
STATUTORY INSTRUMENTS

2012 No. 811

The Controlled Waste (England and Wales) Regulations 2012

Citation, extent and commencement

1.—(1) These Regulations may be cited as the Controlled Waste (England and Wales) Regulations 2012.

- (2) They extend to England and Wales.
- (3) They come into force on 6th April 2012.

Interpretation

2. In these Regulations—

“the Act” means the Environmental Protection Act 1990;

[^{F1}“appropriate agency” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;

“appropriate authority” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;]

“Directive waste” means anything that—

- (a) is waste within the meaning of Article 3(1) of [^{F2}the Waste Directive][^{F3}as read with Articles 5 and 6 of that Directive]; and
- (b) is not excluded from the scope of that Directive by Article 2(1), (2) or (3);

[^{F4}“local authority” means—

- (a) in England outside Greater London—
 - ((i)) a district council,
 - ((ii)) a county council, or
 - ((iii)) the Council of the Isles of Scilly;
- (b) in Greater London—
 - ((i)) the council of a London borough,
 - ((ii)) the Common Council of the City of London,
 - ((iii)) the Sub-Treasurer of the Inner Temple, or
 - ((iv)) the Under-Treasurer of the Middle Temple;
- (c) in Wales—
 - ((i)) a county council, or
 - ((ii)) a county borough council;

“Mining Waste Directive” means Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries, as read in accordance with regulation 2B;]

“septic tank sludge” and “sludge” have the meaning given in regulation 2(1) of the Sludge (Use in Agriculture) Regulations 1989(1);

[^{F5}“Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by [^{F6}Directive (EU) 2018/851][^{F7}as read in accordance with regulation 2A].]

Textual Amendments

- F1** Words in reg. 2 inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **17(2)(a)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in reg. 2 substituted (28.2.2019) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(a), **7(2)(a)**
- F3** Words in reg. 2 inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(a), **7(2)(aa)** (as inserted by S.I. 2020/1540, regs. 1(3), **11(11)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Words in reg. 2 inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **17(2)(b)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 2 inserted (28.2.2019) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(a), **7(2)(b)**
- F6** Words in reg. 2 substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), **16**
- F7** Words in reg. 2 inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **17(2)(c)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)

[^{F8}Modification of the Waste Directive

2A.—(1) For the purposes of these Regulations, the Waste Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before IP completion day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England or Wales.

(3) Article 2 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) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;
- (iii) in point (d), for the words from “Directive 2006/21/EC” to the end there were substituted “the Mining Waste Directive”;

(1) S.I. 1989/1263, to which there are amendments not relevant to these instruments.

- (iv) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
- (v) paragraph 4 were omitted.
- (4) Article 5 is to be read as if—
 - (a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;
 - (b) after paragraph 1 there were inserted—
 - “**1A.** Any decision as to whether a substance or object is a by-product must be made—
 - (a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and
 - (b) having regard to any guidance published by the appropriate authority or the appropriate agency for the purposes of this Article.”;
 - (c) paragraphs 2 and 3 were omitted.
- (5) Article 6 is to be read as if—
 - (a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;
 - (b) after paragraph 1 there were inserted—
 - “**1A.** Any decision as to whether a substance or object has ceased to be waste must be made—
 - (a) in accordance with any regulations or retained direct EU legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and
 - (b) having regard to any guidance published by the appropriate authority or the appropriate agency for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first subparagraph were omitted;
 - (ii) in the second subparagraph, for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
 - (iii) the third and fourth subparagraphs were omitted;
 - (d) paragraph 3 were omitted;
 - (e) in paragraph 4—
 - (i) in the first subparagraph—
 - (aa) in the first sentence, for the words from the beginning to “Member State”, there were substituted “Where criteria have not been set out as referred to in paragraph 1A(a), the appropriate agency”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for “Member States” there were substituted “The appropriate agency”;
 - (bb) “by competent authorities” were omitted.
- (6) Article 7 is to be read as if—
 - (a) before paragraph 1 there were inserted—

“**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England or in Wales (as the case may be).”;

(b) in paragraph 1—

(i) the first and second sentences were omitted;

(ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;

(c) paragraphs 2, 3, 6 and 7 were omitted.

(7) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.

Textual Amendments

F8 Regs. 2A-2C inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **17(2)(c)** (as amended by [S.I. 2020/1540](#), regs. 1(2)(3), **11(2)(11)(b)(c)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Modification of the Mining Waste Directive

2B.—(1) For the purposes of these Regulations, the Mining Waste Directive is to be read as follows.

(2) A reference to one or more member States imposing an obligation or conferring a discretion on a member State or member States were a reference to the appropriate authority, appropriate agency or local authority which, immediately before IP completion day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England or Wales.

(3) Article 2 is to be read as if—

(a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#) were a reference to that Article read in accordance with regulation 2C;

(b) paragraphs 3 and 4 were omitted.

(4) Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EC](#)” there were substituted “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive”.

Textual Amendments

F8 Regs. 2A-2C inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **17(2)(c)** (as amended by [S.I. 2020/1540](#), regs. 1(2)(3), **11(2)(11)(b)(c)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Modifications to the Water Framework Directive

2C.—(1) For the purposes of regulation 2B(3)(a), Article 11(3)(j) of Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy is to be read as if—

- (a) the reference to “Member States” were a reference to the appropriate authority or appropriate agency;
 - (b) in the words after the final indent, “environmental objectives”—
 - (i) in relation to the Northumbria River Basin District, means the environmental objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;
 - (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;
 - (iii) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those regulations.
- (2) In paragraph (1)(b), “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.]

Textual Amendments

- F8** Regs. 2A-2C inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), [17\(2\)\(c\)](#) (as amended by [S.I. 2020/1540](#), regs. 1(2)(3), [11\(2\)\(11\)\(b\)\(c\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Waste which is not to be treated as household waste, industrial waste or commercial waste

3.—(1) Waste which is not Directive waste is not to be treated as household waste, industrial waste or commercial waste for the purposes of Part 2 of the Act.

(2) The following waste (where it is Directive waste) is not to be treated as household waste, industrial waste or commercial waste for the purposes of Part 2 of the Act—

- (a) sewage, sludge or septic tank sludge which is treated, kept or disposed of (otherwise than by means of mobile plant) within the curtilage of a sewage treatment works as an integral part of the operation of those works;
- (b) sludge which is supplied or used in accordance with the Sludge (Use in Agriculture) Regulations 1989;
- (c) septic tank sludge which is used on agricultural land within the meaning of those Regulations.

(3) Animal by-products (where they are Directive waste) which are collected and transported in accordance with Article 21(1) to (3) of the Animal By-Products Regulation are not to be treated as household waste, industrial waste or commercial waste for the purposes of section 34 of the Act.

(4) In this regulation—

- (a) “animal by-products” has the meaning given in Article 3(1) of the Animal By-Products Regulation;
- (b) “the Animal By-Products Regulation” means Regulation [\(EC\) No 1069/2009](#) of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation [\(EC\) No 1774/2002](#) (Animal by-products Regulation)(2).

(2) OJ No L 300, 14.11.09, p1, amended by Directive 2010/63/EU of the European Parliament and of the Council (OJ No L 276, 20.10.10, p33).

Household, industrial and commercial waste

4. Subject to regulation 3^[F9] and regulation 4A], Schedule 1 (household, industrial and commercial waste) has effect.

Textual Amendments

F9 Words in reg. 4 inserted (E.) (9.10.2012) by [The Controlled Waste \(England and Wales\) \(Amendment\) Regulations 2012 \(S.I. 2012/2320\)](#), regs. 1(2), 2(2)

[^{F10}Restriction on charging for disposal of waste

4A.—(1) This regulation applies in England only.

(2) Nothing in regulation 4 has the effect of making a person liable to pay a charge under section 45(4) of the Act for the disposal of waste if the first and second conditions are satisfied.

(3) The first condition is that no charge would have been payable under section 45(4) of the Act for the disposal of that waste had it been collected under section 45(1) of the Act before 6th April 2012.

(4) The second condition is that the waste is from a hereditament as regards which the person is subject to a non-domestic rate under section 43(1) of the Local Government Finance Act 1988, for which the chargeable amount payable is calculated in accordance with section 43(4A)(a) of that Act.]

Textual Amendments

F10 Reg. 4A inserted (E.) (9.10.2012) by [The Controlled Waste \(England and Wales\) \(Amendment\) Regulations 2012 \(S.I. 2012/2320\)](#), regs. 1(2), 2(3)

Litter and refuse

5. Part 2 of the Act has effect as if references to controlled waste collected under section 45 include references to litter and refuse collected under sections 89(1)(a) and (c), 92(9) and 92C(3) of the Act(3).

Amendments to other legislation

6. Schedule 2 (amendments to other legislation) has effect.

Revocation

7. The following Regulations are revoked in England and Wales—

- (a) the Waste Management Licensing (Amendment etc.) Regulations 1995(4);
- (b) the Controlled Waste Regulations 1992(5).

(3) A relevant amendment to section 92 was made by the Anti-social Behaviour Act 2003 (c. 38), section 56(1). Section 92C was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 20(2).

(4) S.I. 1995/288, amended by S.I. 2007/3538.

(5) S.I. 1992/588, amended by S.I. 1994/1056, 1995/288, 2005/22, 2900, 2006/937 and 2007/3538.

Changes to legislation: *There are currently no known outstanding effects for the The Controlled Waste (England and Wales) Regulations 2012. (See end of Document for details)*

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Changes to legislation:

There are currently no known outstanding effects for the The Controlled Waste (England and Wales) Regulations 2012.