
STATUTORY INSTRUMENTS

2019 No. 188

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

PART 3

Amendments to secondary legislation

The Waste (England and Wales) Regulations 2011

16.—(1) The Waste (England and Wales) Regulations 2011⁽¹⁾ are amended as follows.

(2) In regulation 3(1)—

(a) after the definition of “controlled waste” insert—

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

(b) after the definition of “hazardous waste” insert—

““Industrial Emissions Directive” means [Directive 2010/75/EC](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention control), read in accordance with regulation 3A;

“Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Council [Directive 2011/97/EU](#), read in accordance with regulation 3B;

“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;

⁽¹⁾ [S.I. 2011/988](#); relevant amending instruments are [S.I. 2016/728](#), [691 \(W.189\)](#), [2018/575](#), [721 \(W.140\)](#).

“Mining Waste Directive” means [Directive 2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with regulation 3C;”;

- (c) in the definition of “Waste Framework Directive”, at the end insert “and as read in accordance with regulation 3D”.
- (3) After regulation 3, insert—

“Modification of the Industrial Emissions Directive

3A. For the purposes of these Regulations, the Industrial Emissions Directive is to be read as if—

- (a) in Article 3—
- (i) in paragraph 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”;
 - (ii) in paragraph 10(b), for “Member State in question” there were substituted “United Kingdom”;
 - (iii) in paragraph 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”;
 - (iv) in paragraph 37, for the words from “[Directive 2008/98/EC](#)” to the end there were substituted “the Waste Framework Directive, read with Articles 5 and 6 of that Directive”;
- (b) in Annex 1—
- (i) in the words before point 1, the second paragraph were omitted;
 - (ii) in point 5.3—
 - (aa) 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”;
 - (bb) 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”;
 - (ii) 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;
 - (iii) in point 6.9, for “[Directive 2009/31/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2009/31/EC](#)”;
 - (iv) in point 6.11, for “[Directive 91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment (England and Wales) Regulations 1994”.

Modification of the Landfill Directive

3B.—(1) For the purposes of these Regulations, the Landfill Directive is to be read in accordance with this regulation.

- (2) Article 2 is to be read as if—

- (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.”.

(3) Article 3(2) is to be read as if “Without prejudice to existing Community legislation,” were omitted.

Modification of the Mining Waste Directive

3C.—(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 body 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 England or Wales.

(3) A reference to “competent authority” or “competent authorities” is to be read as a reference to the appropriate body.

(4) 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](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy were a reference to that Article read in accordance with regulation 3E;
- (b) paragraphs 3 and 4 were omitted.

(5) 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” 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](#) or [Directive 1999/45/EC](#)” 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” to “operates,” there were substituted “national law”;

- (h) point (27) were omitted.
- (6) Article 5 is to be read as if—
 - (a) in paragraphs 2(a)(iii) and (b) “at Community level” were omitted;
 - (b) in paragraph 3, in the first subparagraph, in point (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 in respect of England and Wales”;
 - (c) in paragraph 5, “or Community” were omitted;
 - (d) paragraph 6 were omitted.
- (7) Article 6(2) is to be read as if the words from “Without” to “92/104/EEC,” were omitted.
- (8) Article 7 is to be read as if—
 - (a) in paragraph 1, in the second subparagraph, in the first sentence, “or Community” were omitted;
 - (b) in paragraph 2(e), the reference to [Directive 85/337/EEC](#) 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 in respect of England and Wales;
 - (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, for “and Community” were omitted.
- (9) Article 10 is to be read as if paragraph 2 were omitted.
- (10) Article 11(2)(a) is to be read as if—
 - (a) “Community or” were omitted;
 - (b) 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”.
- (11) 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”.
- (12) Article 13 is to be read as if—
 - (a) in paragraph 1, in the words before point (a)—
 - (i) “Community” were omitted;
 - (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”.
- (13) Article 24(4) is to be read as if, in the second indent “Community or” were omitted.
- (14) Annex 3 is to be read as if—
 - (a) in the second indent, for “under [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 [\(EC\) No 1272/2008](#) of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures”.

Modification of the Waste Framework Directive

3D.—(1) For the purposes of these Regulations, the Waste Framework 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 body 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 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 was 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 3 is to be read as if, in point (2), for “Article 2(11) of [Directive 96/61/EC](#)” there were substituted “Article 3(10) of the Industrial Emissions Directive”.
- (5) Article 5 is to be read as if paragraph 2 were omitted.
- (6) 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.
- (7) 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, 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.
- (8) Article 16 is to be read as if—
 - (a) in paragraph 1, in the first subparagraph—
 - (i) the words from “, in cooperation with” to “advisable,” were omitted;
 - (ii) “, taking into account best available techniques” were omitted;
 - (b) in paragraph 2—
 - (i) for “Community” there were substituted “United Kingdom”;
 - (ii) for the words from “and to enable” to “individually” were omitted.
- (9) Article 23(1) and (3) is to be read as if for “competent authority” there were substituted “appropriate body”.
- (10) Article 35(1) is to be read as if for “competent authorities” there were substituted “the appropriate body”.
- (11) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- (12) Annex 4 is to be read as if—
 - (a) in paragraph 3, “at Community level” were omitted;

- (b) in paragraph 6, for “this Directive and [Directive 96/61/EC](#)” there were substituted “the Environmental Permitting (England and Wales) Regulations 2016(2)”;
- (c) in paragraph 7, for “[Directive 96/61/EC](#)”, there were substituted “the Environmental Permitting (England and Wales) Regulations 2016”;
- (d) in paragraph 10, “EMAS and” were omitted.

Modification of [Directive 2000/60/EC](#) of the European Parliament and of the Council

3E.—(1) For the purposes of regulation 3C(4)(a), Article 11(3)(j) of [Directive 2000/60/EC](#) of the European Parliament and of the Council is to be read as if—

- (a) the reference to “Member States” were a reference to the appropriate authority or appropriate body;
- (b) in the words after the sixth 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.”.

(4) In regulation 18(b), omit the words from “, ignoring” to the end.

(5) In regulation 20—

- (a) in paragraph (1)(a), for “Council [Directive 1999/31/EC](#) on the landfill of waste” substitute “the Landfill Directive”;
- (b) in paragraph (2), in the words before sub-paragraph (a), for the words from “[Directive 2006/21/EC](#)” to “industries” substitute “Mining Waste Directive”;
- (c) in paragraph (3)—
 - (i) in the definition of “landfill”, for “[Directive 1999/31/EC](#)” substitute “the Landfill Directive”;
 - (ii) in the definition of “mining waste facility” for “[Directive 2006/21/EC](#)” substitute “the Mining Waste Directive”.

(6) In Schedule 1—

(a) in Part 2—

- (i) in paragraph 6(b), for “European Union legislation” substitute “retained EU law”;
- (ii) in paragraph 7, for the words “pursuant to Articles 4 and 5 of that Directive”, substitute—

“—

- (a) to prevent the formation of packaging waste in accordance with the Packaging (Essential Requirements) Regulations 2015(3);

(2) [S.I. 2016/1154](#), to which there are amendments not relevant to these Regulations.

(3) [S.I. 2015/1640](#), amended by [S.I. 2018/942](#).

- (b) that consist of national programmes and projects to introduce producer responsibility to minimise the environmental impact of packaging;
 - (c) that achieve a sustained reduction in the consumption of lightweight plastic carrier bags;
 - (d) that actively encourage public information and awareness campaigns concerning the adverse environmental impact of the excessive consumption of lightweight plastic carrier bags;
 - (e) that encourage reuse systems of packaging, which can be reused in an environmentally sound manner.”.
- (b) in Part 3, in paragraph 12(b), omit the words from “, taking into account” to the end.