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*Draft Regulations laid before Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**EXITING THE EUROPEAN UNION**

**CUSTOMS**

**ENVIRONMENTAL PROTECTION**

**The International Waste Shipments (Amendment) (EU Exit)  
Regulations 2019**

*Made* - - - -

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*Coming into force in accordance with regulation 2*

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The Secretary of State makes these Regulations in exercise of the powers conferred by—

- (a) section 2(2) of the European Communities Act 1972(a);
- (b) section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(b).

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment(c), the prevention, reduction and elimination of pollution caused by waste(d) and the control of the import and export of goods(e).

In accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

## PART 1

### Introductory

#### **Citation**

1. These Regulations may be cited as the International Waste Shipments (Amendment) (EU Exit) Regulations 2019.

#### **Commencement**

2.—(1) This Part and Part 2 come into force on the day after the day on which these Regulations are made.

(2) Parts 3, 4 and 5 come into force on exit day.

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(a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). The European Communities Act 1972 Act is repealed with effect from exit day by section 1 of the European Union (Withdrawal) Act 2018.

(b) 2018 c. 16.

(c) S.I. 2008/301.

(d) S.I. 1983/1706.

(e) S.I. 1992/2870, to which there are amendments not relevant to these Regulations.

## PART 2

Amendments to subordinate legislation made under section 2(2) of the ECA 1972

### **Amendments to TSWR 2007**

**3.** The Transfrontier Shipment of Waste Regulations 2007<sup>(a)</sup> are amended in accordance with regulations 4 to 12 (also see Part 3).

### **Amendment to regulation 6**

**4.** In regulation 6(d), for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

### **Amendment to regulation 7**

**5.** In regulation 7(2), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”.

### **Amendment to regulation 14**

**6.** In regulation 14(c), for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

### **Amendment to regulation 16**

**7.** In regulation 16 as it forms part of the law of each of Northern Ireland and Scotland, for “Paragraph 4(1)(b) of Schedule 4 to the Waste Management Licensing Regulations 1994” substitute “Paragraph 6(1)(c) of Schedule 4 to the Waste Management Licensing (Scotland) Regulations 2011<sup>(b)</sup>”.

### **Amendment to regulation 46**

**8.** In regulation 46(2)(b), for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

### **Amendment to regulation 49A**

**9.** In regulation 49A(1)(d), for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

### **Amendment to regulation 50**

**10.** In regulation 50(1)(d), for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

### **Amendment to regulation 59**

**11.** In regulation 59(6)(c), for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

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(a) S.I. 2007/1711, amended by S.I. 2007/3538, 2008/9, 2010/265, 2010/675, 2010/1159, 2011/988, 2011/1043, 2014/861, 2016/1154.

(b) S.S.I. 2011/228, to which there are amendments not relevant to these Regulations.

### **Amendment to Schedule 3**

12. In Schedule 3, in paragraph 1, for “the Environment” substitute “Agriculture, Environment and Rural Affairs”.

## **PART 3**

### **Amendments to subordinate legislation made under the European Union (Withdrawal) Act 2018**

#### **Amendments to TSWR 2007**

13. The Transfrontier Shipment of Waste Regulations 2007 are amended in accordance with regulations 14 to 43.

#### **Amendment to regulation 6**

14. In regulation 6, in the words before paragraph (a), omit “for the purposes of the Community Regulation”.

#### **Amendment to regulation 7**

15. In regulation 7—

- (a) in paragraph (1), omit “for the purposes of the Community Regulation”;
- (b) in paragraph (2), at the end insert “under the Community Regulation”.

#### **Omission of regulation 8**

16. Omit regulation 8.

#### **Omission of regulation 10**

17. Omit regulation 10.

#### **Amendment to Part 2 heading**

18. For the heading of Part 2, substitute—

“UK Plan for Shipments of Waste”.

#### **Omission of regulation 11**

19. Omit regulation 11 (as it forms part of the law of each of England and Wales, Scotland and Northern Ireland).

## **New regulation 11A**

**20.** Before regulation 12, insert—

### **“UK Plan for Shipments of Waste: continuation and changes**

**11A.**—(1) The UK Plan for Shipments of Waste of May 2012<sup>(a)</sup> continues to have effect.

(2) The Secretary of State may from time to time amend or replace the UK Plan for Shipments of Waste of May 2012; and that plan, as amended or replaced, is referred to in this Part as “the UK Plan”.

(3) Before amending or replacing the UK Plan, the Secretary of State must be satisfied that the change meets the objectives set out in—

- (a) Article 4(2)(b) and (d) and (9)(a) of the Basel Convention<sup>(b)</sup>; and
- (b) paragraphs 1 to 3 of Schedule 1 to the Waste (England and Wales) Regulations 2011<sup>(c)</sup>, reading those paragraphs as if—
  - (i) the objectives in those paragraphs related to the United Kingdom as a whole;
  - (ii) in paragraph 2(2), the reference to the appropriate authority were a reference to the Secretary of State.”.

## **Amendments to regulation 12**

**21.** In regulation 12(1)—

- (a) in the words before sub-paragraph (a), for “a waste management plan” substitute “amending or replacing the UK Plan”;
- (b) in sub-paragraph (a), for “plan” substitute “proposals”.

## **Amendments to regulation 13**

**22.**—(1) Regulation 13 is amended as follows.

(2) In paragraph (1), for “a waste management plan” substitute “amending or replacing the UK Plan”.

(3) In paragraph (2)—

- (a) in the words before sub-paragraph (a), for “a waste management plan” substitute “amending or replacing the UK Plan”;
- (b) in sub-paragraph (c), for “adopted the waste management plan” substitute “amended or replaced the UK Plan”.

(4) In paragraph (3)(a), for “waste management plan” substitute “proposals”.

## **Amendment to regulation 14**

**23.** In regulation 14, in the words before paragraph (a), for “send a copy of the waste management plan” substitute “, on amending or replacing the UK Plan, send a copy of it”.

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(a) A copy of the UK Plan for Shipments of Waste of May 2012 may be seen at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69546/pb13770-waste-shipments.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69546/pb13770-waste-shipments.pdf). Alternatively, a copy may be obtained by writing to the EU and International Chemicals, Hazardous Waste and Waste Shipments Team, Environmental Quality Directorate, Department for Environment, Food and Rural Affairs, 2 Marsham Street, London SW1P 4DF.

(b) Adopted in Basel, Switzerland on 22nd March 1989.

(c) S.I. 2011/988, amended by S.I. 2012/1889, 2014/656.

### **Amendment to regulation 15**

24. In regulation 15—

- (a) in the words before paragraph (a), for “waste management plan” substitute “UK Plan”;
- (b) in paragraph (a), for “that plan” substitute “the UK Plan”;
- (c) in paragraph (b), for “that plan” substitute “the UK Plan”.

### **Amendment to regulation 16**

25. In regulation 16 (as it forms part of the law of each of England and Wales, Scotland and Northern Ireland) for “a waste management plan made under this Part” substitute “the UK Plan”.

### **Amendment to Part 4 heading**

26. In the heading of Part 4, for the words from “within” to the end substitute “between the United Kingdom and EU countries”.

### **Amendments to regulation 19**

27. In regulation 19(1)—

- (a) after “originates in” insert “the United Kingdom or”;
- (b) for “another member State” substitute “an EU country”;
- (c) for “third country” substitute “non-EU country”.

### **Amendments to regulation 20**

28. In regulation 20(1)—

- (a) after “originates in” insert “the United Kingdom or”;
- (b) for “another member State” substitute “an EU country”;
- (c) for “third country” substitute “non-EU country”.

### **Amendment to Part 5 heading**

29. In the heading of Part 5, for the words from “third countries” to the end substitute “non-EU countries”.

### **Amendments to regulation 21**

30. In regulation 21—

- (a) in the heading, after “than to” insert “EU or”;
- (b) for “third” substitute “non-EU”;
- (c) after “circumstances, to” insert “EU or”.

### **Amendment to regulation 23**

31. In regulation 23—

- (a) in the heading, after “recovery to” insert “non-EU,”;
- (b) after “recovery in a” insert “non-EU”.

### **Amendments to regulation 23A**

32. In regulation 23A—

- (a) in the heading, after “or IIIA to” insert “non-EU,”;



- (b) in paragraph (2), after “being a” insert “non-EU”;
- (c) in paragraph (3), after “any other” insert “non-EU”.

#### **Amendments to regulation 23B**

**33.** In regulation 23B—

- (a) in the heading, after “III etc. to” insert “non-EU,”;
- (b) in paragraph (1)(a), after “in a” insert “non-EU”.

#### **Amendments to regulation 24**

**34.** In regulation 24—

- (a) in the heading, after “recovery to” insert “non-EU”;
- (b) in paragraph (1), after “in any” insert “non-EU”.

#### **Amendments to regulation 27**

**35.** In regulation 27—

- (a) in the heading, after “from a” insert “non-EU”;
- (b) in paragraph (1), after “from a” insert “non-EU”.

#### **Amendments to regulation 29**

**36.** In regulation 29—

- (a) in the heading, for “an” insert “a non-EU”;
- (b) in paragraph (1), after “through a” insert “non-EU”;
- (c) in paragraph (2), after “through, an” insert “EU or”.

#### **Amendments to regulation 30**

**37.** In regulation 30—

- (a) in the heading, after “from a” insert “non-EU,”;
- (b) in paragraph (1)—
  - (i) in sub-paragraph (a), after “from a” insert “non-EU”;
  - (ii) in sub-paragraph (b), after “through a” insert “non-EU”;
- (c) in paragraph (2), after “imports from a” insert “non-EU,”.

#### **Amendments to regulation 32**

**38.** In regulation 32—

- (a) in paragraph (1)(a), for “third” substitute “non-EU”;
- (b) in paragraph (2), for “third” substitute “non-EU”.

#### **Amendments to regulation 33**

**39.** In regulation 33—

- (a) in the heading, after “recovery:” insert “non-EU,”;
- (b) in paragraph (1)(a), after “for, a” insert “non-EU”.

#### **Amendments to regulation 34**

- 40.** In regulation 34—
- (a) in the heading, after “recovery:” insert “EU”;
  - (b) in paragraph (1)(a), after “for, a” insert “EU”.

#### **Amendments to regulation 35**

- 41.** In regulation 35—
- (a) in the heading—
    - (i) after “between” insert “EU or”;
    - (ii) after “countries and” insert “non-EU,”;
  - (b) for paragraph (1) substitute—

“(1) This regulation applies to waste destined for recovery that—

    - (a) originates from a non-EU country to which the OECD Decision does not apply and is destined for an EU country or a country to which the OECD Decision applies; or
    - (b) originates from an EU country or a country to which the OECD Decision applies and is destined for a non-EU country to which the OECD Decision does not apply.”.
  - (c) in paragraph (2)—
    - (i) after “between” insert “EU or”;
    - (ii) after “Decision and” insert “non-EU,”.

#### **Omission of regulation 60**

- 42.** Omit regulation 60.

#### **Omission of Schedule 1**

- 43.** Omit Schedule 1.

## **PART 4**

### **Amendment to Annex 20 to EEA Agreement**

#### **Amendment to Annex 20 to EEA Agreement**

**44.** In Annex 20 to the agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, so far as that Annex forms part of domestic law by virtue of section 3(2)(b) of the European (Withdrawal) Act 2018, in Chapter 5, omit points 32c and 32cb.

## **PART 5**

### **Amendments to retained direct EU legislation**

#### **Amendments to EU Waste Shipments Regulation**

**45.** Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste is amended in accordance with regulations 46 to 109.

## Amendments to Article 1

46.—(1) Article 1 is amended as follows.

(2) For paragraph 2 substitute—

“2. This Regulation shall apply to shipments of waste—

- (a) exported from the United Kingdom to a third country, with or without transit through another third country (see Titles 2 and 4, read together);
- (b) imported into the United Kingdom from a third country, with or without transit through another third country (see Titles 2 and 5, read together);
- (c) from one third country to another with transit through the United Kingdom (see Titles 2 and 6, read together);
- (d) from one place in the United Kingdom to another with transit through a third country (see Articles 31 and 32).”.

(3) In paragraph 3—

(a) in point (e)—

- (i) for the words from “the waste” to “Directive 2006/12/EC” substitute “decommissioned explosives, waste waters or mining waste (see paragraph 6)”;
- (ii) for “Community legislation” substitute “retained EU law”;

(b) in point (f), for “Community” substitute “United Kingdom”;

(c) in point (g)—

- (i) in the first sentence omit “into the Community”;
- (ii) for the second sentence substitute—

“In such cases, the competent authority of destination and the competent authority of transit in the United Kingdom shall be informed in advance concerning the shipment and its destination;”;

(d) in point (h), for the words from “Directive” to the end substitute—

“—

- (i) Directive 2009/31/EC<sup>(a)</sup> as amended from time to time; or
- (ii) Chapter 3 of Part 1 of the Energy Act 2008<sup>(b)</sup> and any other legislation which, immediately before exit day, implemented Directive 2009/31/EC;”;

(e) in point (i), for the words from “flying” to “under” substitute “falling within”.

(4) In paragraph 4, for “Community”, in both places it occurs, substitute “United Kingdom”.

(5) Omit paragraph 5.

(6) At the end insert—

“6. In paragraph 3(e), ‘decommissioned explosives, waste waters or mining waste’ means the waste referred to in paragraph 1(e) or 2(a) or (d) of Article 2 of Directive 2008/98/EC<sup>(c)</sup>.”.

## Amendments to Article 2

47.—(1) Article 2 is amended as follows.

(2) In point 1, for the words from “Article” to the end substitute “Article 3(1) of Directive 2008/98/EC”.

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(a) OJ No. L 140, 5.6.2009, p. 114.

(b) 2008 c. 32.

(c) OJ No. L 312, 22.11.2008, p. 3.

(3) In point 2, for the words from “Article 1(4)” to the end substitute “Articles 3(2) and 7 of Directive 2008/98/EC”.

(4) In point 4, for “in Article 1(1)(e) of Directive 2006/12/EC” substitute “by Article 3(19) of Directive 2008/98/EC”.

(5) In point 5, for “Annex IIA to Directive to 2006/12/EC” substitute “Annex 1 to Directive 2008/98/EC”.

(6) In point 6, for “in Article 1(1)(f) of Directive 2006/12/EC” substitute “by Article 3(15) of Directive 2008/98/EC”.

(7) In point 7, for “Annex IIB to Directive 2006/12/EC” substitute “Annex 2 to Directive 2008/98/EC”.

(8) In point 7a, omit “of the European Parliament and of the Council”.

(9) In point 9, for “Article 1(1)(b) of Directive 2006/12/EC” substitute “Article 3(5) of Directive 2008/98/EC”.

(10) In point 10, for “Article 1(1)(c) of Directive 2006/12/EC” substitute “Article 3(6) of Directive 2008/98/EC”.

(11) In point 11, for “Article 1(1)(g) of Directive 2006/12/EC” substitute “Article 3(10) of Directive 2008/98/EC”.

(12) In point 12, for “Article 12 of Directive 2006/12/EC” substitute “Article 3(7) of Directive 2008/98/EC”.

(13) In point 13, for “Article 12 of Directive 2006/12/EC” substitute “Article 3(8) of Directive 2008/98/EC”.

(14) In point 15—

(a) in point (a), in the words before point (i)—

(i) for “a Member State” substitute “the United Kingdom”;

(ii) for “that Member State” substitute “the United Kingdom”;

(b) in point (b), in the words before point (i), for the words from the beginning to “a Member State” substitute “in the case of import of waste into, or transit of waste through, the United Kingdom”.

(15) Omit points 18 to 21.

(16) For point 26 substitute—

“26. ‘overseas countries and territories’ means—

(a) Anguilla,

(b) Bermuda,

(c) British Antarctic Territory,

(d) British Indian Ocean Territory,

(e) Cayman Islands,

(f) Falkland Islands,

(g) Gibraltar,

(h) Montserrat,

(i) Pitcairn, Henderson, Ducie and Oeno Islands,

(j) St Helena, Ascension and Tristan da Cunha,

(k) South Georgia and the South Sandwich Islands,

(l) The Sovereign Base Areas of Akrotiri and Dhekelia,

(m) Turks and Caicos Islands,

(n) British Virgin Islands, and

(o) any overseas country or territory not mentioned above which is listed in Annex 2 to the Treaty on the Functioning of the European Union.”.

(17) In point 29, after “customs territory of the Community” insert “or into the territory of the EFTA countries”.

(18) In point 30, for “Community”, in both places it occurs, substitute “United Kingdom”.

(19) In point 31, for “Community”, in both places it occurs, substitute “United Kingdom”.

(20) In point 35(e), for “Community” substitute “retained EU law”.

## **New Articles 2A to 2C**

**48.** After Article 2 insert—

### *“Article 2A*

#### **Meaning of “Directive 2008/98/EC”**

1. In this Regulation, “Directive 2008/98/EC(a)” means (except in the expression “Directive 2008/98/EC as amended from time to time”) Directive 2008/98/EC as amended by—

(a) Commission Regulation (EU) No 1357/2014(b);

(b) Commission Directive (EU) 2015/1127(c); and

(c) Council Regulation (EU) 2017/997(d),

and read in accordance with paragraphs 2 to 6.

2. Article 2 of Directive 2008/98/EC is to be read as if—

(a) in paragraph 2—

(i) in the words before point (a), for “other Community legislation” there were substituted “retained EU law”;

(ii) for point (d), in relation to Scotland, there were substituted—

“(d) extractive waste, which has the same meaning as in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010(e).”;

(iii) for point (d), in relation to Northern Ireland, there were substituted—

“(d) extractive waste, which has the same meaning as in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015(f).”;

(b) after paragraph 2 there were inserted—

“2A. In paragraph 2(d), as it relates to England and Wales, “Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries(g)” means Directive 2006/21/EC read as if—

(a) in Article 2 of Directive 2006/21/EC—

(i) in paragraph 2(c), “Article 11(3)(j) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy(h)” had the meaning given in paragraph 2B;

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(a) OJ No. L 312, 22.11.2008, p. 3.

(b) OJ No. L 365, 19.12.2014, p. 89.

(c) OJ No. L 184, 11.7.2015, p. 13.

(d) OJ No. L 150, 14.6.2017, p. 1.

(e) S.S.I2010/60.

(f) S.R. 2015 No. 85.

(g) OJ No. L 102, 11.4.2006, p 15.

(h) OJ No. L 327, 22.12.2000, p 1.

- (ii) paragraphs 3 and 4 were omitted;
  - (b) in Article 3(1) of Directive 2006/21/EC, for “Article 1(a) of Directive 75/442/EC” there were substituted “Article 3(1) of Directive 2008/98/EC”.
- 2B. For the purposes of paragraph 2A(a)(i), “Article 11(3)(j) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy” means Article 11(3)(j) of Directive 2000/60/EC read as if—
- (a) the reference to “Member States” were a reference to—
    - (i) in relation to England, the Secretary of State or the Environment Agency;
    - (ii) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
    - (iii) in relation to Scotland, the Scottish Ministers or the Scottish Environment Protection Agency;
    - (iv) in relation to Wales, the Welsh Ministers or the Natural Resources Body for Wales;
  - (b) in the words after the final indent, “environmental objectives”—
    - (i) in relation to the Northumbria River Basin District, means the objectives referred to in the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017)(a) as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 (S.I. 2003/3245)(b);
    - (ii) in relation to the Solway Tweed River Basin District, has the same meaning as in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004(c);
    - (iii) in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, has the same meaning as in those regulations.”.
3. Article 5 of Directive 2008/98/EC is to be read as if paragraph 2 were omitted.
4. Article 6 of Directive 2008/98/EC is to be read as if—
- (a) paragraphs 1 to 3 were omitted;
  - (b) in paragraph 4—
    - (i) in the first sentence, for the words from the beginning to “Member States” there were substituted “Except where Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013 applies, the competent authority of destination and dispatch determined in accordance with regulation 6 of the Transfrontier Shipment of Waste Regulations 2007”;
    - (ii) the second sentence were omitted.
5. Article 7 of Directive 2008/98/EC is to be read as if—
- (a) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (ii) in the third sentence, for “shall be binding” there were substituted “shall, subject to paragraph 1A, be binding”;

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(a) S.I. 2017/407.

(b) S.I. 2003/3245, amended by S.I. 2016/139 and 2017/407.

(c) S.I. 2004/99, amended by S.I. 2016/139; there are other amending instruments but none is relevant.

(b) after paragraph 1, there were inserted—

“1A. Paragraph 1 is subject to—

- (a) a determination by the Secretary of State under regulation 8(1) of the Hazardous Waste (England and Wales) Regulations 2005(a), or by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005(b), or by the Department of Agriculture, Environment and Rural Affairs under regulation 9(1) of the Hazardous Waste Regulations (Northern Ireland) 2005(c), that a specific batch of waste is to be treated as hazardous waste;
- (b) a decision made by the Secretary of State under regulation 9(1) of the Hazardous Waste (England and Wales) Regulations 2005, or by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005, or by the Department of Agriculture, Environment and Rural Affairs under regulation 10(1) of the Hazardous Waste Regulations (Northern Ireland) 2005, that a specific batch of waste is to be treated as non-hazardous waste;
- (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (England and Wales) Regulations 2005, regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005 or regulations 9(2) or 10(2) of the Hazardous Waste Regulations (Northern Ireland) 2005;
- (d) regulations (if any) made by the Secretary of State under section 62A(1) of the Environmental Protection Act 1990(d) or by the Welsh Ministers under section 62A(2) of that Act (lists of waste displaying hazardous properties);
- (e) a determination by the Scottish Ministers that a specific batch or type of waste—
  - (i) is to be treated as hazardous waste because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex 3;
  - (ii) is to be treated as non-hazardous waste because the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex 3.”;

(c) paragraphs 2, 3 and 5 were omitted;

(d) after paragraph 6, there were inserted—

“6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

(e) paragraph 7 were omitted.

6. Annex 3 to Directive 2008/98/EC is to be read as if—

- (a) in the entry for HP 9, in the second sentence, “in the Member States” were omitted;
- (b) in the entry for HP 15, in the sentence immediately after Table 9, for “Member States” there were substituted “the competent authority of destination and dispatch determined in accordance with regulation 6 of the Transfrontier Shipment of Waste Regulations 2007(e)”.

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(a) S.I. 2005/894; amended by S.I. 2011/988, 2015/1360.

(b) S.I. 2005/1806 (W. 138), amended by S.I. 2011/971 (W. 141), 2015/1417 (W. 141).

(c) S.R. 2005 No. 300, amended by S.R. 2005 No. 301, S.R. 2011 No. 127 and S.R. 2015 No. 288.

(d) 1990 c. 43. Section 62A was inserted by S.I. 2005/894, and amended by S.I. 2011/988, 2015/1360, 2018/721 (W. 140).

(e) S.I. 2007/1711, amended by S.I. 2007/3538, 2008/9, 2010/265, 2010/675, 2010/1159, 2011/988, 2011/1043, 2014/861, 2016/1154.

*Article 2B*

**References to EU country, non-EU country, EFTA country and third country**

In this Regulation—

- (a) a reference to an EU country is a reference to a country which is a member State on exit day;
- (b) a reference to a non-EU country is a reference to a country other than the United Kingdom which is not a member State on exit day;
- (c) a reference to an EFTA country is a reference to a non-EU country which is a party to the EEA agreement on exit day;
- (d) a reference to a third country is a reference to a country other than the United Kingdom.

*Article 2C*

**References to competent authority**

1. In this Regulation, a reference to the ‘competent authority’—

- (a) in relation to the United Kingdom, is to be read in accordance with paragraphs 3 and 4;
- (b) in relation to an EU country, is a reference to the body designated by that country in accordance with Article 53 of Regulation (EC) No. 1013/2006<sup>(a)</sup> as it has effect in EU law as amended from time to time; or
- (c) in relation to a non-EU country that is a Party to the Basel Convention, is a reference to the body designated by that country as the competent authority in accordance with Article 5 of the Convention; or
- (d) in relation to any country not referred to in points (a) to (c), is a reference to the body that has been designated as the competent authority by the country or region concerned or, in the absence of such designation, the regulatory authority for the country or region, as appropriate, which has jurisdiction over shipments of waste for recovery or disposal or transit (as the case may be).

2. In this Regulation—

- (a) ‘competent authority of dispatch’ means the competent authority for the area from which the shipment is planned to be initiated or is initiated;
- (b) ‘competent authority of destination’ means the competent authority for the area to which the shipment is planned or takes place, or in which waste is loaded prior to recovery or disposal in an area not under the national jurisdiction of any country;
- (c) ‘competent authority of transit’ means the competent authority for any country, other than that of the competent authority of dispatch or destination, through which the shipment is planned or takes place.

3. The competent authority of dispatch, or the competent authority of destination, in the United Kingdom is—

- (a) where the area concerned is in England or the English area, the Environment Agency;
- (b) where the area concerned is in Wales or the Welsh area, the Natural Resources Body for Wales;
- (c) where the area concerned is in Scotland or the Scottish area, the Scottish Environment Protection Agency;
- (d) where the area concerned is in Northern Ireland or the Northern Irish area, the Department of Agriculture, Environment and Rural Affairs,

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(a) OJ No. L 190, 12.7.2006, p. 1.



and “English area”, “Welsh area”, “Scottish area” and “Northern Irish area” have the meanings given by regulation 4(1) of the Transfrontier Shipment of Waste Regulations 2007.

4. The competent authority of transit in the United Kingdom is the Environment Agency.”.

#### **Amendment to Title 2 heading**

**49.** In the Title 2 heading omit “WITHIN THE COMMUNITY”.

#### **Amendment to Article 3**

**50.** In Article 3(3), for “91/689/EEC” substitute “2008/98/EC(a)”.

#### **Amendments to Article 6**

**51.**—(1) Article 6 is amended as follows.

(2) In paragraph 4, in the second subparagraph—

- (a) for “into the Community” substitute “from a country other than an EU country”;
- (b) omit “in the Community”.

(3) In paragraph 7 omit “within the Community”.

(4) Omit paragraph 9.

#### **Amendments to Article 11**

**52.**—(1) Article 11 is amended as follows.

(2) In paragraph 1—

- (a) in the words before point (a) omit “and in accordance with the Treaty”;
- (b) in point (a), for the words from “the principles” to “Directive 2006/12/EC” substitute “Article 4(2)(b) and (d) and (9)(a) of the Basel Convention”;
- (c) in point (e), for “Member State” substitute “country of destination”;
- (d) in point (f), for the words from “Member State(s)” to the end substitute “objecting country”;
- (e) for points (g) and (h) substitute—

“(g) that the planned shipment or disposal is not, while taking into account geographical circumstances or the need for specialised installations for certain types of waste, in accordance with—

- (i) the UK Plan within the meaning given by regulation 11A of the Transfrontier Shipment of Waste Regulations 2007; or
- (ii) a plan established under Article 28 of Directive 2008/98/EC as amended from time to time;

(h) that the waste will be treated—

- (i) in a relevant facility in the United Kingdom which does not apply best available techniques within the meaning given by Article 3(10) of Directive 2010/75/EU(b) in compliance with the permit of the facility; or
- (ii) in an installation within the meaning given by Article 3(3) of Directive 2010/75/EU as amended from time to time in an EU country which does not apply

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(a) OJ No. L 312, 22.11.2008, p. 3.  
(b) OJ No. L 334, 17.12.2010, p. 17.

the best available techniques within the meaning given by Article 3(10) of that Directive in compliance with the permit of the installation;”;

(f) in point (j), omit “Community”.

(3) After paragraph 1 insert—

“1A. In paragraph (1)(h), “relevant facility” means—

(a) in relation to England and Wales, a “Part A installation” within the meaning of regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016(a);

(b) in relation to Northern Ireland, an “installation” or “mobile plant” within the meaning of regulation 2(1) of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(b);

(c) in relation to Scotland, an “installation” or “mobile plant” within the meaning of regulation 2(1) of the Pollution Prevention and Control (Scotland) Regulations 2012(c).”.

(4) In paragraph 3—

(a) in the first subparagraph—

(i) for “a Member State” substitute “the country”;

(ii) for “Member State”, in the second place it occurs, substitute “country”;

(b) omit the third subparagraph.

(5) Omit paragraph 6.

## Amendments to Article 12

**53.**—(1) Article 12 is amended as follows.

(2) In paragraph 1—

(a) in the words before point (a) omit “and in accordance with the Treaty”;

(b) omit point (a);

(c) in point (c)—

(i) in the first subparagraph omit the words from “, respecting the need” to “internal market”;

(ii) omit point (i);

(iii) omit point (iii);

(d) in point (f), for the words from “Member State(s)” to the end substitute “objecting country”;

(e) for point (i) substitute—

“(i) that the waste will be treated—

(i) in a relevant facility in the United Kingdom which does not apply best available techniques within the meaning given by Article 3(10) of Directive 2010/75/EU in compliance with the permit of the facility; or

(ii) in an installation within the meaning given by Article 3(3) of Directive 2010/75/EU as amended from time to time in an EU country which does not apply the best available techniques within the meaning given by Article 3(10) of that Directive in compliance with the permit of the installation;”;

(f) in point (j), omit “Community”.

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(a) S.I. 2016/1154, amended by S.I. 2016/475, 2018/110, 2018/428.

(b) S.R. 2013 No. 160, amended by S.R. 2014 No. 304, 2016 No. 309, 2018 No. 33.

(c) S.S.I. 2012/360, amended by S.S.I. 2014/267, 2016/39, 2017/446.

(g) for point (k) substitute—

“(k) that the waste concerned will not be treated in accordance with a plan established under the relevant regulations or Article 28 of Directive 2008/98/EC as amended from time to time.”.

(3) After paragraph 1 insert—

“1A. In paragraph 1—

“relevant facility” has the meaning given by Article 11(1A);

“relevant regulations” means—

(a) in relation to England and Wales, the Waste (England and Wales) Regulations 2011(a);

(b) in relation to Northern Ireland, the Waste Regulations (Northern Ireland) 2011(b);

(c) in relation to Scotland, the National Waste Management Plan for Scotland Regulations 2007(c).”.

(4) In paragraph 5—

(a) omit “raised by competent authorities”;

(b) for the words from “Member States” to the end substitute “the competent authority to the Secretary of State”.

(5) Omit paragraph 6.

#### **Amendment to Article 14**

**54.** In Article 14(3), for the words from “inform the” to “appropriate” substitute “, where appropriate, inform”.

#### **Amendment to Article 15**

**55.** In Article 15(f), in point (i) omit “or in another Member State”.

#### **Amendments to Article 18**

**56.**—(1) Article 18 is amended as follows.

(2) In paragraph 3, for “Member States” substitute “the competent authority in the United Kingdom”.

(3) In paragraph 4 omit “by Community and”.

#### **Amendments to Article 20**

**57.**—(1) Article 20 is amended as follows.

(2) In paragraph 1 omit “in the Community”.

(3) In paragraph 2 omit “in the Community”.

#### **Amendments to Article 21**

**58.** In Article 21—

(a) for “The competent authorities” substitute “A competent authority”;

(b) for “they have” substitute “it has”;

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(a) S.I. 2011/988, amended by S.I. 2012/1889, 2014/656.

(b) S.R. 2011 No. 127, amended by S.R. 2011 No. 232, 2011 No. 403.

(c) S.S.I. 2007/251, amended by S.S.I. 2011/226, 2015/188, 2015/438.

(c) omit “or Community”.

**Amendment to Article 22**

59. In Article 22(9) omit “within a Member State”.

**Amendment to Article 23**

60. In Article 23(2), omit “Community and”.

**Amendments to Article 24**

61.—(1) Article 24 is amended as follows.

(2) In paragraph 7 omit “within a Member State”.

(3) In paragraph 10, omit “Community and”.

**Amendment to Article 25**

62. In Article 25(5), omit “Community and”.

**Amendment to Article 26**

63. In Article 26(4), in the first subparagraph, for the words from “Directive” to “Council” substitute “Regulation (EU) No 910/2014”.

**Amendment to Article 28**

64. In Article 28(1), in the second sentence for “Community” substitute “retained EU”.

**Omission of Article 30**

65. Omit Article 30.

**Amendment to Title 2, Chapter 6 heading**

66. In Title 2, in the heading of Chapter 6 omit “within the Community”.

**Amendment to Article 31**

67. In Article 31, in the words before point (a), for “Community” substitute “United Kingdom”.

**Amendments to Article 32**

68.—(1) Article 32 is amended as follows.

(2) In paragraph 1—

(a) for “Community” substitute “United Kingdom”;

(b) for “third” substitute “non-EU”.

(3) In paragraph 2—

(a) for the words from “Community” to “Member State” substitute “United Kingdom,”;

(b) for “third” substitute “non-EU”.

**Omission of Title 3**

69. Omit Title 3.

#### **Amendment to Title 4 heading**

70. In the heading of Title 4 omit “FROM THE COMMUNITY”.

#### **Amendments to Article 34**

71.—(1) Article 34 is amended as follows.

- (2) In the heading for the words from “prohibited” to the end substitute “prohibitions etc.”.
- (3) In paragraph 1 for “Community” substitute “United Kingdom”.
- (4) In paragraph 2, after “disposal in” insert “EU or”.
- (5) After paragraph 4 insert—

“5. Where a person proposes to export waste destined for disposal in an EU or EFTA country, the Secretary of State shall be required to present a prior duly reasoned request to the competent authority of the EU or EFTA country of destination on the basis that technical capacity and the necessary facilities in order to dispose of the waste in an environmentally sound manner do not exist, or cannot reasonably be acquired, in the United Kingdom.”.

#### **Amendments to Article 35**

72.—(1) Article 35 is amended as follows.

- (2) In the heading after “exporting to” insert “EU or”.
- (3) In paragraph 1—
  - (a) for “Community” substitute “United Kingdom”;
  - (b) after “disposal in” insert “EU or”;
  - (c) omit “*mutatis mutandis*”.
- (4) In paragraph 2—
  - (a) in the words before point (a), for “The” substitute “Where waste is exported with transit via one or more non-EU countries, the”;
  - (b) in point (a), for “Community” substitute “United Kingdom”;
  - (c) in point (b)—
    - (i) for “Community”, in the first place it occurs, substitute “United Kingdom”;
    - (ii) omit “outside the Community”.
- (5) In paragraph 3—
  - (a) omit points (a) to (d);
  - (b) in point (e)—
    - (i) for “Community”, in the first place it occurs, substitute “United Kingdom”;
    - (ii) omit “in the Community”;
  - (c) in point (f), in the words before point (i), at the beginning insert “where waste is destined for disposal in an EFTA country Party to the Basel Convention,”.
- (6) In paragraph 4(a) omit “outside the Community”.
- (7) In paragraph 5, for “exported” substitute “destined for disposal in an EFTA country Party to the Basel Convention”.
- (8) For paragraph 6 substitute—

“6. If a general customs official discovers an illegal shipment, the official shall without delay inform the relevant authority which shall—

  - (a) where the dispatch of the waste was not in the area of the relevant authority, without delay inform the competent authority of dispatch; and

- (b) ensure detention of the waste until the competent authority of dispatch has decided otherwise and, where the discovery is not in the area of the competent authority of dispatch, has communicated that decision in writing to the relevant authority.

7. In paragraph 6—

“general customs official” means a general customs official designated under section 3(1) of the Borders, Citizenship and Immigration Act 2009<sup>(a)</sup>;

“relevant authority” means—

- (a) where the discovery occurs in England or the English area, the Environment Agency;
- (b) where the discovery occurs in Wales or the Welsh area, the Natural Resources Body for Wales;
- (c) where the discovery occurs in Scotland or the Scottish area, the Scottish Environment Protection Agency;
- (d) where the discovery occurs in Northern Ireland or the Northern Irish area, the Department of Agriculture, Environment and Rural Affairs,

and “English area”, “Welsh area”, “Scottish area” and “Northern Irish area” have the meanings given by regulation 4(1) of the Transfrontier Shipment of Waste Regulations 2007.”.

### **Amendment to Chapter 2, Section 1 heading**

**73.** In Chapter 2, in the heading of Section 1 after “Exports to” insert “non-EU,”.

### **Amendments to Article 36**

**74.**—(1) Article 36 is amended as follows.

(2) In paragraph 1, in the words before point (a)—

- (a) for “Community” substitute “United Kingdom”;
- (b) for “countries” substitute “non-EU countries”.

(3) In paragraph 3—

- (a) for the words from “Member States” to “provisions” substitute “A competent authority may, in an exceptional case, adopt a procedure”;
- (b) for “91/689/EEC” substitute “2008/98/EC<sup>(b)</sup>”;
- (c) omit the words from “of 3 May 2000” to the end.

(4) In paragraph 4—

- (a) for “91/689/EEC”, in the first place it occurs, substitute “2008/98/EC”;
- (b) for the words “Article 1(4), second indent, of Directive 91/689/EEC” substitute “Articles 3(2) and 7 of Directive 2008/98/EC”.

(5) After paragraph 5 insert—

“6. For the purposes of this Article, Liechtenstein shall be deemed to be a country to which the OECD Decision applies.”.

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(a) 2009 c.11.

(b) OJ No. L 312, 22.11.2008, p. 3.

### **Amendments to Article 37**

**75.**—(1) Article 37 is amended as follows.

(2) In paragraph 1—

- (a) in the first subparagraph, in the words before point (i)—
  - (i) for the words from “Commission” to “Regulation,” substitute “Secretary of State may”;
  - (ii) after “each” insert “non-EU”;
- (b) in point (i), for “Community” substitute “United Kingdom”;
- (c) in the second subparagraph, after “Each” insert “non-EU”.

(3) After paragraph 5 insert—

“6. For the purposes of this Article, Liechtenstein shall be deemed to be a country to which the OECD Decision applies.”.

### **Amendment to Chapter 2, Section 2 heading**

**76.** In Chapter 2, in the heading of Section 2 after “to” insert “EU or”.

### **Amendments to Article 38**

**77.**—(1) Article 38 is amended as follows.

(2) In paragraph 1—

- (a) for “Community” substitute “United Kingdom”;
- (b) for “countries”, in the first place it occurs, substitute “an EU country or country”;
- (c) after “transit through” insert “one or more EU countries or”;
- (d) omit “*mutatis mutandis*”.

(3) In paragraph 2—

- (a) in the words before point (a), for “The” substitute “Except where waste is destined for recovery in an EU country, the”;
- (b) in point (a) after “in a” insert “non-EU”;
- (c) in point (c) omit “outside the Community”.

(4) In paragraph 3—

- (a) omit points (a) to (c);
- (b) in point (d), for “Community”, in both places it occurs, substitute “the United Kingdom”;
- (c) in point (e), at the beginning insert “except where waste is destined for recovery in an EU country,”.

(5) In paragraph 4(a), for “authorities of destination and transit outside the Community” substitute “authority of destination in any non-EU country or tacit consent from the competent authority of transit in any country”.

(6) In paragraph 5—

- (a) in the words before point (a), after “through a” insert “non-EU”;
- (b) in point (a) omit “to which the OECD Decision does not apply”;
- (c) in point (b)—
  - (i) omit “in the Community”;
  - (ii) omit “to which the OECD Decision does not apply”.

(7) In paragraph 6, for “Where waste is exported” substitute “Except where waste is destined for recovery in an EU country”.

(8) For paragraph 7 substitute—

“7. If a general customs official discovers an illegal shipment, the official shall without delay inform the relevant authority which shall—

- (a) where the dispatch of the waste was not in the area of the relevant authority, without delay inform the competent authority of dispatch; and
- (b) ensure detention of the waste until the competent authority of dispatch has decided otherwise and, where the discovery is not in the area of the competent authority of dispatch, has communicated that decision in writing to the relevant authority.

8. In paragraph 7—

“general customs official” means a general customs official designated under section 3(1) of the Borders, Citizenship and Immigration Act 2009;

“relevant authority” has the meaning given in Article 35(7).

9. For the purposes of this Article, Liechtenstein shall be deemed to be a country to which the OECD Decision applies.”.

#### **Amendment to Article 39**

**78.** In Article 39, for “Community” substitute “United Kingdom”.

#### **Amendment to Article 40**

**79.**—(1) Article 40 is amended as follows.

- (2) In paragraph 1, for “Community” substitute “United Kingdom”.
- (3) In paragraph 2, omit “*mutatis mutandis*”.

#### **Amendment to Title 5 heading**

**80.** In the heading of Title 5 omit “INTO THE COMMUNITY”.

#### **Amendments to Article 41**

**81.**—(1) Article 41 is amended as follows.

(2) In paragraph 1—

- (a) in the words before point (a), for “Community” substitute “United Kingdom”;
- (b) in point (b)—
  - (i) for the words from “Community, or” to “have” substitute “United Kingdom has”;
  - (ii) for “Community legislation” substitute “retained EU law”;
- (c) in point (c) for “individual Member States have” substitute “the United Kingdom has”.

(3) In paragraph 2—

- (a) in the first subparagraph—
  - (i) for “individual Member States” substitute “the Secretary of State”;
  - (ii) for “those Member States” substitute “the United Kingdom”;
- (b) in the second subparagraph for “Community legislation” substitute “retained EU law”;
- (c) in the fourth subparagraph for the words from “Member State” to the end substitute “United Kingdom”;
- (d) omit the fifth subparagraph.



- (4) In paragraph 4 omit “the Member State of”.

#### **Amendments to Article 42**

**82.**—(1) Article 42 is amended as follows.

(2) In paragraph 1—

- (a) for “Community” substitute “United Kingdom”;
- (b) omit “*mutatis mutandis*”;
- (c) for “paragraphs 2 and 3” substitute “paragraph 2”.

(3) In paragraph 2(a), for “outside the Community” substitute “in any non-EU country”.

(4) Omit paragraph 3.

(5) For paragraph 5 substitute—

“5. If a general customs official discovers an illegal shipment, the official shall without delay inform the relevant authority which shall—

- (a) where the discovery of the waste is not in the area of the competent authority of destination in the United Kingdom, without delay inform the competent authority of destination; and
- (b) ensure detention of the waste until the competent authority of destination has decided otherwise and, where the discovery is not in the area of the relevant authority, has communicated that decision in writing to the relevant authority.

6. In paragraph 5—

“general customs official” means a general customs official designated under section 3(1) of the Borders, Citizenship and Immigration Act 2009;

“relevant authority” has the meaning given in Article 35(7).”.

#### **Amendments to Article 43**

**83.**—(1) Article 43 is amended as follows.

(2) In paragraph 1—

- (a) in the words before point (a) for “Community” substitute “United Kingdom”;
- (b) in point (c)—
  - (i) for the words from “Community,” to “have” substitute “United Kingdom has”;
  - (ii) for “Community legislation” substitute “retained EU law”;
- (c) in point (d), for “individual Member States have” substitute “the United Kingdom has”.

(3) In paragraph 2—

- (a) for “individual Member States” substitute “the Secretary of State”;
- (b) for “those Member States” substitute “the United Kingdom”.

#### **Amendments to Article 44**

**84.**—(1) Article 44 is amended as follows.

(2) In the heading, after “imports from an” insert “EU or”.

(3) In paragraph 1—

- (a) for “Community” substitute “United Kingdom”;
- (b) for “countries and through countries” substitute “or through an EU country or country”;
- (c) omit “*mutatis mutandis*”;
- (d) for “paragraphs 2 and 3” substitute “paragraph 2”.

- (4) In paragraph 2—
  - (a) in point (a), for “outside the Community” substitute “in any non-EU country”;
  - (b) in point (b), at the beginning insert “where waste is imported from a non-EU country to which the OECD Decision applies, with or without transit via another country,”.
- (5) Omit paragraph 3.
- (6) In paragraph 4(a), for “outside the Community” substitute “in any non-EU country”.
- (7) For paragraph 5 substitute—
  - “5. If a general customs official discovers an illegal shipment, the official shall without delay inform the relevant authority which shall—
    - (a) where the discovery of the waste is not in the area of the competent authority of destination in the United Kingdom, without delay inform the competent authority of destination; and
    - (b) ensure detention of the waste until the competent authority of destination has decided otherwise and, where the discovery is not in the area of the relevant authority, has communicated that decision in writing to the relevant authority.
- 6. In paragraph 5—
  - “general customs official” means a general customs official designated under section 3(1) of the Borders, Citizenship and Immigration Act 2009;
  - “relevant authority” has the meaning given in Article 35(7).”.

#### **Amendments to Article 45**

- 85.**—(1) Article 45 is amended as follows.
  - (2) In the heading, after “imports from a” insert “non-EU,”.
  - (3) In the words before point (a), for “Community” substitute “United Kingdom”.
  - (4) In point (a), after “from a” insert “non-EU”.
  - (5) In point (b), after “through any” insert “non-EU”.

#### **Amendments to Article 46**

- 86.**—(1) Article 46 is amended as follows.
  - (2) In paragraph 1—
    - (a) for “Community” substitute “United Kingdom”;
    - (b) omit “*mutatis mutandis*”.
  - (3) In paragraph 2—
    - (a) for “and the Member State to which they are linked” substitute “listed in points (a) to (n) of Article 2(26) and the United Kingdom”;
    - (b) for “that Member State” substitute “the United Kingdom”.
  - (4) In paragraph 3, for the words from the beginning to “Commission” substitute “Where paragraph 2 applies, the Secretary of State shall notify the Secretariat of the Basel Convention”.

#### **Amendment to Title 6 heading**

- 87.** In the heading of Title 6, for “COMMUNITY” substitute “UNITED KINGDOM”.

#### **Amendments to Article 47**

- 88.**—(1) Article 47 is amended as follows.
  - (2) In the heading, for “Community” substitute “United Kingdom”.

- (3) For “Member States” substitute “the United Kingdom”.
- (4) Omit the words from “, with the adaptations” to the end.

#### **Amendments to Article 48**

- 89.**—(1) Article 48 is amended as follows.
- (2) In the heading, for “Community” substitute “United Kingdom”.
  - (3) In paragraph 1—
    - (a) for “Member States” substitute “the United Kingdom”;
    - (b) before “country” insert “non-EU”.
  - (4) In paragraph 2—
    - (a) for “Member States” substitute “the United Kingdom”;
    - (b) after “from and to” insert “an EU country or”;
    - (c) omit the words from “, with the adaptations” to the end.
  - (5) For paragraph 3 substitute—

“3. Where waste destined for recovery is shipped through the United Kingdom from a non-EU country to which the OECD Decision does not apply to an EU country or country to which the OECD Decision applies or vice versa, paragraph 1 shall apply as regards the non-EU country to which the OECD Decision does not apply and paragraph 2 shall apply as regards the EU country or country to which the OECD Decision applies.”.

#### **Amendments to Article 49**

- 90.**—(1) Article 49 is amended as follows.
- (2) In paragraph 1 omit the second sentence.
  - (3) In paragraph 2—
    - (a) in the first subparagraph—
      - (i) for the words before point (a) substitute—

“In the case of an export from the United Kingdom to a non-EU country, the competent authority of dispatch in the United Kingdom shall”;
      - (ii) in point (a) omit “third”;
      - (iii) in point (b) omit “to third countries”;
    - (b) in the second subparagraph, for “Community legislation” substitute “retained EU law”;
    - (c) in the third subparagraph omit “third”.
  - (4) In paragraph 3—
    - (a) for the words before point (a) substitute—

“In the case of an import into the United Kingdom from a non-EU country, the competent authority of destination in the United Kingdom shall”;
    - (b) in point (a) omit the words from “, and in accordance” to “on waste”;
    - (c) in point (b) omit “from third countries”.

#### **Amendments to Article 50**

- 91.**—(1) Article 50 is amended as follows.
- (2) In the heading omit “in Member States”.
  - (3) Omit paragraphs 1 and 2.

(4) In paragraph 2a, for the first sentence substitute—

“The Secretary of State shall ensure that, in respect of the United Kingdom, one or more plans are maintained, either separately or as a clearly defined part of other plans, for inspections carried out for the purposes of the enforcement of this Regulation (‘inspection plan’).”.

(5) In paragraph 3 for “Union”, in both places it occurs, substitute “United Kingdom”.

(6) In paragraph 4a, for “Directive 2012/19/EC of the European Parliament and of the Council” substitute “the Waste Electrical and Electronic Equipment Regulations 2013(a)”.

(7) In paragraph 4b, for “Union legislation” substitute “retained EU law”.

(8) For paragraph 5 substitute—

“5. The competent authorities in the United Kingdom shall, where appropriate, cooperate, bilaterally and multilaterally, with the competent authorities of EU countries in order to—

- (a) facilitate the prevention and detection of illegal shipments;
- (b) exchange relevant information on shipments of waste, flows of waste, operators and facilities; and
- (c) share experience and knowledge on enforcement measures, including the risk assessment carried out pursuant to paragraph 2a of this Article.”.

(9) In paragraph 6—

(a) in the first sentence—

- (i) for “Member States” substitute “Each competent authority in the United Kingdom”;
- (ii) for “their” substitute “its”;

(b) for the second sentence substitute—

“The competent authority shall, before the end of each calendar year, send the information in writing to the Secretary of State. The Secretary of State shall then promptly send the information to the Secretariat of the Basel Convention.”.

(10) Omit paragraph 7.

## **Amendments to Article 51**

**92.** For Article 51 substitute—

### *“Article 51*

#### **Reports**

1. The Secretary of State must, before the end of each calendar year—

- (a) prepare the report for the previous calendar year referred to in Article 13(3) of the Basel Convention; and
- (b) transmit the report to the Secretariat of the Basel Convention in accordance with that Article.

2. The Secretary of State must, before the end of each calendar year—

- (a) prepare a further report for the previous calendar year based on the questionnaire and table in Annex 9; and
- (b) publish the further report in a manner which the Secretary of State considers appropriate.”.

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(a) S.I. 2013/3113, amended by S.I. 2015/1968, 2018/102.

### **Amendments to Article 52**

**93.** In Article 52—

- (a) for “Member States” substitute “The United Kingdom”;
- (b) omit “in liaison with the Commission”.

### **Omission of Articles 53 and 54**

**94.** Omit Articles 53 and 54.

### **Substitution of Article 55**

**95.** For Article 55 substitute—

*“Article 55*

#### **Designation of frontier crossing points**

The Secretary of State may designate places at which waste entering or leaving the United Kingdom is controlled. If the Secretary of State decides to designate such places, a shipment of waste must not be allowed to use any other places within the United Kingdom for the purposes of entering or leaving the United Kingdom.”.

### **Amendments to Article 56**

**96.**—(1) Article 56 is amended as follows.

(2) In paragraph 1—

- (a) in the words before point (a)—
  - (i) for “Member States” substitute “The Secretary of State”;
  - (ii) for “Commission” substitute “Secretariat of the Basel Convention”;
- (b) in point (a) omit “, pursuant to Article 53”;
- (c) omit point (b);
- (d) in point (c), for the words from “customs offices” to “Community,” substitute “frontier crossing points, designated”.

(3) In paragraph 2, in the words before point (a)—

- (a) for “Member States” substitute “the Secretary of State”;
- (b) for “Commission” substitute “Secretariat of the Basel Convention”.

(4) In paragraph 3—

- (a) for “Member States” substitute “The Secretary of State”;
- (b) for “Commission” substitute “the Secretariat of the Basel Convention”.

(5) Omit paragraph 4.

(6) In paragraph 5—

- (a) for “Commission” substitute “Secretary of State”;
- (b) for “its web-site” substitute “a website maintained by the Secretary of State”;
- (c) for the words from “designated” to “Community” substitute “competent authorities in the United Kingdom and frontier crossing points designated pursuant to Article 55”.

### **Omission of Article 57**

**97.** Omit Article 57.

### **Omission of Article 58a**

**98.** Omit Article 58a.

### **Omission of Article 60**

**99.** Omit Article 60.

### **Omission of Articles 62 to 64**

**100.** Omit Articles 62 to 64.

### **Omission of text following Article 64**

**101.** After Article 64, omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

### **Amendments to Annex 1C**

**102.**—(1) Annex 1C is amended as follows.

(2) In paragraph 2, in the second sentence, for “The European Community Regulation” substitute “This Regulation”.

(3) In paragraph 3, in the fourth sentence, for “Within the EU, the” substitute “The”.

(4) In paragraph 21—

(a) in the third sentence, for “Annexes IIA or IIB of Directive 2006/12/EC on waste” substitute “Annex 1 or 2 of Directive 2008/98/EC(a)”;

(b) for the final sentence, substitute—

“If the recovery or disposal facility is a relevant facility, evidence (e.g. a declaration certifying its existence) of a valid permit issued in accordance with the relevant regulations must be provided in an annex.

In this paragraph—

“relevant facility” means—

(a) in relation to England and Wales, a “Part A installation” within the meaning of regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016(b);

(b) in relation to Northern Ireland, an “installation” or “mobile plant” within the meaning of regulation 2(1) of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(c);

(c) in relation to Scotland, an “installation” or “mobile plant” within the meaning of regulation 2(1) of the Pollution Prevention and Control (Scotland) Regulations 2012(d);

“relevant regulations” means—

(a) in relation to England and Wales, the Environmental Permitting (England and Wales) Regulations 2016;

(b) in relation to Northern Ireland, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013;

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(a) OJ No. L 312, 22.11.2008, p. 3.

(b) S.I. 2016/1154, amended by S.I. 2016/475, 2018/110, 2018/428.

(c) S.R. 2013 No. 160, amended by S.R. 2014 No. 304, 2016 No. 309, 2018 No. 33.

(d) S.S.I. 2012/360, amended by S.S.I. 2014/267, 2016/39, 2017/446.

- (c) in relation to Scotland, the Pollution Prevention and Control (Scotland) Regulations 2012.”.
- (5) In paragraph 22—
  - (a) in the first sentence, for “Annexes IIA or IIB of Directive 2006/12/EC on waste” substitute “Annex 1 or 2 of Directive 2008/98/EC”;
  - (b) in the fifth sentence, for “Community” substitute “United Kingdom”.
- (6) In paragraph 25—
  - (a) in point (a) omit “Article 63 of this Regulation or”;
  - (b) in point (c), for the words from “European Union” to the end substitute “The codes included in Commission Decision 2000/532/EC should be used”;
  - (c) in point (g), in the second sentence omit “of the European Parliament and of the Council”.
- (7) In paragraph 41, in the third sentence, for “Annexes IIA or IIB of Directive 2006/12/EC on waste” substitute “Annex 1 or 2 of Directive 2008/98/EC”.
- (8) In paragraph 44, in the second sentence, after “including” insert “, where appropriate,”.
- (9) In paragraph 47, in the third sentence, for “Annexes IIA or IIB of Directive 2006/12/EC on waste” substitute “Annex 1 or 2 of Directive 2008/98/EC”.
- (10) In paragraph 50, from “customs offices” to the end substitute “general customs officials (designated as such under section 3(1) of the Borders, Citizenship and Immigration Act 2009).”.

#### **Amendments to endnotes to provisions of Annex 1C**

- 103.**—(1) The endnotes to provisions of Annex 1C are amended as follows.
- (2) In the endnote for “consignee” in paragraph 6 of Annex 1C, for “Outside the European Community” substitute “In non-EU countries”.
  - (3) In the endnote for “notifier” in paragraph 13 of Annex 1C, for “Outside the European Community” substitute “In non-EU countries”.
  - (4) In the endnote for “broker” in paragraph 15 of Annex 1C, for “some third” substitute “non-EU”.
  - (5) In the endnote for “producer of the waste” in paragraph 20 of Annex 1C, for “Outside the European Community” substitute “In non-EU countries”.
  - (6) In the endnote for paragraph 22 of Annex 1C, for “European Community”, in each place it occurs, substitute “United Kingdom”.
  - (7) In the second endnote for paragraph 26 of Annex 1C, for “Outside the European Community” substitute “In non-EU countries”.

#### **Amendments to Annex 2**

- 104.**—(1) Annex 2 is amended as follows.
- (2) In Part 1—
    - (a) in paragraph 5—
      - (i) in the third subparagraph—
        - (aa) for “96/61/EC” substitute “2010/75/EU(a)”;
        - (bb) for “Articles 4 and 5 of that Directive” substitute “the relevant regulations”;

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(a) OJ No. L 334, 17.12.2010, p. 17.

(ii) after the third subparagraph insert—

“In the third subparagraph, “relevant regulations” means—

- (a) in relation to England and Wales, the Environmental Permitting (England and Wales) Regulations 2016;
- (b) in relation to Northern Ireland, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013;
- (c) in relation to Scotland, the Pollution Prevention and Control (Scotland) Regulations 2012.”;
- (b) in paragraph 14, after “including”, in the first place it occurs, insert “, where appropriate,”;
- (c) in paragraph 19, for “Annexes IIA or IIB to Directive 2006/12/EC” substitute “Annex 1 or 2 of Directive 2008/98/EC”.

(3) In Part 2, in paragraph 5, after “including”, in the first place it occurs, insert “, where appropriate,”.

(4) In Part 3—

- (a) in paragraph 2, for “Articles 4 and 5 of Directive 96/61/EC” substitute “the relevant regulations or Articles 4 and 5 of Directive 2010/75/EU as amended from time to time”;
- (b) after paragraph 2 insert—

“2A. In paragraph 2, “relevant regulations” has the meaning given in paragraph 5 of Part 1.”.

#### **Amendment to Annex 3**

**105.** In Annex 3, in the words before Part I, in point (a) for “91/689/EEC” substitute “2008/98/EC”.

#### **Amendment to Annex 3A**

**106.** In Annex 3A, in paragraph 1(a) for “91/689/EEC” substitute “2008/98/EC”.

#### **Amendment to Annex 3B**

**107.** In Annex 3B, in paragraph 1(a) omit “of the European Parliament and of the Council”.

#### **Amendment to Annex 5**

**108.** In Annex 5, in the introductory notes—

- (a) omit paragraph 1;
- (b) in paragraph 3(a), for “91/689/EEC” substitute “2008/98/EC”.



**Substitution of Annex 9**

109. For Annex 9 substitute—

“Annex 9

QUESTIONNAIRE FOR REPORTS PURSUANT TO ARTICLE 51(2)

**Information on illegal shipments of waste**

Has there been any case of an illegal shipment of waste?

(Please tick ✓ as appropriate)

Yes

No

If yes, please complete table 1 for any cases which have been closed during the reporting period.

Please provide information on how illegal shipments of waste are prevented, detected and penalised:

.....  
.....  
.....  
.....  
.....  
.....

**Summary information on the outcome of the inspections carried out in enforcing this Regulation, including:**

Number of inspections, including physical checks, of establishments, undertakings, brokers and dealers, related to shipments of waste:

Number of inspections of shipments of waste, including physical checks:

Number of supposed illegalities concerning establishments, undertakings, brokers and dealers, related to shipments of waste:

Number of supposed illegal shipments ascertained during the inspections:

Additional remarks:

.....  
.....  
.....  
.....  
.....

**Information on the inspection plan(s)**

Number of inspection plan(s) for the entire geographical territory:

The date of adoption of the inspection plan(s) and the period covered by them:

The latest review date of the inspection plan(s):

The authorities involved in inspections and the cooperation amongst those authorities:

Indicate the persons or bodies to which concerns or irregularities can be reported:

.....  
.....  
.....  
.....  
.....  
.....

**Table 1**

<i>Waste identification code</i>	<i>Quantity (kg/litres)</i>	<i>Country of destination (De) and country of dispatch (Di)</i>	<i>Identification of the reason for illegality (possible reference to violated Articles)</i>	<i>Responsible for illegality (please tick as appropriate)</i>			<i>Measures taken, including any penalties imposed</i>
				<i>Notifier</i>	<i>Consignee</i>	<i>Other*</i>	

### **Amendments to Regulation (EC) No 1418/2007**

**110.**—(1) Commission Regulation (EC) No 1418/2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply is amended as follows.

(2) In Article 1, after “Export” insert “from the United Kingdom”.

(3) In Article 1a, omit “by the Commission”.

(4) Omit Article 3 and the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

### **Amendment to Commission Implementing Regulation (EU) 2016/1245**

**111.**—(1) Commission Implementing Regulation (EU) 2016/1245 setting out a preliminary correlation table between codes of the Combined Nomenclature provided for in Council Regulation (EEC) No 2658/87 and entries of waste listed in Annexes III, IV and V to Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste is amended as follows.

(2) Omit Article 2 and the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Environment, Food and Rural Affairs

### **EXPLANATORY NOTE**

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

These Regulations are made in part in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular section 8(2)(a), (b), (c) and (g)) arising from the withdrawal of the United Kingdom from the European Union. They are also made in part to amend domestic legislation that is out of date.

These Regulations make amendments to legislation in the field of environmental protection and, in particular, amend legislation on international waste shipments. Parts 2 and 3 amend subordinate legislation. Part 4 amends Annex 20 to the EEA agreement so far as that Annex forms part of domestic law. Part 5 amends retained direct EU legislation.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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