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STATUTORY INSTRUMENTS

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**2019 No. 271**

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

**Part 2** **N.I.**

Amendments to secondary legislation

**The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007** **N.I.**

4.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007 <sup>M1</sup> are amended as follows.

(2) In regulation 2—

(a) at the appropriate alphabetical place insert—

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

(ii) “ “local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;

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

(c) in the definition of “the Waste Directive <sup>M2</sup>”, at the end insert “ , and as read in accordance with regulation 2B ”.

(3) After regulation 2, insert—

**“Modifications to the Packaging Waste Directive**

**2A.**—(1) For the purposes of these Regulations, the Packaging Waste Directive <sup>M3</sup> 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 or local authority which, immediately before [<sup>F1</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

[<sup>F2</sup>(3) Article 3 is to be read as if—

(a) in paragraph 2, for the words “Article 3 of [Directive 2008/98/EC](#)” there were substituted “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive;

(b) in paragraph 2c, for the words “[Directive 2008/98/EC](#)” there were substituted “the Waste Directive”.]

<sup>F3</sup>(4) .....

**Modifications to 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 or local authority which, immediately before [<sup>F1</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

[<sup>F4</sup>(3) Article 5 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 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.

(4) Article 6 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 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 subparagraphs were omitted;

(d) paragraph 3 were omitted;

(e) in paragraph 4—

- (i) in the first sub-paragraph—

- (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 sub-paragraph—
    - (aa) for the words “Member States” there were substituted “The appropriate authority”;
    - (bb) “by competent authorities” were omitted.”].
- [<sup>F5</sup>(4) In regulation 24—
- (a) in paragraph (3)(b)—
    - (i) in paragraph (i)—
      - (aa) for the words “European Community” substitute “United Kingdom or a Member State”;
      - (bb) for the words from “Article 6(2) of” to the end, substitute “any recovery or recycling operations taking place in each such site take place under conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom”;
    - (ii) in paragraph (ii)—
      - (aa) for the words “European Community” substitute “United Kingdom or a Member State”;
      - (bb) for the words “of Article 6(2) of that Directive” substitute “applicable to the shipment of waste from the United Kingdom”;
  - (b) in paragraph (8) for the words “the European Community” substitute “a Member State”;
  - (c) in paragraph (9)—
    - (i) for the words “European Community” substitute “United Kingdom or a Member State”;
    - (ii) for the words “the requirements of Article 6(2) of the Packaging Waste Directive” substitute “conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom”.]

[<sup>F6</sup>(5) For regulation 26(2) substitute—

“(2) Where the appropriate authority has granted an accreditation to an exporter, and is no longer satisfied that the requirements in regulation 24(3)(b) or (9), which applied to that grant of accreditation, are met in relation to the export of one or more specified recyclable materials for reprocessing at one or more reprocessing sites outside the United Kingdom, the appropriate authority shall cancel the accreditation of an exporter to the extent that it relates to any such export which does not meet those requirements.”.]

#### Textual Amendments

- F1** 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)**
- F2** Words in [reg. 4\(3\)](#) 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(4)(a)(i)**
- F3** Words in [reg. 4\(3\)](#) 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(4)(a)(ii)**

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**Changes to legislation:** *There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019, Section 4. (See end of Document for details)*

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- F4** Words in reg. 4(3) 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(4)(b)(i)**
- F5** Reg. 4(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(4)(c)**
- F6** Reg. 4(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(4)(d)**

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**Commencement Information**

- I1** Reg. 4 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)**)

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**Marginal Citations**

- M1** S.R.2007 No.198, as amended by S.R. 2008 No.371, S.R.2010 No.396 and S.R.2016 No.95
- M2** OJ No L312, 22.11.2008, p.3
- M3** OJ No L365, 31.12.1994, p.10

**Changes to legislation:**

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019, Section 4.