

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Text with EEA relevance)

CHAPTER VII

**FINAL PROVISIONS**

*[<sup>F1</sup>Article 37*

**Reporting**

1 Member States shall report the data concerning the implementation of points (a) to (e) of Article 11(2) and Article 11(3) for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 7 of this Article.

The first reporting period shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 7 of this Article.

2 For the purposes of verifying compliance with point (b) of Article 11(2), Member States shall report the amount of waste used for backfilling and other material recovery operations separately from the amount of waste prepared for re-use or recycled. Member States shall report the reprocessing of waste into materials that are to be used for backfilling operations as backfilling.

For the purposes of verifying compliance with points (c), (d) and (e) of Article 11(2) and Article 11(3), Member States shall report the amount of waste prepared for re-use separately from the amount of waste recycled.

3 Member States shall report the data concerning the implementation of Article 9(4) and (5) to the Commission every year.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 7 of this Article.

The first reporting period shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 7 of this Article.

4 Member States shall report the data on mineral or synthetic lubrication or industrial oils placed on the market and waste oils separately collected and treated for each calendar year to the Commission.

They shall report the data electronically within 18 months of the end of the reporting year for which the data are collected. The data shall be reported in the format established by the Commission in accordance with paragraph 7.

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The first reporting period shall start in the first full calendar year after the adoption of the implementing act that establishes the format for reporting, in accordance with paragraph 7.

5 The data reported by Member States in accordance with this Article shall be accompanied by a quality check report and a report on the measures taken pursuant to Article 11a(3) and (8), including detailed information about the average loss rates where applicable. That information shall be reported in the format for reporting established by the Commission in accordance with paragraph 7 of this Article.

6 The Commission shall review the data reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the data collection, the sources of data and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data by Member States and every four years thereafter.

7 By 31 March 2019, the Commission shall adopt implementing acts laying down the format for reporting the data referred to in paragraphs 1, 3, 4 and 5 of this Article. For the purposes of reporting on the implementation of points (a) and (b) of Article 11(2), Member States shall use the format established in Commission Implementing Decision of 18 April 2012 establishing a questionnaire for Member States reports on the implementation of Directive 2008/98/EC of the European Parliament and of the Council on waste. For the purpose of reporting on food waste, the methodology developed under Article 9(8) shall be taken into account when developing the format for reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2) of this Directive.]

#### Textual Amendments

- F1** Substituted by [Directive \(EU\) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste \(Text with EEA relevance\)](#).

### *[<sup>F1</sup> Article 38*

#### **Exchange of information and sharing of best practices, interpretation and adaptation to technical progress**

1 The Commission shall organise a regular exchange of information and sharing of best practices among Member States, including, where appropriate, with regional and local authorities, on the practical implementation and enforcement of the requirements of this Directive, including on:

- a the application of the calculation rules set out in Article 11a and the development of measures and systems to trace municipal waste streams from sorting to recycling;
- b adequate governance, enforcement, cross-border cooperation;
- c innovation in the field of waste management;
- d national by-product and end-of-waste criteria, as referred to in Article 5(3) and in Article 6(3) and (4), facilitated by a Union-wide electronic register to be established by the Commission;
- e the economic instruments and other measures used in accordance with Article 4(3) in order to boost the achievement of the objectives laid down in that Article;
- f measures laid down in Article 8(1) and (2);

- g prevention and the setting up of systems which promote re-use activities and the extension of life span;
- h the implementation of the obligations with regard to separate collection;
- i the instruments and incentives towards achieving the targets laid down in points (c), (d) and (e) of Article 11(2).

The Commission shall make the results of the exchange of information and sharing of best practices publicly available.

2 The Commission may develop guidelines for the interpretation of the requirements set out in this Directive, including on the definition of waste, prevention, re-use, preparing for re-use, recovery, recycling, disposal, and on the application of the calculation rules set out in Article 11a.

The Commission shall develop guidelines on the definitions of municipal waste and backfilling.

The Commission is empowered to adopt delegated acts in accordance with Article 38a to amend this Directive by specifying the application of the formula for incineration facilities referred to in point R1 of Annex II. Local climatic conditions may be taken into account, such as the severity of the cold and the need for heating insofar as they influence the amounts of energy that can technically be used or produced in the form of electricity, heating, cooling or processing steam. Local conditions of the outermost regions as recognised in the third paragraph of Article 349 of the Treaty on the Functioning of the European Union and of the territories mentioned in Article 25 of the 1985 Act of Accession may also be taken into account.

3 The Commission is empowered to adopt delegated acts in accordance with Article 38a to amend Annexes IV and V in the light of scientific and technical progress.]

#### Textual Amendments

- F1** Substituted by [Directive \(EU\) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste \(Text with EEA relevance\)](#).

### *F<sup>2</sup>* Article 38a

#### Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Articles 7(1), 9(8), 11a(10), 27(1), 27(4), 38(2) and 38(3) shall be conferred on the Commission for a period of five years from 4 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Articles 7(1), 9(8), 11a(10), 27(1), 27(4), 38(2) and 38(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European*

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Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making<sup>(1)</sup>.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Articles 7(1), 9(8), 11a(10), 27(1), 27(4), 38(2) and 38(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.]

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**Textual Amendments**

**F2** Inserted by [Directive \(EU\) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste \(Text with EEA relevance\)](#).

*[<sup>F1</sup> Article 39*

**Committee procedure**

1 The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(2)</sup>.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.]

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**Textual Amendments**

**F1** Substituted by [Directive \(EU\) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste \(Text with EEA relevance\)](#).

*Article 40*

**Transposition**

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 12 December 2010.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official

publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 41*

### **Repeal and transitional provisions**

Directives 75/439/EEC, 91/689/EEC and 2006/12/EC are hereby repealed with effect from 12 December 2010.

However, from 12 December 2008, the following shall apply:

(a) Article 10(4) of Directive 75/439/EEC shall be replaced by the following:

4. The reference method of measurement to determine the PCB/PCT content of waste oils shall be fixed by the Commission. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4) of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste<sup>(3)</sup>;

(b) Directive 91/689/EEC is hereby amended as follows:

(i) Article 1(4) shall be replaced by the following:

4. For the purpose of this Directive “hazardous waste” means:

- waste classified as hazardous waste featuring on the list established by Commission Decision 2000/532/EC<sup>(4)</sup> on the basis of Annexes I and II to this Directive. This waste must have one or more of the properties listed in Annex III. The list shall take into account the origin and composition of the waste and, where necessary, limit values of concentration. This list shall be periodically reviewed and, if necessary revised. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4) of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste<sup>(5)</sup>,
- any other waste which is considered by a Member State to display any of the properties listed in Annex III. Such cases shall be notified to the Commission and reviewed with a view to adapting the list. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4) of Directive 2006/12/EC.;

(ii) Article 9 shall be replaced by the following:

#### *Article 9*

The measures necessary for adapting the Annexes of this Directive to scientific and technical progress and for revising the list of wastes referred to in Article 1(4), designed to amend non-essential elements of this Directive,

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inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4) of Directive 2006/12/EC.;

(c) Directive 2006/12/EC is hereby amended as follows:

(i) Article 1(2) shall be replaced by the following:

2. For the purposes of paragraph 1, point (a), Commission Decision 2000/532/EC<sup>(6)</sup> featuring the list of waste belonging to the categories listed in Annex I to this Directive shall apply. This list shall be periodically reviewed and, if necessary, revised. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4).;

(ii) Article 17 shall be replaced by the following:

*Article 17*

The measures necessary for adapting the Annexes to scientific and technical progress, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4).;

(iii) Article 18(4) shall be replaced by the following:

4. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof..

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex V.

*Article 42*

**Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 43*

**Addressees**

This Directive is addressed to the Member States.

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- (1) [<sup>F2</sup>OJ L 123, 12.5.2016, p. 1.]
- (2) [<sup>F1</sup>Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).]
- (3) OJ L 114, 27.4.2006, p. 9.;
- (4) OJ L 226, 6.9.2000, p. 3.
- (5) OJ L 114, 27.4.2006, p. 9.;
- (6) OJ L 226, 6.9.2000, p. 3.;

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#### **Textual Amendments**

- F1** Substituted by Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste (Text with EEA relevance).
- F2** Inserted by Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste (Text with EEA relevance).