
STATUTORY INSTRUMENTS

2019 No. 188

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

PART 3

Amendments to secondary legislation

The Major Accident Off-site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009

15.—(1) The Major Accident Off-site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009⁽¹⁾ are amended as follows.

(2) In regulation 2—

(a) after the definition of “the 2016 Regulations” insert—

““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;”;

(b) after the definition of “emergency services” insert—

““EU-derived domestic legislation” has the meaning given in section 2(2) of the European Union (Withdrawal) Act 2018;”;

(c) after the definition of “health authority”

““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—

⁽¹⁾ [S.I. 2009/1927](#), amended by [S.I. 2016/1154](#); there are other amending instruments but none is relevant.

- (i) a county council, or
- (ii) a county borough council.”
- (d) in the definition of “Mining Waste Directive”, at the end insert “as read in accordance with regulation 2A.”.
- (3) After regulation 2 insert—

“Modifications to the Mining Waste Directive

2A.—(1) For the purposes of these Regulations, the Mining 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 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 2B;
- (b) paragraphs 3 and 4 were omitted.

(4) Article 3 is to be read as if—

- (a) in point (1), for “Article 1(a) of [Directive 75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”;
- (b) in point (2), for “Article 1(4) of Council [Directive 91/689/EEC](#) of 12 December 1991 on hazardous waste(2)” there were substituted “Article 3(2) of the Waste Framework Directive”;
- (c) in point (4), for the words from “the national law” to the end there were substituted “national law”;
- (d) in point (17), for “[Directive 67/548/EEC](#)(3) or [Directive 1999/45/EC](#)(4)” there were substituted “Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures”;
- (e) in point (18), for “Article 2(11) of [Directive 96/61/EC](#)” there were substituted “Article 3(10) of the Industrial Emissions Directive”;
- (f) in point (24), for the words from “the national law” to “takes place” there were substituted “national law”;
- (g) in point (26), for the words from “the national law” to “operates” there were substituted “national law”;
- (h) in point (27), for “which a Member State designates” there were substituted “designated”.

(5) Article 5 is to be read as if—

- (a) in paragraph 2(a)(iii) and (b), “at Community level” were omitted;

(2) OJ No L 377, 31.12.1991, p 20, repealed by [Directive 2008/98/EC](#) of the European Parliament and of the Council (OJ No L 312, 22.11.2008, p 3).

(3) OJ No 196, 16.8.1967, p 1 (Special Edition Series I Volume 1967 p 234), repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L 353, 31.12.2008, p 1).

(4) OJ No L 200, 30.7.1999, p 1, repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L 353, 31.12.2008, p 1).

- (b) in paragraph 3(g), for “[Directive 2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy in respect of England and Wales(5)”;
 - (c) in paragraph 5, “national or Community” were omitted.
- (6) Article 6(2) is to be read as if the words from “Without prejudice” to “92/104/EEC,” were omitted.
- (7) Article 7 is to be read as if—
- (a) in paragraph 1, in the second subparagraph, “national or Community” were omitted;
 - (b) in paragraph 2(e), the reference to [Directive 85/337/EEC](#)(6) were a reference to the EU-derived domestic legislation which transposed [Directive 2011/92/EU](#) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment(7) in respect of England and Wales(8);
 - (c) in paragraph 3(b), for “Article 7 of [Directive 75/442/EEC](#)” there were substituted “Article 13 of the Waste Framework Directive”;
 - (d) in paragraph 4, the third indent were omitted;
 - (e) in paragraph 5, “and Community” were omitted.
- (8) Article 10 is to be read as if paragraph 2 were omitted.
- (9) Article 11(2)(a) is to be read as if—
- (a) “Community or” were omitted;
 - (b) for “Directives [76/464/EEC](#)(9), [80/68/EEC](#)(10) and [2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of England and Wales”.
- (10) Article 12 is to be read as if—
- (a) in paragraph 4, “national or Community” were omitted;
 - (b) in paragraph 5, for the words from “Community” to “2000/60/EC” there were substituted “retained EU law, in particular the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of England and Wales”.
- (11) Article 13 is to be read as if—
- (a) in paragraph 1, in the words before point (a)—
 - (i) “Community” were omitted;

(5) See for example the Coastal Protection Act 1949 (c.74), the Salmon and Freshwater Fisheries Act 1975 (c.51), the Food and Environment Protection Act 1985 (c.48), the Environmental Protection Act 1990 (c.43), the Water Industry Act 1991 (c.56), the Water Resources Act 1991 (c.57), the Land Drainage Act 1991 (c.59), the Environment Act 1995 (c.25), the Water Act 2003 (c.37), the Marine and Coastal Access Act 2009 (c.23), and S.I. 1986/1510, 1989/1263, 1994/2941, 2001/2954, 2003/3245, 2004/99, 2007/1518, 2009/995 (W 81), 3104, 2010/639, 740, 1493 (W 136), 2011/735, 2015/483, 668, 810, 2016/614, 2017/407, 2018/151

(6) OJ No L 175, 5.7.1985, p 40, repealed by [Directive 2011/92/EU](#) of the European Parliament and of the Council (OJ No L 26, 28.1.2012, p 1).

(7) OJ No L 26, 28.1.2012, p 1, as amended by [Directive 2014/52/EU](#) of the European Parliament and of the Council (OJ No L 124, 25.4.2014, p 1).

(8) See for example S.I. 2012/698, 2014/557, 615, 2015/398, 446, 660, 810, 1937 (W 291), 2017/280 (W 74), 407, 565 (W 134), 567 (W 136), 571, 572, 580, 582, 583, 585, 588, 592, 593, 1070, 2018/695, 798, 834.

(9) OJ No L 129, 18.5.1976, p 23, repealed by [Directive 2006/11/EC](#) of the European Parliament and of the Council (OJ No L 64, 4.3.2006, p 52).

(10) OJ No L 20, 26.1.1980, p 43, repealed by [Directive 2000/60/EC](#) of the European Parliament and of the Council (OJ No L 327, 22.12.2000, p 1).

- (ii) for “[Directive 2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of England and Wales”;
 - (b) in paragraph 3, for “Directives [76/464/EEC](#), [80/68/EEC](#) or [2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of England and Wales”;
 - (c) in paragraph 4, for “Directives [76/464/EEC](#), [80/68/EEC](#) and [2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of England and Wales”;
 - (d) in paragraph 5, in the second sentence—
 - (i) for “Community” there were substituted “retained EU law”;
 - (ii) for “[Directive 2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of England and Wales”.
- (12) Article 24(4) is to be read as if, in the first paragraph, in the second indent, “Community or” were omitted.
- (13) Annex 3 is to be read as if—
- (a) in the second indent, for “[Directive 91/689/EEC](#)” there were substituted “the Waste Framework Directive”;
 - (b) in the third indent, for “Directives [67/548/EEC](#) or [1999/45/EC](#)” there were substituted “Regulation [\(EC\) 1272/2008](#) of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures”.

Modifications to the Water Framework Directive

2B.—(1) For the purposes of regulation 2A(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 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.

Modifications to the Waste Framework Directive

2C.—(1) In these Regulations, the “Waste Framework Directive” means [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by Council Regulation (EU) 2017/997, and 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 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 substitute “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”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;

(c) paragraph 4 were omitted.

(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 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.—(1) 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, or by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005, 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, 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;
- (d) regulations (if any) made by the Secretary of State under section 62A(1) of the Environmental Protection Act 1990 or by the Welsh Ministers under section 62A(2) of that Act (lists of waste displaying hazardous properties).”;
- (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) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.

Modifications to the Industrial Emissions Directive

2D.—(1) In regulation 2A(4)(e), the “Industrial Emissions Directive means [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions, read in accordance with paragraphs 2 and 3.

(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”;
- (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”;
- (d) in point (37), for “[Directive 2008/98/EC](#) of the European Parliament and of the Council of 19 November 2008 on waste” there were substituted “the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”;
- (e) in point (38), for “[Directive 2008/98/EC](#)” there were substituted “the Waste Framework 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” there were substituted “the Urban Waste Water Treatment (England and Wales) Regulations 1994”;
- (ii) in point (b), in the words before point (i), for “[Directive 91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment (England and Wales) Regulations 1994”;
- (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](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2009/31/EC](#) in respect of England and Wales”;
 - (e) in point 6.11, for “[Directive 91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment (England and Wales) Regulations 1994”.
- (4) In paragraph (3)(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—
 - (i) is waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive, and
 - (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”;
 - (b) for point (c) there were substituted—
 - “(c) ‘hazardous waste’ has the meaning given in Article 3(2) of the Waste Framework Directive;”
- (4) Omit regulation 8(2) and (3).