



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **The Merchant Shipping and Other Transport (Environmental Protection) (Amendment) (EU Exit) Regulations 2018**

**DATE**            **29 November 2018**

**BY**                **Julie James AM, Leader of the House and Chief Whip**

**The Merchant Shipping and Other Transport (Environmental Protection) (Amendment) (EU Exit) Regulations 2018**

**The Law which is being amended:**

- The Merchant Shipping (Prevention of Air Pollution on Ships) Regulations 2008
- Commission Implementing Decision (EU) 2015/253
- Regulation (EC) 782/2003
- The Merchant Shipping (Anti-Fouling Systems) Regulations 2009
- Commission Regulation (EC) 536/2008
  - Transport and Works Act 1992; and
  - Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006.

**Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence**

The proposed amendments will have no impact on the Assembly's legislative competence and/or the Welsh Ministers' executive competence.

Pursuant to Schedule 2 to the National Assembly for Wales (Transfer of Functions) Order 1999, the order, rule and regulation-making functions of the Secretary of State under sections 1, 3, 6, 7(4), 8, 10 and 15 of the Transport and Works Act 1992 are exercisable only with the agreement of the Welsh Ministers, in so far as the provisions relate to Wales. Generally any amendment to the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 would be in reliance on some of these powers, which would mean that the agreement of the Welsh Ministers would be sought in so far as the amendments relate to Wales.

As such, the agreement of the Welsh Ministers has been sought by the UK Government and given.

### **The purpose of the amendments**

The purpose of the amendments is to correct deficiencies in legislation governing environmental impact assessments for certain transport purposes and to ensure that environmental protection provisions relating to air pollution (specifically the sulphur content of marine fuels) and anti-fouling systems are legally operable when the United Kingdom withdraws from the European Union.

The SI also updates references to Directive 1999/32/EC, which was repealed and replaced (without substantive amendment) by Directive (EU) 2016/802, in the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 and updates an out-of-date reference to the EEA agreement in the Transport and Works Act 1992

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://beta.parliament.uk/statutory-instruments/fopeBO0Y>

### **Why consent was given**

There is no policy divergence between the Welsh Government and the UK Government on the policy for the correction, nor is the substance of the correction politically sensitive. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Agreeing to this approach ensures that there is a coherent approach wherever possible in preparing the statute book to function properly after the UK has left the EU. This approach will promote the clarity and accessibility of legislation across the UK. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.