
STATUTORY INSTRUMENTS

2019 No. 620

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

PART 4

Amendment and revocation of retained direct EU legislation

CHAPTER 2

Decisions

Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills

15.—(1) Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills is amended as follows.

(2) Before Article 1 insert—

“Article 1

1. In this Decision—

(a) “appropriate agency” means—

(i) in relation to England, the Environment Agency;

(ii) in relation to Wales, the Natural Resources Body for Wales;

(iii) in relation to Northern Ireland—

— for the purposes of this Article, the Department of Agriculture, Environment and Rural Affairs;

— otherwise, the Department for Infrastructure;

(b) “appropriate authority” means—

(i) in relation to England, the Secretary of State;

(ii) in relation to Wales, the Welsh Ministers;

(iii) in relation to Northern Ireland—

— for the purposes of this Article, the Department of Agriculture, Environment and Rural Affairs;

— otherwise, the Department for Infrastructure;

(c) “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 Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972.

2. In this Decision, “the Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Council [Directive 2011/97/EU](#), and read in accordance with paragraphs 3 to 12.

3. 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, appropriate agency 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 in respect of England, Wales or Northern Ireland.

4. Article 1 is to be read as if—

- (a) in paragraph 1, the words from “With a view” to “thereof,” were omitted;
- (b) in paragraph 2, for “[Directive 96/61/EC](#)”, in both places it occurs, there were substituted “[Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions”.

5. Article 2 is to be read as if—

- (a) for point (a) there were substituted—
 - “(a) “waste” means anything that—
 - (i) is waste within the meaning of Article 3(1) of the Waste Framework Directive, 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;”;
 - (b) in point (c), for the words from “Article 1(4)” to the end there were substituted “Article 3(2) of the Waste Framework Directive”;
 - (c) for point (l) there were substituted—
 - “(l) “operator”—
 - (i) in relation to England and Wales, has the meaning given in regulation 7 of the Environmental Permitting (England and Wales) Regulations 2016(1);
 - (ii) in relation to Northern Ireland, has the meaning given in regulation 2(1) of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(2);”.

(1) [S.I. 2016/1154](#), amended by [S.I.S.I. 2017/1012](#), [2018/110](#), [428](#), [575](#), [721](#) (W.140).

(2) [S.R. 2013 No.160](#), to which there are amendments not relevant to these Regulations.

6. Article 5(3) is to be read as if—
 - (a) in point (b), for “Annex III to [Directive 91/689/EEC](#)(3)” there were substituted “Annex 3 to the Waste Framework Directive”;
 - (b) in point (c), for the words from “(property H9” to the end there were substituted “in Annex 3 to the Waste Framework Directive”;
 - (c) in point (d)—
 - (i) for “two years from the date laid down in Article 18(1)” there were substituted “16th July 2001”;
 - (ii) for “five years from the date laid down in Article 18(1)” there were substituted “from 16th July 2004”.
7. Article 9 is to be read as if, in the words before point (a), the words from “Specifying” to “[Directive 96/61/EC](#),” were omitted.
8. Article 11(1)(b) is to be read as if—
 - (a) in the first indent—
 - (i) for “Article 5(3) of [Directive 91/689/EEC](#)” there were substituted “Article 19(2) of the Waste Framework Directive”;
 - (ii) for the words from “[Council Regulation \(EEC\) No 259/93](#)” to the end there were substituted “[Regulation \(EC\) 1013/2006](#) of the European Parliament and of the Council on shipments of waste”;
 - (b) in the third indent, in the second sentence, “and Community” was omitted.
9. Article 13(d) is to be read as if the words from “and without prejudice” to “waste holder” were omitted.
10. Annex 1 is to be read as if—
 - (a) in point 3.4, for “[Directive 80/68/EEC](#)(4)”, there were substituted “[Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(5)”;
 - (b) point 3.5 were omitted.
11. Annex 2 is to be read as if—
 - (a) point 1 were omitted;
 - (b) in point 2, in the second paragraph, the third sentence were omitted;
 - (c) in point 4, in the fourth and fifth paragraphs, for “covered by [Directive 91/689/EEC](#)” there were substituted “classified as hazardous waste”;
 - (d) in point 5, the second and third sentences were omitted.
12. Annex 3 is to be read as if—
 - (a) in point 2—
 - (i) the first paragraph were omitted;
 - (ii) in the table, for “14.00h CET” in both places it occurs there were substituted “1 p.m.”;

(3) OJ No L 377, 31.12.1991, p 20, repealed by [Directive 2008/98/EC](#) of the European Parliament and of the Council (OJ No L 312, 22.11.2008, p 3).

(4) OJ No L 20, 26.1.1980, p 43, repealed by [Directive 2000/60/EC](#) of the European Parliament and of the Council (OJ No L 327, 22.12.2000, p 1).

(5) OJ No L 327, 22.12.2000, p 1, as last amended by Commission [Directive 2014/101/EU](#) (OJ No L 311, 31.10.2014, p 32).

- (b) in point 3, in the fourth paragraph, in the table, in table footnote (7), the words from “, and will report” to the end were omitted.

Article A2

1. In this Decision, “the Waste Framework Directive” means [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 paragraphs 2 to 8.

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, appropriate agency 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 in respect of England, Wales or Northern Ireland.

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 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 5 is to be read as if paragraph 2 were omitted.

5. 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.

6. 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).”;

(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.

7. Article 19(2) is to be read as if, for “a Member State” there was substituted “the United Kingdom”.

8. Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.

Article A3

1. In Article A2(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. 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 agency;
- (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.

5. In paragraph 4(b), “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.”.

(3) In Article 1—

- (a) the existing text becomes paragraph 1;
- (b) after that paragraph insert—

“2. This Decision does not extend to Scotland.”.

(4) In Articles 2 and 3 for “Member States” substitute “The appropriate agency”.

(5) In Article 5—

- (a) in the first sentence, omit “Without prejudice to existing Community legislation,”;
- (b) omit the second sentence.

(6) Omit Articles 6 to 8.

(7) In the Annex—

- (a) in the introduction, omit the second and seventh paragraphs;
- (b) in section 1—
 - (i) in section 1.1.1, in the final paragraph, for “Member State” substitute “appropriate authority”;
 - (ii) in section 1.1.2—
 - (aa) in point (f), for “the European waste list (Commission [Decision 2001/118/EC](#))” substitute “Commission [Decision 2000/532/EC](#)”;
 - (bb) in point (g), for the words from “Annex III” to the end, substitute “Annex 3 to the Waste Framework Directive”;
 - (iii) in section 1.2, in the seventh paragraph, for “Member State” substitute “appropriate authority”;
- (c) in section 1.3—
 - (i) in the fourth paragraph, for “Member States” substitute “The appropriate authority”;
 - (ii) in the fifth paragraph, in the second sentence—
 - (aa) for “Member State” substitute “appropriate authority”;
 - (bb) for “Article 11(b)” substitute “Article 11(1)(b)”;
- (d) in section 2—

- (i) in the words before section 2.1—
 - (aa) for the third paragraph substitute—

“The Secretary of State must publish information on the annual number of permits issued in relation to England under this provision. The Welsh Ministers must publish information on the annual number of permits issued in relation to Wales under this provision. The first information under the first and second sentences must be published before 1st April 2022. Subsequent information must be published at intervals not exceeding 3 years.”;
 - (bb) in the fourth paragraph, for “Member States” substitute “The appropriate authority”;
- (ii) in section 2.1.2.1, for “Member States” substitute “The appropriate authority”;
- (iii) in section 2.1.2.2, in the table, in the fifth entry (PAHs), for “Member States” substitute “The appropriate authority”;
- (iv) in section 2.2, for “Member States” substitute “The appropriate authority”;
- (v) in section 2.2.1, in the first paragraph, for “the European waste list” substitute “Commission [Decision 2000/532/EC](#)”;
- (vi) in section 2.2.2 and 2.3.1—
 - (aa) in the first paragraph, in the second sentence, for “Member States” substitute “The appropriate authority”;
 - (bb) in the sentence after the table, for “Member States” substitute “The appropriate authority”;
- (vii) in section 2.3.2, in the second and third paragraphs, for “Member States” substitute “The appropriate authority”;
- (viii) in section 2.4.1—
 - (aa) in the first paragraph, in the third sentence, for “Member States” substitute “The appropriate authority”;
 - (bb) in the sentence after the table, for “Member States” substitute “The appropriate authority”;
- (e) in section 3—
 - (i) in the second paragraph, for “Member States” substitute “The appropriate authority”;
 - (ii) in the third paragraph, for “Member States” substitute “the appropriate authority”.
- (8) In Appendix A—
 - (a) in section 1.1, omit the second paragraph;
 - (b) in section 2.2, in the second paragraph, for “Member States” substitute “The appropriate agency”;
 - (c) in section 4.1, omit the fourth paragraph.
- (9) Omit Appendix B.