and elimination of pollution caused by waste and the management of packaging and packaging waste(**8**);
- (c) the prevention, reduction and management of waste(**9**);
- (d) the prevention and remedying of land contamination(**10**);
- (e) flood risk management(**11**);

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- (1) [1972 c. 68](#). Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 ([c. 51](#)) and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 ([c. 7](#)).
  - (2) [2006 c. 32](#). Section 58B was inserted by the Wales Act 2017 ([c. 4](#)), section 20(1). It is prospectively repealed by the European Union (Withdrawal Act) 2018 ([c. 16](#)), Schedule 3, paragraphs 27 and 34 from a date to be appointed. Section 58B allows the Welsh Ministers to make secondary legislation using powers in section 2(2) of the European Communities Act 1972 as if they were a Minister of the Crown or government department designated by Order in Council under that provision, provided such legislation would otherwise be within the legislative competence of the National Assembly for Wales. Sections 107 and 108A of the Government of Wales Act 2006, together with paragraph 171 of Part 2 of Schedule 7A to that Act, allow the National Assembly for Wales to make laws in relation to public access information held by the Assembly, the Assembly Commission, the Welsh Government or any Welsh Public Authority, unless supplied by a Minister of the Crown or government department and held in confidence. “Welsh Public Authority” has the same meaning given by section 83 of the Freedom of Information Act 2000 ([c. 36](#)), but does not include a reserved authority within the meaning of paragraph 8 of Schedule 7B to the Government of Wales Act 2006.
  - (3) [2003 c. 37](#). The power of the National Assembly for Wales to make Regulations under section 103(7) was transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
  - (4) [1991 c. 57](#). Functions of the Secretary of State under sections 33A and 219(2) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by virtue of article 2(1) of the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)). Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
  - (5) [1981 c. 22](#). Functions of the Ministers under sections 1 and 8 of the Animal Health Act 1981 were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales, by virtue of [S.I. 1999/672](#). Functions of the Secretary of State were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales, by virtue of [S.I. 2004/3044](#). Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
  - (6) By virtue of section 59(2) of the Government of Wales Act 2006, the Welsh Ministers may exercise the power conferred by section 2(2) of the European Communities Act 1972 in relation to any matter, or for any purpose, if they have been designated in relation to that matter or for that purpose.
  - (7) [S.I. 2004/3328](#). By virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006, [S.I. 2004/3328](#) has effect as if made under section 59(1) of that Act.
  - (8) [S.I. 2005/850](#), to which there is an amendment not relevant to these Regulations. By virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006, [S.I. 2005/850](#) has effect as if made under section 59(1) of that Act.
  - (9) [S.I. 2010/1552](#).
  - (10) [S.I. 2007/193](#), to which there is an amendment not relevant to these Regulations. By virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006, [S.I. 2007/193](#) has effect as if made under section 59(1) of that Act.
  - (11) [S.I. 2011/1683](#).

- (f) measures relating to water resources**(12)**;
- (g) the protection of waters against pollution caused by nitrates from agricultural sources**(13)**;
- (h) the common agricultural policy**(14)**;
- (i) the veterinary and phytosanitary fields for the protection of public health**(15)**;
- (j) measures relating to the control and regulation of the deliberate release, placing on the market and transboundary movements of genetically modified organisms**(16)**;
- (k) the common agricultural policy of the European Union**(17)**;
- (l) the veterinary and phytosanitary fields for the protection of public health**(18)**.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Welsh Ministers that it is expedient for references to EU instruments in regulations 11, 17(2), 17(3), 18(2)(a), 18(2)(b), 18(3), 23, 37(2)(a) and 37(4) to be construed as references to those instruments as amended from time to time.

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- (12)** [S.I. 2003/2901](#). By virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006, [S.I. 2003/2901](#) has effect as if made under section 59(1) of that Act.
  - (13)** [S.I. 2001/2555](#). By virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006, [S.I. 2001/2555](#) has effect as if made under section 59(1) of that Act.
  - (14)** [S.I. 2010/2690](#).
  - (15)** [S.I. 2008/1792](#), to which there are amendments not relevant to these Regulations.
  - (16)** [S.I. 2003/2901](#), to which there are amendments not relevant to these Regulations. By virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006, [S.I. 2003/2901](#) has effect as if made under section 59(1) of that Act.
  - (17)** [S.I. 2010/2690](#).
  - (18)** [S.I. 2008/1792](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Environment, Planning and Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2018, Introductory Text.