
STATUTORY INSTRUMENTS

2019 No. 271

**The Waste (Miscellaneous Amendments)
(Northern Ireland) (EU Exit) Regulations 2019**

Part 2

Amendments to secondary legislation

The Hazardous Waste Regulations (Northern Ireland) 2005

3.—(1) The Hazardous Waste Regulations (Northern Ireland) 2005 ^{M1} are amended as follows.

[^{F1}(2) In regulation 2(1)—

(a) after the definition of “the 1997 Order” insert—

““appropriate authority” means the Department of Agriculture, Environment and Rural Affairs”; and

(b) after the definition of “industrial battery or accumulator” insert—

““Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Directive (EU) 2018/850, and read as if—

(a) in Article 2—

(i) in point (a), ““waste”, “hazardous waste”, “non-hazardous waste” were omitted; and

(ii) after point (a), there were inserted—

(“aa) “waste” has the meaning given by regulation 3(1)(b) of the Hazardous Waste Regulations (Northern Ireland) 2005;

(bb) “hazardous waste” and “non-hazardous waste” have the meaning given by regulation 2(1) of the Hazardous Waste Regulations (Northern Ireland) 2005;”; and

(b) in Article 3(2), “Without prejudice to existing Community legislation,” were omitted.”;]

(3) In regulation 3(1)—

(a) in sub-paragraph (a), at the end insert “ , and as read in accordance with regulation 3A ”; and

(b) in sub-paragraph (b)(i), for “as read with Article 5(1)” substitute “ as read with Article 5 and 6 of that Directive ”.

(4) After regulation 3 insert—

“Modification of the Waste Directive

3A.—(1) For the purposes of these Regulations, the Waste Directive ^{M2} is to be read as follows.

(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 or local authority which, immediately before [^{F2}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of Northern Ireland.

(3) In Article 2—

(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^{M3}” there were substituted “Regulation (EC) No 1069/2009^{M4}”; and

(iii) in point (d), for the words from “Directive 2006/21/EC^{M5}” to the end there were substituted “the Mining Waste Directive”;

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

(c) paragraph 4 were omitted.

^{F3}(4)

[^{F4}(5) Article 5 is to be read as if—

(a) in paragraph 1, the words “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 for the purposes of this Article.”;

(c) paragraphs 2 and 3 were omitted.

(6) Article 6 is to read as if—

(a) in paragraph 1, the words “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 for the purposes of this Article.”;

(c) in paragraph 2—

(i) the first sub-paragraph were omitted;

- (ii) in the second subparagraph, for the words “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
- (iii) the third and fourth sub-paragraphs 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 authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for the words “Member States” there were substituted “The appropriate authority”;
 - (bb) “by competent authorities” were omitted.
- (7) Article 7 is to 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 Northern Ireland.”;
 - (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.]
- (8) In Article 19—
 - (a) in paragraph 1, for “Community” there were substituted “ national ”; and
 - (b) in paragraph 2, for “a Member State” there were substituted “ Northern Ireland ”.
- (9) In Annex 3, in entry HP 9, in the second sentence, the words “in the Member States” were omitted.
- (10) In paragraph (2), “local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972 ”.^{M6}

“Meaning of “the Mining Waste Directive” and “the Industrial Emissions Directive”

3B.—(1) In regulation 3A(3)(a)(iii), “the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive Industries ^{M7}, read in accordance with paragraphs (2) and (3) of this regulation.

- (2) In Article 2 of the Mining Waste Directive—
 - (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#)^{M8} were a reference to that Article read in accordance with paragraph (7) of this regulation; and
 - (b) paragraphs 3 and 4 were omitted.

- (3) In Article 3(1) of the Mining Waste Directive, for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Directive, read in accordance with Articles 5 and 6 of that Directive”.
- (4) In regulation 3A(4), “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) ^{M9}, read in accordance with paragraphs 5 and 6 of this regulation.
- (5) In Article 3 of the Industrial Emissions Directive—
- (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 ^{M10}”;
 - (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 paragraph 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 ^{M11}”; and
 - (d) in point (37), for the words from “of the European” to the end there were substituted “, read with Article 5 and 6 of that Directive”.
- (6) In Annex 1—
- (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 ^{M12}” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007 ^{M13}”; and
 - (ii) in point (b), in the words before point (i), for “Directive [91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007”;
 - (c) in point 5.4, for “in Article 2(g) of Council Directive [1999/31/EC](#) of 26 April 1999 on the landfill of waste ^{M14}” there were substituted “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 Northern Ireland ^{M15}”; and
 - (e) in point 6.11, for “Directive [91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007”.
- (7) For the purposes of paragraph (2)(a), Article 11(3)(j) of Directive [2000/60/EC](#) is to be read as if—
- (a) for “Member States” where it occurs there were substituted “the appropriate authority”;
 - (b) in the words after the final indent, “environmental objectives” in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those regulations.
- (8) In paragraph (7)(b)—
- “the WFD Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 ^{M16}.”

[^{F5}(5) In regulation 9—

(a) in paragraph (2), for the words “Article 7(2) of the Waste Directive” substitute “paragraph (3)”; and

(b) after paragraph (2) insert—

“(3) For the purposes of paragraph (2), a specific waste may be determined to be hazardous—

(a) in relation to Wales by the Welsh Ministers under regulation 8 of the Hazardous Waste (Wales) Regulations 2005;

(b) in relation to England by the Secretary of State under regulation 8 of the Hazardous Waste (England and Wales) Regulations 2005;

(c) in relation to Scotland, by the Scottish Ministers, because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex III”.]

(6) In regulation 10—

(a) in paragraph (2), for “Article 7(3) of the Waste Directive” substitute “ paragraph (3) ”; and

(b) after paragraph (2) insert—

“(3) For the purposes of paragraph (2), a specific waste may be determined to be non-hazardous—

(a) in relation to Wales, by the Welsh Ministers under regulation 9 of the Hazardous Waste (Wales) Regulations 2005;

(b) in relation to England, by the Secretary of State under regulation 9 of the Hazardous Waste (England and Wales) Regulations 2005; and

(c) in relation to Scotland, by the Scottish Ministers because the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex 3.”.

Textual Amendments

F1 Reg. 3(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), [4\(3\)\(a\)](#)

F2 Words in Regulations substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), [4\(2\)](#)

F3 Words in reg. 3(4) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), [4\(3\)\(b\)\(i\)](#)

F4 Words in reg. 3(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), [4\(3\)\(b\)\(ii\)](#)

F5 Reg. 3(5) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), [4\(3\)\(c\)](#)

Commencement Information

I1 Reg. 3 in force at 31.12.2020 on IP completion day, see reg. 1 (as amended by [S.R. 2020/284](#), regs. 1(1), [4\(2\)](#))

Marginal Citations

M1 [S.R.2005 No.300](#) as amended by [S.R.2011 No.127](#) and [S.R.2015 No.288](#)

M2 OJ No L312, 22.11.2008, p.3

M3 OJ No L273, 10.10.2002, p.1 repealed by OJ No. L300, 14.11.2009, p.1

M4 OJ No L300, 14.11.2009, p.1, as last amended by OJ No L354, 28.12.2013, p.86

Changes to legislation: *There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019, Section 3. (See end of Document for details)*

- M5** OJ No L102, 11.4.2006, p.15
- M6** [1972 c.9 \(NI\)](#); 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](#)
- M7** OJ No L102, 11.04.2006, p.15, as last amended by Regulation (EC) 596/2009 (OJ No L188, 18.7.2009, p.14)
- M8** OJ No L327, 22.12.2000, p.1, as last amended by Commission Directive 2014/101/EU (OJ No L311, 31.10.2014, p.32).
- M9** OJ No L334, 17.12.2010, p.17, as corrected by a corrigendum (OJ No L158, 19.6.2012, p.25)
- M10** OJ No L13, 17.01.2014, p.1, as corrected by a corrigendum (OJ No. L72, 17.3.2016, p.69)
- M11** OJ No L343, 22.12.2009, p.74, as last amended by Commission Implementing Decision 2011/879/EU (OJ No L343, 23.12.2011, p.105)
- M12** OJ No L135, 30.5.1991, p.40, as last corrected by a corrigendum (OJ No L189, 17.7.2015, p.41)
- M13** [S.R.2007 No.187](#)
- M14** OJ No L182, 16.7.1999, p.1
- M15** See for example [S.I. 2010/1513](#), [S.I. 2010/2221](#), [S.I. 2011/1483](#), [S.I. 2011/2305](#), [S.I. 2012/461](#), [S.I. 2013/2616](#); [S.I. 2017/571](#)
- M16** [S.R.2017 No.81](#)

Changes to legislation:

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019, Section 3.