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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 It is prospectively repealed by the European Union (Withdrawal Act) 2018 (c. 16), Schedule 3, paragraphs 27 and 34 from a date to be appointed.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.

## PART 1

### Introduction

#### **Title, application and commencement**

1.—(1) The title of these Regulations is the Environment, Planning and Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2018.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 17 December 2018.

## PART 2

### Amendments to legislation concerning the environment

#### **The Urban Waste Water Treatment (England and Wales) Regulations 1994**

2.—(1) The Urban Waste Water Treatment (England and Wales) Regulations 1994(19) are amended as follows.

(2) In regulation 2(1)—

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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](#).

(19) [S.I. 1994/2841](#), amended by [S.I. 2013/755 \(W. 90\)](#); there are other amendments but none is relevant to these Regulations.

- (a) in the definition of “the Directive”, after “treatment,” insert “as last amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council(20),”;
  - (b) in the words after the definition of “Wales”, after “used” insert “in these Regulations and”.
- (3) In Schedule 1, in Part 1, in paragraph (b), for the words from “the concentration” to “Member States” substitute “50 mg/l of nitrates in 95% of the samples”.

### **The Drinking Water (Undertakings) (England and Wales) Regulations 2000**

3. In regulation 2 of the Drinking Water (Undertakings) (England and Wales) Regulations 2000(21), after “human consumption)” insert “, as last amended by Commission Directive (EU) 2015/1787(22),”.

### **The Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002**

4.—(1) The Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(23) are amended as follows.

(2) In regulation 2(1), in the definition of “the Contained Use Directive” (“*y Gyfarwydddeb Defnydd Amgaeëdig*”), for the words from “Council Directive” to the end substitute “[Directive 2009/41/EC](#) of the European Parliament and of the Council on the contained use of genetically modified micro-organisms(24)”.

(3) For regulation 13(4)(c) substitute—

“(c) any person, or member of a genetic modification safety committee, from whom advice must be obtained under regulation 8 of the Genetically Modified Organisms (Contained Use) Regulations 2014(25),”.

### **The Environmental Information Regulations 2004**

5. In regulation 18(6) of the Environmental Information Regulations 2004(26), for the words from “applies to a decision notice” to the end substitute “does not apply”.

### **The Hazardous Waste (Wales) Regulations 2005**

6.—(1) The Hazardous Waste (Wales) Regulations 2005(27) are amended as follows.

(2) In regulation 12(3), for “Council Regulation 259/93/EEC(28)” substitute “Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste(29)”.

(3) In Schedule 7, in paragraph 1(b), for the words from “the Annex” to “1994” substitute “Annex 1A to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste”.

(20) OJ No L 311, 21.11.2008, p 1, as last amended by [Directive 2014/32/EU](#) of the European Parliament and of the Council (OJ No L 96, 29.3.2014, p. 149).

(21) [S.I. 2000/1297](#), amended by [S.I. 2010/996](#); there are other amending instruments but none is relevant to these Regulations.

(22) OJ No L 260, 7.10.2015, p. 6.

(23) [S.I. 2002/3188 \(W. 304\)](#), to which there are amendments not relevant to these Regulations.

(24) OJ No L 125, 21.5.2009, p. 75.

(25) [S.I. 2014/1663](#), to which there are amendments not relevant to these Regulations.

(26) [S.I. 2004/3391](#), to which there are amendments not relevant to these Regulations.

(27) [S.I. 2005/1806 \(W. 138\)](#), to which there are amendments not relevant to these Regulations.

(28) OJ No L 30, 6.2.1993, p. 1, as repealed by Regulation (EC) No 1013/2006 of the European Parliament and of the Council (OJ No L 190, 12.7.2006, p. 1).

(29) OJ No L 190, 12.7.2006, p 1, as last amended by Commission Regulation (EU) 2015/2002 (OJ No L 294, 11.11.2015, p. 1).

### **The Contaminated Land (Wales) Regulations 2006**

7. In regulation 3(b)(ii) of the Contaminated Land (Wales) Regulations 2006(30), after “water policy” insert “as last amended by Commission Directive 2014/101/EU(31)”.

### **The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009**

8.—(1) The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009(32) are amended as follows.

(2) In regulation 20, before paragraph (1), insert—

“(A1) Where a responsible operator has received a notice from the enforcing authority under regulation 18, it must without delay identify potential remedial measures in accordance with Schedule 4 and submit them in writing to the enforcing authority for its approval.”

(3) In Schedule 1, for paragraph 5 substitute—

“5.—(1) Damage to a protected species or natural habitat and damage to a site of special scientific interest does not include damage caused by an act expressly authorised by the relevant authorities in accordance with—

- (a) the Conservation (Natural Habitats, &c.) Regulations 1994(33);
- (b) the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001(34);
- (c) the Conservation of Habitats and Species Regulations 2010(35);
- (d) the Conservation of Habitats and Species Regulations 2017(36);
- (e) the Conservation of Offshore Marine Habitats and Species Regulations 2017(37).

(2) Damage to sites of special scientific interest does not include, in the case of a site that is not a European site damage caused by an act expressly authorised by the relevant authorities in accordance with Part 2 of the Wildlife and Countryside Act 1981(38).

(3) In sub-paragraph (2), “European site” has the same meaning as in regulation 8 of the Conservation of Habitats and Species Regulations 2017.”

### **The Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) Regulations 2011**

9.—(1) The Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) Regulations 2011(39) is amended as follows.

(2) In regulation 5(3), in the definition of “CITES certificate” (“*tystysgrif CITES*”), after “trade therein” insert “, as last amended by Commission Regulation (EU) 2017/160(40),”.

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(30) S.I. 2006/2989 (W. 278), amended by S.I. 2012/283 (W. 47).

(31) OJ No L 311, 31.10.2014, p. 32.

(32) S.I. 2009/995 (W. 81), to which there are amendments not relevant to these Regulations.

(33) 1994/2716 amended by paragraph 233(1) of Schedule 22 to the Environment Act 1995 (c. 25); S.I. 1996/525; 1997/3055; 2000/192 and 1973; 2003/2155; 2005/3389; 2006/1282; 2007/1843 and 3538; 2008/2172; 2009/6, 1307, 2438 and 3160; and paragraph 4(1) of Schedule 11 to the Marine and Coastal Access Act 2009 (c. 23); and revoked (in relation to England and Wales) by S.I. 2010/490.

(34) S.I. 2001/1754, amended by S.I. 2007/77 and 1842; and 2010/1513.

(35) S.I. 2010/490.

(36) S.I. 2017/1012.

(37) S.I. 2017/1013.

(38) 1981 c. 69.

(39) S.I. 2011/1653 (W. 188).

(40) OJ No L 27, 1.2.2017, p. 1.

(3) In regulation 6(2), at the end insert “, as last amended by Commission Regulation (EU) 2015/870(41)”.

### **The Incidental Flooding and Coastal Erosion (Wales) Order 2011**

10. In article 3(4) of the Incidental Flooding and Coastal Erosion (Wales) Order 2011(42)—
- (a) in sub-paragraph (b), at the end insert “, as last amended by Council Directive 2013/17(EU)(43)”;
  - (b) in sub-paragraph (c), after “water policy” insert “, as last amended by Commission Directive 2014/101/EU”;
  - (c) after sub-paragraph (c) omit “and”;
  - (d) in sub-paragraph (d), at the end insert “, as last amended by Council Directive 2013/17/EU”.

### **The Controlled Waste (England and Wales) Regulations 2012**

11. In Schedule 1 to the Controlled Waste (England and Wales) Regulations 2012(44), in paragraph 1, in the definition of “clinical waste”, in paragraph (c), for the words from “Council Directive” to the end substitute “Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures(45), as amended from time to time,”.

### **The Bathing Water Regulations 2013**

12. In regulation 2(2) of the Bathing Water Regulations 2013(46), after “water policy” insert “, as last amended by Commission Directive 2014/101/EU”.

### **The Nitrate Pollution Prevention (Wales) Regulations 2013**

- 13.—(1) The Nitrate Pollution Prevention (Wales) Regulations 2013(47) are amended as follows.
- (2) In regulation 6, in the definition of “derogation” (“*rhanddirymiad*”), omit “and Commission Decision 2013/781/EU”.
  - (3) In regulation 11(2)(b), at the end insert “, as last amended by Commission Directive (EU) 2015/1787(48)”.
  - (4) In regulation 22(2)(a)(ii), at the end insert “, or Regulation (EU) 1305/2013(49)”.

### **The Environmental Permitting (England and Wales) Regulations 2016**

14. In Schedule 10 to the Environmental Permitting (England and Wales) Regulations 2016(50), in paragraph 5—

(41) OJ No L 142, 6.6.2015, p. 3.

(42) S.I. 2011/2829 (W. 302), to which there are amendments not relevant to these Regulations.

(43) OJ No L 158, 10.6.2013, p. 193.

(44) S.I. 2012/811, to which there are amendments not relevant to these Regulations.

(45) OJ No L 353, 31.12.2008, p. 1.

(46) S.I. 2013/1675, to which there are amendments not relevant to these Regulations.

(47) S.I. 2013/2506 (W. 245), to which there are amendments not relevant to these Regulations.

(48) OJ No L 260, 7.10.2015, p. 6.

(49) OJ No L 347, 20.12.2013, p. 487.

(50) S.I. 2016/1154, to which there are amendments not relevant to these Regulations.

- (a) in sub-paragraph (4), for the words from “Regulation” to the end substitute “Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury(51)”;
- (b) omit sub-paragraph (5).

### **The Water Abstraction (Transitional Provisions) Regulations 2017**

**15.** In regulation 9 of the Water Abstraction (Transitional Provisions) Regulations 2017(52), for paragraph (3) substitute—

- “(3) In paragraph (1), an abstraction of more limited extent does not include—
  - (a) a Qn95 hands-off flow constraint on a licence where the licensed abstraction is from a body of inland waters or a body of groundwater where the recent actual flow or quantitative status of the source of supply does not support good ecological potential, good ecological status or good quantitative status, or
  - (b) 75% of Qn99 hands-off flow constraint on a licence where the licenced abstraction is from a body of inland waters or a body of groundwater where the recent actual flow or quantitative status of the source of supply supports good ecological potential, good ecological status or good quantitative status.”

### **The Water Abstraction and Impounding (Exemptions) Regulations 2017**

**16.—(1)** The Water Abstraction and Impounding (Exemptions) Regulations 2017(53) are amended as follows.

(2) In regulation 2(1)—

- (a) for the definition of “the 2010 Regulations” substitute—
  - ““the 2017 Regulations” means the Conservation of Habitats and Species Regulations 2017(54);”;
- (b) in the definition of “conservation site”—
  - (i) in paragraph (a), for “regulation 10(5) of the 2010 Regulations” substitute “regulation 12(5) of the 2017 Regulations”;
  - (ii) in paragraph (b), for “regulation 11 of the 2010 Regulations” substitute “regulation 13 of the 2017 Regulations”;
  - (iii) in paragraph (c), for “regulations 12A and 12B, respectively, of the 2010 Regulations” substitute “regulations 15 and 16, respectively, of the 2017 Regulations”;
- (c) in the definition of “protected species”, in paragraph (a), for “regulation 40(1) of, and Schedule 2 to, the 2010 Regulations” substitute “regulation 42(1) of, and Schedule 2 to, the 2017 Regulations”.

(3) In regulation 14(1)(b), for “regulation 99(2) of the 2010 Regulations” substitute “regulation 102(2) of the 2017 Regulations”.

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(51) OJ No L 137, 24.5.2017, p. 1.

(52) S.I. 2017/1047.

(53) S.I. 2017/1044.

(54) S.I. 2017/1012.

## PART 3

### Amendments to secondary legislation concerning planning

#### **The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004**

17.—(1) The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004<sup>(55)</sup> are amended as follows.

(2) In regulation 2(1), in the definition of “the Habitats Directive” (“*y Gyfarwydddeb Cynefinoedd*”), for “as last amended by Council Directive 97/62/EC” substitute “, as amended from time to time”.

(3) In regulation 5(2)(b), for “Council Directive 85/337/EC on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC” substitute “Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment<sup>(56)</sup>, as amended from time to time”.

#### **The Planning (Hazardous Substances) (Wales) Regulations 2015**

18.—(1) The Planning (Hazardous Substances) (Wales) Regulations 2015<sup>(57)</sup> are amended as follows.

(2) In Schedule 1—

(a) in Part 1, column 1, section ‘P’, after “Regulation (EC) No 440/2008” insert “as amended from time to time”;

(b) in Part 4—

(i) in paragraph 11(1), after “aerosol dispensers”, in the first place it occurs, insert “as amended from time to time”;

(ii) in paragraph 13(a), after “fertilisers” insert “as amended from time to time”;

(iii) in paragraphs 14 and 16(b), after “Regulation (EC) No 2003/2003”, in each place it occurs, insert “as amended from time to time”.

(3) In Schedule 2, in paragraph 6(a), for “Article 3(1)(b) of Regulation (EC) No 1102/2008 of the European Parliament and of the Council on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury” substitute “Article 13(1) of Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008<sup>(58)</sup>, as amended from time to time”.

#### **The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016**

19.—(1) The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016<sup>(59)</sup> are amended as follows.

(2) In Schedule 1, in paragraphs 9 and 10, for “Annex IIA to Council Directive 75/442/EEC” substitute “Annex I to Directive 2008/98/EC of the European Parliament and of the Council<sup>(60)</sup>, as last amended by Council Regulation (EU) 2017/997<sup>(61)</sup>.”

<sup>(55)</sup> S.I. 2004/1656 (W. 170).

<sup>(56)</sup> OJ No L 26, 28.1.2012, p. 1.

<sup>(57)</sup> S.I. 2015/1597 (W. 196), to which there are amendments not relevant to these Regulations.

<sup>(58)</sup> OJ No L 137, 24.5.2017, p. 1.

<sup>(59)</sup> S.I. 2016/58 (W. 28).

<sup>(60)</sup> OJ No L 312, 22.11.2008, p. 3.



(3) In Schedule 2, in paragraph 2, in row 3(g) of column 2 of the table, in paragraph (ii), for “the Environmental Permitting (England and Wales) Regulations 2010” substitute “the Environmental Permitting (England and Wales) Regulations 2016<sup>(62)</sup>”.

### **The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017**

**20.**—(1) The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017<sup>(63)</sup> are amended as follows.

(2) In Schedule 1, in paragraphs 9 and 10, for “Annex IIA to Council [Directive 75/442/EEC](#)” substitute “Annex I to [Directive 2008/98/EC](#) of the European Parliament and of the Council, as last amended by Council Regulation (EU) 2017/997”.

(3) In Schedule 2, in paragraph 2, in row 3(g) of column 2 of the table, in paragraph (ii), for “the Environmental Permitting (England and Wales) Regulations 2010” substitute “the Environmental Permitting (England and Wales) Regulations 2016”.

## **PART 4**

### **Amendments to legislation concerning agriculture**

#### **The Marketing of Vegetable Plant Material Regulations 1995**

**21.**—(1) The Marketing of Vegetable Plant Material Regulations 1995<sup>(64)</sup> are amended as follows.

(2) In regulation 5(d)(i), for “the Vegetable Seeds Regulations 1993<sup>(65)</sup>” substitute “the Seed Marketing (Wales) Regulations 2012<sup>(66)</sup>”.

(3) In regulation 8(4), for “the Vegetable Seeds Regulations 1993” substitute “the Seed Marketing (Wales) Regulations 2012”.

#### **The Marketing of Ornamental Plant Propagating Material Regulations 1999**

**22.**—(1) The Marketing of Ornamental Plant Propagating Material Regulations 1999<sup>(67)</sup> are amended as follows.

(2) In regulation 2(1)—

- (a) omit the definition of “[Directive 77/93/EEC](#)”;
- (b) in the definition of “[Directive 98/56/EC](#)”, at the end insert “, as last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council<sup>(68)</sup>”;
- (c) after the definition of “[Directive 98/56/EC](#)” insert—

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<sup>(61)</sup> OJ No L 150, 14.6.2017, p. 1.

<sup>(62)</sup> [S.I. 2016/1154](#).

<sup>(63)</sup> [S.I. 2017/567 \(W. 136\)](#).

<sup>(64)</sup> [S.I.1995/2652](#), amended by [S.I. 2007/2190 \(W. 174\)](#); there are other amending instruments but none is relevant.

<sup>(65)</sup> [S.I.1993/2008](#), revoked in relation to Wales by [S.I. 2005/3035 \(W. 223\)](#).

<sup>(66)</sup> [S.I. 2012/245 \(W. 39\)](#), to which there are amendments not relevant to these Regulations.

<sup>(67)</sup> [S.I. 1999/1801](#).

<sup>(68)</sup> OJ No L 189, 27.6.2014, p. 1.

““Directive 2000/29/EC” means Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community(69);”.

(3) In regulation 9(2), for “Council Directive 77/93/EEC” substitute “Directive 2000/29/EC”.

### **The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009**

23. In regulation 2(2) of the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009(70), for the definition of “Regulation (EU) 2013” (“*Rheoliad (EU) 2013*”) substitute—

““Regulation (EU) 2013” (“*Rheoliad (EU) 2013*”) means Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products(71), as amended from time to time;”.

### **The Seed Potatoes (Wales) Regulations 2016**

24. In regulation 3 of the Seed Potatoes (Wales) Regulations 2016(72)—

- (a) in the definition of “the Decision” (“*y Penderfyniad*”), at the end insert “, as last amended by Commission Implementing Decision (EU) 2016/320(73);”;
- (b) in the definition of “the Directive” (“*y Gyfarwydddeb*”), at the end insert “, as last amended by Commission Implementing Directive (EU) 2016/317(74)”.

## **PART 5**

### **Amendments to legislation concerning animals**

#### **The Importation of Embryos, Ova and Semen Order 1980**

25.—(1) The Importation of Embryos, Ova and Semen Order 1980(75) is amended as follows.

(2) In article 2—

- (a) in paragraph (a), for “the Animal Health Act 1981(76)” substitute “the Act”;
- (b) in paragraph (b), for “section 84(3)(a) and (b)” substitute “section 88(1) and (3)”.

(3) In article 3, in the definition of “the Act”, for “the Diseases of Animals Act 1950(77)” substitute “the Animal Health Act 1981”.

(4) Omit article 9.

#### **The Importation of Animal Products and Poultry Products Order 1980**

26.—(1) The Importation of Animal Products and Poultry Products Order 1980(78) is amended as follows.

(69) OJ No L 169, 10.7.2000, p. 1, as last amended by Commission Implementing Directive (EU) 2017/1920 (OJ No L 271, 20.10.2017, p. 34).

(70) S.I. 2009/1551 (W. 151), amended by S.I. 2013/3270 (W. 320); there are other amending instruments but none is relevant.

(71) OJ No L 347, 20.12.2013, p. 671.

(72) S.I. 2016/106 (W. 52), amended by S.I. 2017/596 (W. 139).

(73) OJ No L 60, 5.3.2016, p. 88.

(74) OJ No L 60, 5.3.2016, p. 72.

(75) S.I. 1980/12, amended by S.I. 1994/2920, there are other amending instruments but none is relevant.

(76) 1981 c. 22.

(77) 1950 c. 36, repealed by the Animal Health Act 1981, Schedule 6.

(78) S.I. 1980/14, amended by S.I. 1982/948, there are other amending instruments but none is relevant.

- (2) In article 2—
  - (a) in the words before paragraph (a), for “the Animal Health Act 1981 (“the 1981 Act”)” substitute “the Act”;
  - (b) in paragraphs (a) and (b), for “the 1981 Act” substitute “the Act”.
- (3) In article 3, in the definition of “the Act”, for “the Diseases of Animals Act 1950” substitute “the Animal Health Act 1981”.
- (4) Omit article 10.

### **The Diseases of Poultry (Wales) Order 2003**

**27.**—(1) The Diseases of Poultry (Wales) Order 2003(**79**) is amended as follows.

- (2) In article 3(1)—
  - (a) in the appropriate place, insert—

““Council [Directive 2005/94/EC](#)” (“*Cyfarwydddeb y Cyngor 2005/94/EC*”) means Council [Directive 2005/94/EC](#) on Community measures for the control of avian influenza(**80**);”;
  - (b) in the definition of “disinfect” (“*diheintio*”), for “the Diseases of Animals (Approved Disinfectants) Order 1978(**81**)” substitute “the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007(**82**)”.
- (3) In article 6(4), for “Annex III of Council [Directive 92/40/EEC](#)(**83**)” substitute “Article 50 of Council [Directive 2005/94/EC](#)”.
- (4) In Schedule 1—
  - (a) in Part 1, in paragraph 6, for “article 4.2(e) of, and Annex I to, Council [Directive 92/40/EEC](#)” substitute “Article 7(2)(f) of, and Annex 3 to, Council [Directive 2005/94/EC](#)”;
  - (b) in Part 2, in paragraph 11, for “Annex II of Council [Directive 92/40/EEC](#)” substitute “Annex 6 to Council [Directive 2005/94/EC](#)”.

### **The Foot-and-Mouth Disease (Wales) Order 2006**

**28.**—(1) The Foot-and-Mouth Disease (Wales) Order 2006(**84**) is amended as follows.

- (2) In article 8(a), for “the Diseases of Animals (Approved Disinfectants) Order 1978” substitute “the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007”.
- (3) In article 43(1)(b)(ii), for the words from “regulation 9” to the end substitute “the Trade in Animals and Related Products (Wales) Regulations 2011(**85**)”.

### **The Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006**

**29.**—(1) The Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006(**86**) is amended as follows.

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(79) [S.I. 2003/1079 \(W. 148\)](#), to which there are amendments not relevant to these Regulations.

(80) OJ No L 10, 14.1.2006, p. 16, as last amended by Council [Directive 2008/73/EC](#) (OJ No L 219, 14.8.2008, p. 40).

(81) [S.I. 1978/32](#), revoked in relation to Wales by [S.I. 2007/2803 \(W. 236\)](#).

(82) [S.I. 2007/2803 \(W. 236\)](#).

(83) OJ No L 167, 22.6.1992, p. 1, as repealed by Council [Directive 2005/94/EC](#) (OJ No L 10, 14.1.2006, p. 16).

(84) [S.I. 2006/179 \(W. 30\)](#), to which there are amendments not relevant to these Regulations.

(85) [S.I. 2011/2379 \(W. 252\)](#), to which there are amendments not relevant to these Regulations.

(86) [S.I. 2006/2927 \(W. 262\)](#), to which there are amendments not relevant to these Regulations.

(2) In article 2, in the definition of “border inspection post”, for the words from “Schedule 2” to the end substitute “regulation 11 of the Trade in Animals and Related Products (Wales) Regulations 2011”.

(3) In article 3—

- (a) in paragraph (4), for “the Specified Animal Pathogens Order 1998<sup>(87)</sup>” substitute “the Specified Animal Pathogens (Wales) Order 2008<sup>(88)</sup>”;
- (b) in paragraph (5), for the words from “Regulation 19” to the end substitute “Article 6 of Commission Implementing Regulation (EU) No 139/2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof<sup>(89)</sup>”.

(4) In article 4(7), for “Department for Agriculture and Rural Development of Northern Ireland” substitute “Department of Agriculture, Environment and Rural Affairs, Northern Ireland”.

(5) In article 66(5)(a), for “the Diseases of Animals (Approved Disinfectants) Order 1978” substitute “the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007”.

(6) In article 71(3)—

- (a) in sub-paragraph (a), for “section 8(2) of the Medicines Act 1968<sup>(90)</sup>” substitute “regulation 17 of the Human Medicines Regulations 2012<sup>(91)</sup>”;
- (b) in sub-paragraph (b), for “Regulation 5 of the Veterinary Medicines Regulations 2005<sup>(92)</sup>” substitute “regulation 5 of the Veterinary Medicines Regulations 2013<sup>(93)</sup>”;
- (c) in sub-paragraph (d), for “the Specified Animal Pathogens Order 1998” substitute “the Specified Animals Pathogens (Wales) Order 2008”.

### **The Avian Influenza (Vaccination) (Wales) (No.2) Regulations 2006**

**30.** In regulation 5(2)(b) of the Avian Influenza (Vaccination) (Wales) (No.2) Regulations 2006<sup>(94)</sup>, for “regulation 8(3) the Veterinary Medicines Regulations 2005” substitute “regulation 3(2)(b) of the Veterinary Medicines Regulations 2013”.

### **The Avian Influenza (H5N1 in Poultry) (Wales) Order 2006**

**31.**—(1) The Avian Influenza (H5N1 in Poultry) (Wales) Order 2006<sup>(95)</sup> is amended as follows.  
In article 12—

- (a) in paragraph (1)—
  - (i) after sub-paragraph (a) omit “or”;
  - (ii) omit sub-paragraph (b);
- (b) omit paragraph (2).

(2) In article 17(1)(a), for “the Diseases of Animals (Approved Disinfectants) Order 1978” substitute “the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007”.

<sup>(87)</sup> S.I. 1998/463, revoked in relation to Wales by S.I. 2008/1270 (W. 129).

<sup>(88)</sup> S.I. 2008/1270 (W. 129), to which there are amendments not relevant to these Regulations.

<sup>(89)</sup> OJ No L 47, 20.2.2013, p. 1.

<sup>(90)</sup> 1968 c. 67; section 8 was repealed by S.I. 2012/1916.

<sup>(91)</sup> S.I. 2012/1916, to which there are amendments not relevant to these Regulations.

<sup>(92)</sup> S.I. 2005/2745, revoked by S.I. 2006/2407.

<sup>(93)</sup> S.I. 2013/2033, to which there are amendments not relevant to these Regulations.

<sup>(94)</sup> S.I. 2006/2932 (W. 265), to which there are amendments not relevant to these Regulations.

<sup>(95)</sup> S.I. 2006/3309 (W. 299), to which there are amendments not relevant to these Regulations.

### **The Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006**

**32.** In article 18(1)(a) of the Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006(96), for “the Diseases of Animals (Approved Disinfectants) Order 1978” substitute “the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007”.

### **The Welfare of Farmed Animals (Wales) Regulations 2007**

**33.** In regulation 2(2) of the Welfare of Farmed Animals (Wales) Regulations 2007(97)—

- (a) in sub-paragraph (a), for the words from “[Directive 91/630/EEC\(98\)](#)” to the end substitute “[Directive 2008/120/EC](#) laying down minimum standards for the protection of pigs(99)”;
- (b) after sub-paragraph (b) omit “and”;
- (c) in sub-paragraph (c), for the words from “[Directive 91/629/EEC\(100\)](#)” to the end substitute “[Directive 2008/119/EC](#) laying down minimum standards for the protection of calves(101)”.

### **The Bluetongue (Wales) Regulations 2008**

**34.** In regulation 17 of the Bluetongue (Wales) Regulations 2008(102), for “the Veterinary Medicines Regulations 2011(103)” substitute “the Veterinary Medicines Regulations 2013”.

### **The Control of Salmonella in Broiler Flocks (Wales) Order 2009**

**35.**—(1) The Control of Salmonella in Broiler Flocks (Wales) Order 2009(104) is amended as follows.

(2) In article 2, in the appropriate place, insert—

““[Commission Regulation \(EU\) No 200/2012](#) (“*Rheoliad y Comisiwn (EU) Rhif 200/2012*”) means Commission Regulation (EU) 200/2012 of 8 March 2012 concerning a Union target for the reduction of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of broilers, as provided for in Regulation (EC) No 2160/2003 of the European Parliament and of the Council(105);”.

(3) In article 3, for paragraph (a) substitute—

“(a) [Commission Regulation \(EU\) No 200/2012](#);”.

(4) In article 5(1)—

- (a) for “Regulation (EC) No 646/2007” substitute “[Commission Regulation \(EU\) No 200/2012](#)”;
- (b) for “point 3.1” substitute “point 2.2.4”;
- (c) for “express post” substitute “express mail”.

(5) In article 8, for “Regulation (EC) No 646/2007” substitute “[Commission Regulation \(EU\) No 200/2012](#)”.

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(96) S.I. 2006/3310 (W. 300), to which there are amendments not relevant to these Regulations.

(97) S.I. 2007/3070 (W. 264), to which there are amendments not relevant to these Regulations.

(98) OJ No L 340, 11.12.1991, p. 33, as repealed by Council [Directive 2008/120/EC](#) (OJ No L 47, 18.2.2009, p. 5).

(99) OJ No L 47, 18.2.2009, p. 5.

(100) OJ No L 340, 11.12.1991, p. 28, as repealed by Council [Directive 2008/119/EC](#) (OJ No L 10, 15.1.2009, p. 7).

(101) OJ No L 10, 15.1.2009, p. 7.

(102) S.I. 2008/1090 (W. 116), amended by S.I. 2012/2403 (W. 257); there are other amending instruments but none is relevant.

(103) S.I. 2011/2159, revoked by S.I. 2013/2033.

(104) S.I. 2009/441 (W. 46).

(105) OJ No L 71, 9.3.2012, p. 31.

**The Control of Salmonella in Turkey Flocks (Wales) Order 2010**

**36.**—(1) The Control of Salmonella in Turkey Flocks (Wales) Order 2010(**106**) is amended as follows.

(2) In article 2(2)—

(a) for sub-paragraph (a) substitute—

“(a) Regulation (EU) No 1190/2012 is a reference to [Commission Regulation \(EU\) No 1190/2012](#) concerning a Union target for the reduction of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of turkeys, as provided for in Regulation [\(EC\) No 2160/2003](#) of the European Parliament and of the Council(**107**), as amended from time to time.”;

(b) omit sub-paragraph (b).

(3) In article 4(1)—

(a) for “Regulation [\(EC\) No 584/2008](#)” substitute “Regulation (EU) No 1190/2012”;

(b) for “point 3.1” substitute “point 2.2.4”.

(4) In article 7, for “Regulation [\(EC\) No 584/2008](#) substitute “Regulation (EU) No 1190/2012, as amended from time to time”.

**The Trade in Animals and Related Products (Wales) Regulations 2011**

**37.** In Schedule 2 to the Trade in Animals and Related Products (Wales) Regulations 2011(**108**), in Part 2, in paragraph 9(1), for the words from “Commission Regulation” to the end substitute “Commission Implementing Regulation (EU) No 139/2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof(**109**)”.

**Revocations**

**38.** The following Regulations are revoked—

(a) the Salmonella in Laying Flocks (Survey Powers) (Wales) Regulations 2005(**110**);

(b) the Salmonella in Broiler Flocks (Survey Powers) (Wales) Regulations 2006(**111**).

**PART 6**

## Amendment to legislation concerning fisheries

**The Sea Fish Licensing Order 1992**

**39.** In article 2 of the Sea Fish Licensing Order 1992(**112**), in the definition of “length”, for the words from “Council Regulation” to the end substitute “Regulation (EU) 2017/1130 of the European Parliament and of the Council defining characteristics for fishing vessels(**113**)”.

(**106**)S.I. 2010/65 (W. 15).

(**107**)OJ No L 340, 13.12.2012, p. 29.

(**108**)S.I. 2011/2379 (W. 252) , to which there are amendments not relevant to these Regulations.

(**109**)OJ No L 47, 20.2.2013, p. 1.

(**110**)S.I. 2005/586 (W. 50).

(**111**)S.I. 2006/1511 (W. 147).

(**112**)S.I. 1992/2633, amended by S.I. 1993/2291, there are other amending instruments but none is relevant.

(**113**)OJ No L 169, 30.6.2017, p. 1.

20 November 2018

*Lesley Griffiths*  
Cabinet Secretary for Energy, Planning and  
Rural Affairs, one of the Welsh Ministers

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## EXPLANATORY NOTE

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

These Regulations make amendments in relation to Wales to a number of pieces of secondary legislation relating to the environment, planning and rural affairs.

Regulation 5 amends regulation 18(6) of the Environmental Information Regulations 2004 (S.I. 2004/3391) to end the application of section 53 of the Freedom of Information Act 2000 (c. 32) (exception from duty to comply with decision notice or enforcement notice) to those Regulations. This follows the ruling of the Supreme Court in *R (on the application of Evans) and another v Attorney General* [2015] UKSC 21 that the issuing of any certificate under regulation 18(6) in respect of environmental information is incompatible with Article 6 of Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information (OJ No L 41, 14.2.2003, p. 26).

Regulation 8 amends regulation 20 of the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 (S.I. 2009/995 (W. 81)) (“the 2009 Regulations”) to require operators to identify potential remedial measures and submit them to the enforcement authority. Regulation 8 also amends Schedule 1 to the 2009 Regulations to ensure proper transposition of Directive 2004/35/EC (OJ No L 143, 30.4.2004, p. 56). The amendment addresses damage to a site of scientific interest which is also a European Site (as defined in regulation 8 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012)). It provides that damage caused by an act expressly authorised by the relevant authorities in accordance with Part 2 of the Wildlife and Countryside Act 1981 (c. 69) (“the 1981 Act”) is not automatically excluded from the scope of the 2009 Regulations. Such damage will continue to be excluded if the authorisation under the 1981 Act was granted in accordance with legislation transposing Council Directive 92/42/EEC on the conservation of natural habitats and of wild fauna and flora (OJ No L 206, 22.7.1992, p. 7).

Regulation 15 amends the Water Abstraction (Transitional Provisions) Regulations 2017 (S.I. 2017/1047) to correct an error in the description of what circumstances qualify as granting a more limited abstraction licence than that applied for.

The Regulations make other miscellaneous amendments to legislation in the fields of agriculture, animal health and welfare, environmental protection, sea fisheries, seeds, town and country planning, waste and water, in particular amending out of date references to European legislation in domestic legislation.

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.