
STATUTORY INSTRUMENTS

2019 No. 620

The Waste (Miscellaneous Amendments)
(EU Exit) Regulations 2019

PART 4

Amendment and revocation of retained direct EU legislation

CHAPTER 1

Regulations

Commission Regulation (EU) No 1179/2012 establishing criteria determining when glass cullet ceases to be waste under Directive 2008/98/EC of the European Parliament and of the Council

11.—(1) [Commission Regulation \(EU\) No 1179/2012](#) establishing criteria determining when glass cullet ceases to be waste under [Directive 2008/98/EC](#) of the European Parliament and of the Council is amended as follows.

(2) In Article 2, in the second paragraph—

(a) after point (1) insert—

“(1A) “competent authority” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;
- (c) in relation to Scotland, the Scottish Environment Protection Agency;
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;”;

(b) in point (4)—

- (i) for “Union” in the first place it occurs substitute “United Kingdom”;
- (ii) for “customs territory of the Union” substitute “United Kingdom”.

(3) After Article 2 insert—

“Article 2A

Modification of [Directive 2008/98/EC](#) of the European Parliament and of the Council

1. For the purposes of this Regulation, a reference to [Directive 2008/98/EC](#) is a reference to [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by Council Regulation (EU) 2017/997, and read in accordance with this Article.

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 competent authority, appropriate authority 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.

3. Article 5 is to be read as if paragraph 2 were omitted.
4. 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.
5. 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, or by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland under regulation 9(1) of the Hazardous Waste Regulations (Northern Ireland) 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, or by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland under regulation 10(1) of the Hazardous Waste Regulations (Northern Ireland) 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 regulation 8(2) or 9(2) of the Hazardous Waste (England and Wales) Regulations 2005, regulation 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005 or regulation 9(2) or 10(2) of the Hazardous Waste Regulations (Northern Ireland) 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);
 - (e) a determination by the Scottish Ministers that a specific batch or type of waste—
 - (i) is to be treated as hazardous waste because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex 3;

- (ii) is to be treated as non-hazardous waste because the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex 3.”;
 - (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.
6. Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
7. In paragraph 2—
- (a) “appropriate authority” means—
 - (i) in relation to England, the Secretary of State;
 - (ii) in relation to Wales, the Welsh Ministers;
 - (iii) in relation to Scotland, the Scottish Ministers;
 - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
 - (b) “local authority” means—
 - (i) in England outside Greater London—
 - a district council,
 - a county council, or
 - the Council of the Isles of Scilly;
 - (ii) in Greater London—
 - the council of a London borough,
 - the Common Council of the City of London,
 - the Sub-Treasurer of the Inner Temple, or
 - the Under-Treasurer of the Middle Temple;
 - (iii) in Wales—
 - a county council, or
 - a county borough council;
 - (iv) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
 - (v) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972.”.
- (4) In Article 5—
- (a) in paragraph 4—
 - (i) in the first sentence, omit the words from “, or an environmental” to “with that Regulation” in the second place it occurs;
 - (ii) in the third sentence, for the words from “NACE codes” to the end substitute “UK Standard Industrial Classification (SIC) by Economic Activity, issued under

section 9 of the Statistics and Registration Service Act 2007⁽¹⁾, as updated from time to time⁽²⁾;

(iii) in the first and second indents, for “* NACE” substitute “UKSICEA”;

(b) in paragraph 5—

(i) in the second subparagraph, omit the words from “; or by” to the end;

(ii) in the third subparagraph, omit the words from “or Regulation (EC)” to the end;

(c) after paragraph 6, insert—

“7. In paragraph 5, “independent external verifier” means—

(a) a conformity assessment body as defined in Regulation (EC) No 765/2008;

(b) a conformity assessment body as defined in Regulation (EC) No 765/2008 as it has effect in EU law which is accredited by an accreditation body successfully peer evaluated for this activity by the body recognised in Article 14 of that Regulation as it has effect in EU law;

(c) any other environmental verifier as defined in Article 2(20)(b) of Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) as it has effect in EU law, which is accredited or licensed by an accreditation or licensing body which is subject to peer evaluation according to Article 31 of that Regulation as it has effect in EU law.”.

(5) After Article 5 insert—

“Article 5A

EU exit: transitional provision

1. Paragraph 3 applies to verification obtained in compliance with Article 5 as it had effect immediately before exit day.

2. Paragraph 3 also applies where—

(a) before exit day, a producer or supplier of an importer has submitted a management system to a conformity assessment body or an environmental verifier for verification in compliance with Article 5 as it had effect immediately before exit day, and

(b) after exit day, the producer or supplier obtains that verification.

3. Where this paragraph applies, the verification obtained is deemed to be verification for the purposes of Article 5.”.

(6) Omit Article 6.

(7) After Article 6, omit the words from “This Regulation shall” to “Member States”.

(8) In Annex 2, in the fifth entry in the table, in the second column, omit the words from “or by an environmental verifier” to the end.

⁽¹⁾ 2007 c. 18.

⁽²⁾ A copy of the UK Standard Industrial Classification by Economic activity can be found at: <https://www.ons.gov.uk/methodology/classificationsandstandards/ukstandardindustrialclassificationofeconomicactivities>.