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STATUTORY INSTRUMENTS

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**2020 No. 1352**

**The Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) (No. 2) Regulations 2020**

**Amendment of the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018**

2.—(1) The Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018<sup>(1)</sup> are amended as follows.

(2) In regulation 20(2), in the new Article 2 to be inserted by that paragraph—

(a) in paragraph 1, after the words “the United Kingdom” insert “but not in so far as they relate to an activity that comes within the scope of a NI Protocol obligation”;

(b) in paragraph 2, after the definition of “best available techniques,” insert—

““NI Protocol obligation” means any obligation created or arising under Article 9 of, and Annex 4 to, the Northern Ireland Protocol as regards [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions, whether or not it is an obligation to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

“Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.

(3) In regulation 22—

(a) for paragraph (3)(b), substitute—

“(b) in the third paragraph, from the words from “is addressed to” to the end substitute “does not apply to any activity that comes within the scope of a NI Protocol obligation.”;

(b) in paragraph (4), in the new Article 3 to be inserted by that paragraph, after the definition of “competent authority”, insert—

““NI Protocol obligation” means any obligation created or arising under Article 9 of, and Annex 4 to, the Northern Ireland Protocol as regards [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions, whether or not it is an obligation to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

“Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.

(4) After regulation 24, insert—

**“Decision (EU) 2019/2010 establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for waste incineration**

**24A.**—(1) Decision (EU) 2019/2010 establishing the best available techniques (BAT) conclusions, under [Directive 2010/75/EU](#)(2) of the European Parliament and of the Council, for waste incineration(3) is amended as follows.

(2) For Article 2 substitute—

“Article 2

Application and Interpretation

1. The BAT conclusions referred to in Article 1 apply in the United Kingdom but not in so far as they relate to an activity that comes within the scope of a NI Protocol obligation.

2. In this Decision—

“BAT conclusions” has the meaning given in Article 2 of [Decision 2012/134/EU](#) establishing the best available techniques (BAT) conclusions under [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions for the manufacture of glass(4) (“[Decision 2012/134/EU](#)”);

“best available techniques” has the meaning given in Article 2 of [Decision 2012/134/EU](#);

“NI Protocol obligation” means any obligation created or arising under Article 9 of, and Annex 4 to, the Northern Ireland Protocol as regards [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions, whether or not it is an obligation to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

“Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

3. For the purpose of this Decision a reference to a provision of a Directive is to be read as a reference to that provision in so far as it has been transposed into the law of any part of the United Kingdom.”.”.

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(2) EUDN 2010/75.

(3) EUDN 2019/2010.

(4) EUDN 2012/134, to which there are prospective amendments made by [S.I. 2018/1407](#).