
STATUTORY INSTRUMENTS

2019 No. 473

The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019

PART 3

Other provision in relation to the environment

Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast) *Power to make decisions on BAT conclusions for the purposes of Directive 2010/75/EU*

9.—(1) An appropriate authority may, by regulations, make provision specifying BAT conclusions for the purposes of provisions that have transposed Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast)^{MI} into domestic law.

(2) Regulations made by the Secretary of State or the Welsh Ministers under this Part are to be made by statutory instrument.

(3) For regulations made by the Scottish Ministers under this Part, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010.

(4) Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Part is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(5) A statutory instrument containing regulations made by the Secretary of State under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) A statutory instrument containing regulations made by the Welsh Ministers under this Part is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(7) Regulations made by the Scottish Ministers under this Part are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

(8) Regulations made by the Department of Agriculture, Environment and Rural Affairs under this Part are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.

(9) Such regulations may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
- (b) make different provision for different purposes.

(10) Before making any regulations under this Part, an appropriate authority must consult—

- (a) such bodies or persons as appear to the appropriate authority to be representative of the interests likely to be substantially affected by the regulations;
- (b) such other bodies or persons as the appropriate authority may consider appropriate.

- (11) In this Part, “appropriate authority” means—
- (a) for regulations applying in relation to England, the Secretary of State;
 - (b) for regulations applying in relation to Wales, the Welsh Ministers;
 - (c) for regulations applying in relation to Scotland, the Scottish Ministers;
 - (d) for regulations applying in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.
- (12) But the appropriate authority is the Secretary of State if consent is given by—
- (a) for regulations applying in relation to Wales, the Welsh Ministers;
 - (b) for regulations applying in relation to Scotland, the Scottish Ministers;
 - (c) for regulations applying in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.
- (13) In this Part, “BAT conclusions” means a document laying down the conclusions on best available techniques, their description, information to assess their applicability, the emission levels associated with the best available techniques, associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures.
- (14) In relation to paragraph (13) and this paragraph—
- “available techniques” means those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the United Kingdom, as long as they are reasonably accessible;
- “best” means most effective in achieving a high general level of protection of the environment as a whole;
- “best available techniques” means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment as a whole.
- “emission levels associated with the best available techniques” means the range of emission levels obtained under normal operating conditions using a best available technique or a combination of best available techniques, as described in BAT conclusions, expressed as an average over a given period of time, under specified reference conditions;
- “emission limit value” means the mass, expressed in terms of certain specific parameters, concentration and/or level of an emission, which may not be exceeded during one or more periods of time;
- “techniques” includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.

Commencement Information

II Reg. 9 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1

Marginal Citations

M1 OJ No L 334, 17.12.2010, p 17, as corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

Changes to legislation:

There are currently no known outstanding effects for the The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019, PART 3.