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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.