
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 715/2013 establishing criteria determining when copper scrap ceases to be waste under Directive 2008/98/EC of the European Parliament and of the Council

12.—(1) Commission Regulation (EU) No 715/2013 establishing criteria determining when copper scrap 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—

- (a) the existing text becomes paragraph 1;
- (b) in that paragraph, in the second subparagraph—

- (i) after point (1) insert—

- “(1A) “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;

- (1B) “competent authority” means—

- (i) in relation to England, the Environment Agency;
 - (ii) in relation to Wales, the Natural Resources Body for Wales;
 - (iii) in relation to Scotland, the Scottish Environment Protection Agency;
 - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

- (1C) “EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;

- (1D) “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.”;
- (ii) in point (4)—
 - (aa) for “Union” in the first place it occurs substitute “ United Kingdom ”;
 - (bb) 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 [F¹Directive (EU) 2018/851], 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 [F²IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion.

3. Article 2 is to be read as if—

- (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 ”;
 - (iii) in point (d), as it extends to England and Wales, for the words from “Directive 2006/21/EC” to the end there were substituted “ the Mining Waste Directive ”;
 - (iv) for point (d), as it extends to Scotland, there were substituted—

- “(d) extractive waste, which has the same meaning as in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010.”;
 - (v) for point (d), as it extends to Northern Ireland, there were substituted—
 - “(d) extractive waste, which has the same meaning as in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.”;
 - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
 - (c) paragraph 4 were omitted.
- 4. Article 3(20) is to be read as if for “Article 2(11) of Directive 96/61/EC” there were substituted “ Article 3(10) of the Industrial Emissions Directive ”.

[^{F3}5. Article 5 is to be read as if—

- (a) in paragraph 1, “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 or the competent 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, “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 or the competent authority for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first subparagraph were omitted;
 - (ii) in the second subparagraph, for “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 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 competent authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for “Member States” there were substituted “The competent 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 England, Wales, Scotland or Northern Ireland (as the case may be).”;
- (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. Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.

Article 2B

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

1. In Article 2A(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, read in accordance with paragraphs 2 and 3.

2. Article 2 is to be read as if—

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

3. Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “ Article 3(1) of Directive [2008/98/EC](#), as read with Articles 5 and 6 of that Directive ”.

4. In Article 2A(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), read in accordance with paragraphs 5 and 6.

5. Article 3 is to be read as if—

- (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 ”;
- (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 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 ”;
- (d) in point (37), for the words from “of the European” to the end there were substituted “ , read with Articles 5 and 6 of that Directive ”.

6. Annex 1 is to be read as if—

- (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 (England and Wales) Regulations 1994 ”;
 - (ii) in point (b), in the words before point (i), for “Directive 91/271/EEC” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;
- (c) in point 5.4, the reference to Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste were a reference to 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 England and Wales ”;
- (e) in point 6.11, for “Directive 91/271/EEC” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”.

7. For the purposes of paragraph 2(a), Article 11(3)(j) of Directive 2000/60/EC is to be read as if—

- (a) the reference to “Member States” were a reference to the competent authority or appropriate authority;
- (b) in the words after the final indent, “environmental objectives”—
 - (i) in relation to the Northumbria River Basin District, means the environmental objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;

- (ii) in relation to the Solway Tweed River Basin District, has the same meaning as in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
- (iii) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations.

[^{F48}8. In paragraph 6(c), “the 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, in Article 2—

- (a) in point (a) “waste,” were omitted; and
- (b) after point (a) there were inserted—
 - “(aa) “waste” means anything that—
 - (i) is waste within the meaning of Article 3(1) of Directive 2008/98/EC, as read with Articles 5 and 6 of that Directive, and
 - (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”].

9. In paragraph 7(b), “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.”.

- (4) In Article 5—
 - (a) in paragraph 5—
 - (i) in the first subparagraph, in the first sentence omit the words from “or an environmental” to “with that Regulation,”;
 - (ii) in the second subparagraph—
 - (aa) in the words before point (a), 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, as updated from time to time ”;
 - (bb) in points (a) and (b), for “* NACE” substitute “ UKSICEA ”;
 - (b) in paragraph 6—
 - (i) in the second subparagraph, omit point (b);
 - (ii) in the third subparagraph omit the words from “or Regulation (EC) No 1221/2009” to the end.
- (5) After Article 5 insert—

“Article 6A

EU exit: transitional provision

1. Paragraph 3 applies to verification obtained in compliance with Article 5 as it had effect immediately before [^{F5}IP completion day].

2. Paragraph 3 also applies where—

- (a) before [^{F5}IP completion day], a producer or supplier 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 [^{F5}IP completion day], and
- (b) after [^{F5}IP completion 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.

4. In paragraph 2, “supplier” means the supplier of a producer or of an importer.”.

(6) Omit Article 6.

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

(8) In Annex 1, in the first column of the table—

(a) in Section 1.5, omit the second sentence;

(b) in Section 3.3, in the first indent, for the words from “Article 6” in the first place it occurs to the end substitute “ the EU-derived domestic legislation that transposed Article 6 of Directive 2000/53/EC of the European Parliament and of the Council on end-of life vehicles, as last amended by [^{F6}Commission Delegated Directive (EU) 2020/363], and Article 8 of Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), [^{F7}as last amended by Directive (EU) 2018/849] ”.

(9) In Annex 2, in the sixth entry in the table, in the second column, for “customs territory of the Union” substitute “ United Kingdom ”.

Textual Amendments

- F1** Words in reg. 12(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(8)(a)(i)**
- F2** Words in reg. 12(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(8)(a)(ii)**
- F3** Words in reg. 12(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(8)(a)(iii)**
- F4** Words in reg. 12(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(8)(b)**
- F5** Words in reg. 12(5) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(8)(c)**
- F6** Words in reg. 12(8)(b) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(8)(d)(i)**
- F7** Words in reg. 12(8)(b) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(8)(d)(ii)**

Changes to legislation: There are currently no known outstanding effects for the The Waste
(Miscellaneous Amendments) (EU Exit) Regulations 2019, Section 12. (See end of Document for details)

Commencement Information

- II** Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)(b)

Changes to legislation:

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019, Section 12.