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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**

Amendments to secondary legislation

**The Waste Regulations (Northern Ireland) 2011**

- 5.—(1) The Waste Regulations (Northern Ireland) 2011 <sup>M1</sup> are amended as follows.
- (2) In Part 3, regulation 9(1)—
- (a) at the appropriate alphabetical place insert—  
““appropriate authority” means the Department of Agriculture, Environment and Rural Affairs;”;
  - (b) for the definition “best available techniques” substitute “ has the same meaning as in the Waste Management Licensing Regulations (Northern Ireland) 2003 <sup>M2</sup> ”;
  - (c) after the definition “disposal” insert—  
““EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;”;
  - (d) after the definition of “household 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) <sup>M3</sup>;  
“Landfill Directive” means Council Directive [1999/31/EC](#) on the landfill of waste, as last amended by [<sup>F1</sup>Directive (EU) 2018/850], read in accordance with regulation 9B; and  
“local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;”;
  - (e) after the definition of “material recovery” insert—  
““Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries <sup>M4</sup>, read in accordance with regulation 9C;”;
  - (f) in the definition of “Waste Framework Directive”, at the end insert “ and as read in accordance with regulation 9D ”.
- (3) After regulation 9, insert—

**“Modification of the Industrial Emissions Directive**

- 9A.—**(1) For the purposes of these Regulations, the Industrial Emissions Directive is to be read as follows.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019, Section 5. (See end of Document for details)*

(2) In Article 3—

- (a) 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 <sup>M5</sup> ”;
- (b) in paragraph 10(b), for “Member State in question” there were substituted “ United Kingdom ”;
- (c) 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 <sup>M6</sup> ”; and
- (d) 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 ”.

(3) 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” there were substituted “ the Urban Waste Water Treatment Regulations (Northern Ireland) 2007 <sup>M7</sup> ”; 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 “Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste” 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 ”; and
- (e) in point 6.11, for “Directive 91/271/EEC” there were substituted “ the Urban Waste Water Treatment Regulations (Northern Ireland) 2007 ”.

### **Modification of the Landfill Directive**

**9B.**—(1) For the purposes of these Regulations, the Landfill Directive is to be read as follows.

[<sup>F2</sup>(2) In Article 2—

- (a) in point (a)—
  - (i) “‘waste’, ‘hazardous waste’, ‘non-hazardous waste’” were omitted; and
  - (ii) for the words “Directive 2008/98/EC” there were substituted “the Waste Framework Directive”;
- (b) after point (a) there were inserted—
  - “(aa) ‘waste’ has the meaning given by regulation 1(3) of the Waste Management Licensing Regulations (Northern Ireland) 2003;

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

(3) In Article 3(2), “Without prejudice to existing Community legislation,” were omitted.

### Modification of the Mining Waste Directive

**9C.**—(1) For the purposes of these Regulations, the Mining Waste Directive <sup>M8</sup> is to be read as follows.

(2) A reference to one or more member States in a provision imposing an obligation or providing 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>F3</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

(3) In Article 2—

(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 9E;

(b) paragraphs 3 and 4 were omitted.

(4) In Article 3—

(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](#)<sup>M9</sup> or Directive [1999/45/EC](#)<sup>M10</sup> ” 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 <sup>M11</sup> ”;

(e) in point (18), for “Article 2(11) of Directive [96/61/EC](#)” there were substituted “Article 3(10) of the Industrial Emission 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) in point (27), for “which a Member State designates” there were substituted “designated ”; and

(i) in point (29), for “competent authority” there were substituted “appropriate authority ”.

(5) In Article 5—

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

(b) in paragraph 3—

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- (i) 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 <sup>M12</sup> in respect of Northern Ireland ”; and
  - (ii) in the second subparagraph, for “competent authority” there were substituted “ appropriate authority ”;
  - (c) in paragraph 4, in the second sentence, for “competent authority” there were substituted “ appropriate authority ”;
  - (d) in paragraph 5, “or Community” were omitted;
  - (e) paragraph 6 were omitted.
- (6) In Article 6—
- (a) in paragraph 2, the words from “Without prejudice” to “92/104/EEC,” were omitted;
  - (b) in paragraph 3, in the third subparagraph, for “competent authority” in both places it occurs there were substituted “ appropriate authority ”.
- (7) In Article 7—
- (a) in paragraph 1—
    - (i) in the first subparagraph, in the first sentence, for “competent authority” there were substituted “ appropriate authority ”; and
    - (ii) in the second subparagraph, in the first sentence—
      - (aa) “or Community” were omitted; and
      - (bb) for “competent authority” there were substituted “ appropriate authority ”;
  - (b) in paragraph 2(e), the reference to Directive 85/337/EEC<sup>M13</sup> 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 Northern Ireland;
  - (c) in paragraph 3—
    - (i) in the words before point (a), for “competent authority” there were substituted “ appropriate authority ”; and
    - (ii) in point (b), for “Article 7 of Directive 75/442/EEC” there were substituted “ Article 13 of the Waste Framework Directive ”;
  - (d) in paragraph 4—
    - (i) in the words before the first indent, for “competent authorities” there were substituted “ appropriate authority ”; and
    - (ii) the third indent were omitted; and
  - (e) in paragraph 5, “and Community” were omitted.
- (8) In Article 9 for “competent authorities” there were substituted “ appropriate authority ”.
- (9) In Article 10, paragraph 2 were omitted.
- (10) In Article 11—
- (a) in paragraph 2—
    - (i) in the words before point (a), for “competent authority” there were substituted “ appropriate authority ”; and
    - (ii) in point (a)—

- (aa) the words “Community or” were omitted; and
  - (bb) for “Directives 76/464/EEC<sup>M14</sup>, 80/68/EEC<sup>M15</sup> and 2000/60/EC” there were substituted “ the EU-derived domestic legislation which transposed Directive 2000/60/EC in respect of Northern Ireland ”;
- (b) in paragraph 3—
  - (i) for “competent authority” in each place it occurs there were substituted “ appropriate authority ”; and
  - (ii) in the third subparagraph, for “competent authorities” there were substituted “ appropriate authority ”.
- (11) In Article 12—
  - (a) in paragraphs 2(b), 2(c) and 3, for “competent authority” there were substituted “ appropriate authority ”;
  - (b) in paragraph 4—
    - (i) for “competent authority” in both places it occurs there were substituted “ appropriate authority ”; and
    - (ii) “national or Community” were omitted; and
  - (c) in paragraph 5—
    - (i) for “competent authority” there were substituted “ appropriate authority ”; and
    - (ii) 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 Northern Ireland ”.
- (12) In Article 13—
  - (a) in paragraph 1, in the words before point (a)—
    - (i) for “competent authority” there were substituted “ appropriate authority ”;
    - (ii) the word “Community” were omitted; and
    - (iii) for “Directive 2000/60/EC” there were substituted “ the EU-derived domestic legislation which transposed Directive 2000/60/EC in respect of Northern Ireland ”;
  - (b) in paragraph 3—
    - (i) 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 Northern Ireland ”; and
    - (ii) for “competent authority” there were substituted “ appropriate authority ”;
  - (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 Northern Ireland ”;
  - (d) in paragraph 5, in the second sentence—
    - (i) for “competent authority” there were substituted “ appropriate authority ”;
    - (ii) for “Community” there were substituted “ retained EU law ”; and
    - (iii) for “Directive 2000/60/EC” there were substituted “ the EU-derived domestic legislation which transposed Directive 2000/60/EC in respect of Northern Ireland ”; and
  - (e) in paragraph 6, in the second subparagraph, for “competent authority” there were substituted “ appropriate authority ”.

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(13) In Article 14(1) and (4), for “competent authority” there were substituted “ appropriate authority ”.

(14) In Article 17, for “competent authority” in each place it occurs (including the heading), there were substituted “ appropriate authority ”.

(15) In Article 24(4), in the second indent—

- (a) “Community or” were omitted; and
- (b) for “competent authority” there were substituted “ appropriate authority ”.

(16) In Annex 3—

- (a) in the second indent, for “under Directive [91/689/EEC](#)<sup>M16</sup>” there were substituted “ the Waste Framework Directive ”; and
- (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

**9D.**—(1) For the purposes of these Regulations, the Waste Framework Directive is to be read as follows.

(2) A reference to one or more member States in a provision imposing an obligation or providing 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>F3</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in 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](#)” there were substituted “ Regulation [\(EC\) No 1069/2009](#)<sup>M17</sup> ”; and
  - (iii) in point (d), for “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; and
- (c) paragraph 4 were omitted.

(4) In Article 3, in point (20), for “Article 2(11) of Directive [96/61/EC](#)” there were substituted “ Article 3(10) of the Industrial Emissions Directive ”.

[<sup>F4</sup>(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 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 subparagraph—
        - (aa) for the words “Member States” there were substituted “The appropriate authority”;
        - (bb) “by competent authorities” were omitted.
- (7) Article 7 is to be 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.]
- [<sup>F5</sup>(8) In Article 16—



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- (a) in paragraph 1, in the first sub-paragraph—
  - (i) the words from “, in cooperation with” to “advisable,” were omitted; and
  - (ii) “, taking into account best available techniques” were omitted; and
- (b) in paragraph 2—
  - (i) for “Community as a whole to become” there were substituted “United Kingdom as a whole to move towards the aim of becoming”; and
  - (ii) the words “and to enable Member States to move towards that aim individually,” were omitted.]

(9) In Article 23(1) and (3), for “competent authority” there were substituted “ appropriate authority ”.

[<sup>F6</sup>(10) Article 35(1) is to be read as if, for the second paragraph, there were substituted—  
“They shall make that data available to the appropriate authority through any electronic registry established for the reporting of such data or, if no such registry is in operation, in such form and manner the appropriate authority may specify.”;]

(11) In Annex 3, in entry HP9, in the second sentence, “in the Member States” were omitted.

(12) In Annex 4—

- (a) in paragraph 3, “at Community level” were omitted;
- (b) in paragraph 6, for “this Directive and Directive 96/61/EC” there were substituted “ Annex 3, Part 3 of the Hazardous Waste Regulations (Northern Ireland) 2005 <sup>M18</sup> ”;
- (c) in paragraph 7, for “96/61/EC”, there were substituted “ the Industrial Emissions Directive ”; and
- (d) in paragraph 10, the words “EMAS and” were omitted.

(13) In paragraph [<sup>F7</sup>(12)(c)], the reference to the Industrial Emissions Directive is to be construed as a reference to the EU-derived domestic legislation which transposed that Directive in respect of Northern Ireland.

[<sup>F8</sup>(14) Annex 4a is to be read as if, in point 6, “including through Union funds” were omitted.]

### **Modification of Directive 2000/60/EC of the European Parliament and of the Council**

**9E.** For the purposes of regulation 9C(3)(a), Article 11(3)(j) of Directive 2000/60/EC of the European Parliament and of the Council is to be read as if—

(1) the reference to “Member States” were a reference to the appropriate authority or local authority which, immediately before [<sup>F3</sup>IP completion day], was able to exercise the discretion described in the Article in respect of Northern Ireland; and

(2) in the words after the sixth indent, “environmental objectives” means—  
“in relation to a river basin district in Northern Ireland, the objectives set under regulation 12, in accordance with regulation 13, of the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017 <sup>M19</sup>.”.

#### **Textual Amendments**

- F1** Words in reg. 5(2)(d) 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(5)(a)
- F2** Words in reg. 5(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(5)(b)(i)



- F3** 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)**
- F4** Words in reg. 5(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(5)(b)(ii)**
- F5** Words in reg. 5(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Protection \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1443\)](#), regs. 1(2), **3**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Words in reg. 5(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(5)(b)(iii)**
- F7** Word in reg. 5(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(5)(b)(iv)**
- F8** Words in reg. 5(3) inserted (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(5)(b)(v)**

### Commencement Information

- I1** Reg. 5 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.2011 No.127](#)
- M2** [S.R.2003 No.493](#)
- M3** OJ No L334, 17.12.2010, p.17, as corrected by a corrigendum (OJ No L158, 19.6.2012, p.25)
- M4** OJ No L102, 11.4.2006, p.15
- M5** OJ No L13, 17.1.2014, p.1, as corrected by a corrigendum (OJ No L72, 17.3.2016, p.69)
- M6** OJ No L343, 22.12.2009, p.74
- M7** [S.R.2007 No.187](#)
- M8** OJ No L102, 11.04.2006, p.15
- M9** OJ No L196, 16.8.1967, p.1 (Special Edition Series I Volume 1967 p.211), repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L353, 31.12.2008, p.1)
- M10** OJ No L200, 30.7.1999, p.1, repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L353, 31.12.2008, p.1)
- M11** OJ No L353, 31.12.2008, p.1
- M12** 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)
- M13** OJ No L175, 5.7.1985, p.40, repealed by Directive 2011/92/EU of the European Parliament and of the Council (OJ No L26, 28.1.2012, p.1)
- M14** OJ No L129, 18.5.1976, p.23, repealed by Directive 2006/11/EC of the European Parliament and of the Council (OJ No L64, 4.3.2006, p.52)
- M15** OJ No L20, 26.1.1980, p.43, repealed by Directive 2000/60/EC of the European Parliament and of the Council (OJ No L327, 22.12.2000, p.1)
- M16** OJ No L377, 31.12.1991, p.20, repealed by Directive 2008/98/EC of the European Parliament and of the Council (OJ No L312, 22.11.2008, p.3)
- M17** OJ No L300, 14.11.2009, p.1, as last amended by OJ No L354, 28.12.2013, p.86
- M18** [S.R.2005 No.300](#); Part 3 has been amended by [S.R.2006 No.280](#)
- M19** [S.R.2017 No.81](#)

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

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