
STATUTORY INSTRUMENTS

2019 No. 188

**The Waste (Miscellaneous Amendments)
(EU Exit) (No. 2) Regulations 2019**

PART 3

Amendments to secondary legislation

The End-of-Life Vehicles (Producer Responsibility) Regulations 2005

10.—(1) The End-of-Life Vehicles (Producer Responsibility) Regulations 2005 are amended as follows.

(2) In regulation 2—

(a) in the definition of “the Directive”, at the end insert “and as read in accordance with regulation 2A”;

(b) after the definition of “the Directive”, insert—

““appropriate agency” means—

- (a) in relation to England, the Environment Agency,
- (b) in relation to Wales, the Natural Resources Body for Wales,
- (c) in relation to Scotland, the Scottish Environment Protection Agency,
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

“appropriate authority” means—

- (a) in relation to England, the Secretary of State,
- (b) in relation to Wales, the Welsh Ministers,
- (c) in relation to Scotland, the Scottish Ministers,
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;”;

(c) in the definition of “end-of-life vehicle” (as amended by regulation 3(2)(b)), at the end insert “, as read with Articles 5 and 6 of that Directive”;

(d) after the definition of “end-of-life vehicle” insert—

““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;
 - (d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽¹⁾;
 - (e) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972⁽²⁾;
 - (e) in the definition of “vehicle”, in paragraph (a) after the words “defined in” insert “point 1 of Part A of”;
 - (f) in the definition of “the Waste Directive”, at the end insert “, and as read in accordance with regulation 2B”.
- (3) After regulation 2, insert—

“Modification of the Directive

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

(2) A reference to one or more member States in a provision 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 exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion.

(3) A term used in the Directive which is defined in regulation 2 has the same meaning as in regulation 2.

(4) Article 2 is to be read as if paragraphs 1, 2, 5 and 8 were omitted.

(5) Article 5 is to be read as if—

- (a) in paragraph 3, in the third paragraph, the final sentence were omitted;
- (b) in paragraph 4, the fourth paragraph were omitted;
- (c) paragraph 5 were omitted.

(6) Article 6 is to be read as if—

(a) in paragraph 1, for “Article 4 of [Directive 75/442/EEC](#)⁽³⁾” there were substituted “Article 13 of the Waste Directive”;

(b) in paragraph 2—

(i) in the first subparagraph—

(aa) for “competent authorities” there were substituted “appropriate agency”;

⁽¹⁾ 1994 c. 39.

⁽²⁾ 1972. c. 9 (N.I.); section 1 was amended by the Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7) (N.I.), section 3(1) and S.I. 1985/454.

⁽³⁾ OJ No L 194, 25.7.1975, p. 47, repealed by [Directive 2006/12/EC](#) of the European Parliament and of the Council (OJ No L 114, 27.4.2006, p. 9).

- (bb) for “Articles 9, 10 and 11 of [Directive 75/442/EEC](#)” there were substituted “Articles 23, 24 and 25 of the Waste Directive”;
- (iii) in the second subparagraph—
 - (aa) for “Article 11(1)(b) of [Directive 75/442/EEC](#)” there were substituted “Article 24(b) of the Waste Directive”;
 - (bb) for “competent authorities” there were substituted “appropriate authority”;
 - (cc) in the words after point (c), for the words from “Article 4” to the end, there were substituted “Article 13 of the Waste Directive”;
- (c) paragraph 6 were omitted.

Modification of the Waste Directive

2B.—(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 in a provision 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 exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion.

(3) Article 3(20) is to be read as if for “Article 2(11) of [Directive 96/61/EC](#)(4)” there were substituted “Article 3(10) of the Industrial Emissions Directive”.

(4) Article 5 is to be read as if paragraph 2 were omitted.

(5) Article 6 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 “Where criteria” to “paragraphs 1 and 2” there were substituted “Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, [Commission Regulation \(EU\) No 1179/2012](#) or [Commission Regulation \(EU\) No 715/2013](#) applies”;

(ii) the second sentence were omitted.

(6) Article 7 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”;

(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(5), or by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005(6), or by the Department of Agriculture,

(4) OJ No L 257, 10.10.1996, p 26, repealed by [Directive 2008/1/EC](#) of the European Parliament and of the Council (OJ No L 24, 29.1.2008, p 8).

(5) [S.I. 2005/894](#), amended by [S.I. 2011/988](#), [2015/1360](#), [2016/738](#), [2018/575](#).

(6) [S.I. 2005/1806 \(W 138\)](#); relevant amending instruments are [S.I. 2011/971 \(W 141\)](#) and [2015/1417 \(W 141\)](#).

Environment and Rural Affairs under regulation 9(1) of the Hazardous Waste Regulations (Northern Ireland) 2005⁽⁷⁾ 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, or 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⁽⁸⁾, 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.

(7) Article 23 is to be read as if—

(a) a reference to the “competent authority” were a reference to the “appropriate agency”;

(b) in paragraph 5, “or Community” were omitted.

(8) Article 25 is to be read as if paragraph 3 were omitted.

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

(7) S.R. 2005 No. 300; relevant amending instruments are S.R 2011 No. 127 and S.R 2015 No. 288.

(8) 1990 c. 43. Section 62A was inserted by S.I. 2005/894, and amended by S.I 2011/988, 2015/1360 and 2018/721 (W 140).

Meaning of the “Industrial Emissions Directive”

2C.—(1) In regulation 2B(3), “the Industrial Emissions Directive” means [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)**(9)**, read in accordance with this regulation.

(2) Article 3 is to be read as if—

- (a) in point (1)(a), for the words from “Article 1” to the end there were substituted “Article 4(78) of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation**(10)**”;
- (b) in point (10)(b), for “Member State in question” there were substituted “United Kingdom”;
- (c) in point (23), for the words from “point 1” to the end there were substituted “point 1 of the second subparagraph of Article 2 of Council [Directive 2009/158/EC](#) on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs**(11)**”;
- (d) in point (37), for the words from “of the European” to the end there were substituted “, read with Articles 5 and 6 of that Directive”.

(3) Annex 1 is to be read as if—

- (a) in the words before point 1, the second paragraph were omitted;
- (b) in point 5.3—
 - (i) in point (a), in the words before point (i), for “Council [Directive 91/271/EEC](#) of 21 May 1991 concerning urban waste-water treatment**(12)**” there were substituted “the urban waste water treatment legislation”;
 - (ii) in point (b), in the words before point (i), for “[Directive 91/271/EEC](#)” there were substituted “the urban waste water treatment legislation”;
- (c) in point 5.4, the reference to Council [Directive 1999/31/EC](#) of 26 April 1999 on the landfill of waste were a reference to the Landfill Directive;
- (d) in point 6.9, for “[Directive 2009/31/EC](#)**(13)**” there were substituted “the EU-derived domestic legislation which transposed [Directive 2009/31/EC](#)**(14)**”;
- (e) in point 6.11, for “[Directive 91/271/EEC](#)” there were substituted “the urban waste water treatment legislation”.

(4) In paragraph (6)(b) and (e), “the urban waste water treatment legislation” means—

- (a) in England and Wales, the Urban Waste Water Treatment (England and Wales) Regulations 1994**(15)**;
- (b) in Scotland, the Urban Waste Water Treatment (Scotland) Regulations 1994**(16)**;

(9) OJ No L 334, 17.12.2010, p 17, as corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

(10) OJ No L 13, 17.1.2014, p 1, as corrected by a corrigendum (OJ No L 72, 17.3.2016, p 69).

(11) OJ No L 343, 22.12.2009, p 74, as last amended by Commission Implementing [Decision 2011/879/EU](#) (OJ No L 343, 23.12.2011, p 105).

(12) OJ No L 135, 30.5.1991, p 40, as last corrected by a corrigendum (OJ No L 189, 17.7.2015, p 41).

(13) OJ No L 140, 5.6.2009, p 114, as last amended by Decision (EU) 2018/853 of the European Parliament and of the Council (OJ No L 150, 14.6.2018, p 155).

(14) See for example: in general, Chapter 3 of Part 1 of the Energy Act 2008 (c.32) and S.I. 2010/1513, 2221, 2011/1483, 2305, 2453, 2012/461; in relation to Great Britain, S.I. 2013/2696; in relation to England and Wales; S.I. 2016/1154; in relation to England S.I. 2017/571; in relation to Scotland, S.S.I. 2011/24, 116, 457; in relation to Northern Ireland, S.R. 2015 Nos. 74, 387 and 388.

(15) S.I. 1994/2841, amended by S.I. 2003/1788, 2005/2035, 2010/675, 2011/556, 2013/755 (W 90), 2016/1154 and 2018/942.

(16) S.I. 1994/2842, amended by S.I. 1996/973 and by S.S.I. 2003/273 and 2011/202

(c) in Northern Ireland, the Urban Waste Water Treatment Regulations (Northern Ireland) 2007(17).

(5) In paragraph 6(c), “the Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Council [Directive 2011/97/EU](#), and read as if, in Article 2—

(a) for point (a) there were substituted—

“(a) “waste” means anything that is waste within the meaning of Article 3(1) of [Directive 2008/98/EC](#), as read with Articles 5 and 6 of that Directive;”;

(b) for point (c) there were substituted—

“(c) “hazardous waste” has the meaning given in Article 3(2) of [Directive 2008/98/EC](#);”

(4) In regulation 3(2), omit “Community or”.

(5) In regulation 4—

(a) for the heading, substitute “Existing legislation”;

(b) for “EU legislation” substitute “retained EU law”.

(6) In regulation 5—

(a) after “apply to” insert “vehicles approved as”;

(b) for the words from “Article 9(1)(b)” to the end, substitute “regulation 4(1) of the Road Vehicles (Approval) Regulations 2009”.