

WELSH STATUTORY INSTRUMENTS

**2005 No. 1806**

**The Hazardous Waste (Wales) Regulations 2005**

**PART 2** **E+W**

**HAZARDOUS AND NON-HAZARDOUS WASTE**

**Hazardous waste** **E+W**

6. Subject to regulation 9, a waste is a hazardous waste if it is—
- (a) listed as a hazardous waste in the List of Wastes <sup>M1</sup>;
  - <sup>F1</sup>(b) . . . . .
  - (c) a specific batch of waste which is determined pursuant to regulation 8 to be a hazardous waste,

and the term “hazardous” and cognate expressions are to be construed accordingly.

**Textual Amendments**

- F1** Reg. 6(b) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**

**Marginal Citations**

- M1** Wastes listed as hazardous in the List of Wastes are considered hazardous pursuant to the first indent of Article 1.4 of the Hazardous Waste Directive.

**Non-hazardous waste** **E+W**

7. The following are non-hazardous waste—
- (a) a waste which is not a hazardous waste pursuant to regulation 6; or
  - (b) a specific batch of waste which is determined pursuant to regulation 9 to be a non-hazardous waste,

and the expression “non-hazardous” and cognate expressions are to be construed accordingly.

**Specific waste to be treated as hazardous** **E+W**

- 8.—(1) The Assembly, having regard to [<sup>F2</sup>Annex III] and the limit values of concentration in the List of Wastes, may determine, in exceptional cases, that a specific batch of waste in Wales which—
- (a) is not listed in the List of Wastes;
  - <sup>F3</sup>(b) . . . . .
  - (c) though of a type listed as a hazardous waste in the List of Wastes, is treated as non-hazardous pursuant to regulation 9(2),

displays one or more of the hazardous properties, and accordingly that it is to be treated for all purposes as hazardous waste.

(2) A specific batch of waste produced in England, Scotland or Northern Ireland and not listed as hazardous in the List of Wastes and which is for the time being determined <sup>F4</sup>... to be hazardous pursuant to [<sup>F5</sup>paragraph (3)], is to be treated for all purposes as hazardous waste in Wales.

[<sup>F6</sup>(3) For the purposes of paragraph (2), a specific batch of waste is determined to be hazardous—

- (a) in relation to England if—
  - (i) of a type listed in regulations made under section 62A(2) of the 1990 Act;
  - (ii) it is the subject of a determination by the Secretary of State under regulation 8 of the Hazardous Waste (England and Wales) Regulations 2005;
- (b) in relation to Northern Ireland, it is the subject of a determination by the Department of Agriculture, Environment and Rural Affairs under regulation 9 of the Hazardous Waste Regulations (Northern Ireland) 2005;
- (c) in relation to Scotland, it is the subject of a determination by the Scottish Ministers, because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex III.]

**Textual Amendments**

**F2** Words in reg. 8(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 6**

**F3** Reg. 8(1)(b) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**

**F4** Words in reg. 8(2) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

**F5** Words in reg. 8(2) substituted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

**F6** Reg. 8(3) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

**Specific waste to be treated as non-hazardous** E+W

9.—(1) The Assembly may decide, in exceptional cases, on the basis of documentary evidence provided by the holder, and having regard to [<sup>F7</sup>Annex III] and the limit values of concentration in the List of Wastes, that a specific batch of waste in Wales which—

- (a) is listed as hazardous waste in the List of Wastes;
- <sup>F8</sup>(b) .....
- (c) through of a type not listed as a hazardous waste in the List of Wastes, is treated as hazardous pursuant to regulation 8(2),

does not display any of the properties listed in Annex III <sup>F9</sup>...and accordingly that it is to be treated for all purposes as non-hazardous in Wales.

[<sup>F10</sup>(1A) The power at paragraph (1) to decide that waste be treated as non-hazardous does not apply to waste which has been diluted or mixed with the aim of lowering the initial concentrations of hazardous substances to a level below the thresholds for defining waste as hazardous.]

(2) A specific batch of waste produced in England, Scotland or Northern Ireland and listed as a hazardous waste in the List of Wastes and which is for the time being determined <sup>F11</sup>... to be non-

hazardous pursuant to [F12] paragraph (3)], is, subject to any determination made under regulation 8, to be treated for all purposes as non-hazardous in Wales.

[F13](3) For the purposes of paragraph (2), a specific batch of waste is determined to be non-hazardous if it is the subject of a decision—

- (a) in relation to England, by the Secretary of State under regulation 9 of the Hazardous Waste (England and Wales) Regulations 2005;
- (b) in relation to Northern Ireland, by the Department of Agriculture, Environment and Rural Affairs under regulation 10 of the Hazardous Waste Regulations (Northern Ireland) 2005;
- (c) in relation to Scotland, by the Scottish Ministers that the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex III.]

#### Textual Amendments

- F7** Words in reg. 9(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(a)(i)**
- F8** Reg. 9(1)(b) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**
- F9** Words in reg. 9(1) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(a)(ii)**
- F10** Reg. 9(1A) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(b)**
- F11** Words in reg. 9(2) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in reg. 9(2) substituted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(a)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F13** Reg. 9(3) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Provisions common to regulations 8 and 9 **E+W**

**10.**—(1) The Assembly may revoke a determination made under regulation 8 or 9.

(2) The Assembly must, before making a determination under regulation 8 or 9 or revoking such a determination, except where it considers it inappropriate to do so on account of the nature of any emergency or grave danger, consult—

- (a) the requisite bodies;
- (b) the holder of the specific batch of waste; and
- (c) any other person appearing to it—
  - (i) to have an interest in the specific waste; or
  - (ii) to be otherwise directly affected by the determination.

(3) The Assembly must give notice of any determination made under regulation 8 or 9 or revocation made under regulation 8 or 9 to—

- (a) the requisite bodies;
- (b) the holder of the batch of waste concerned; and
- (c) any person it has consulted pursuant to paragraph (2)(c).

(4) The notice must give reasons for the determination or revocation, as the case may be.

**Requisite bodies** **E+W**

11. For the purposes of this Part, the “requisite bodies” are—

- (a) the Agency;
- [<sup>F14</sup>(aa) the NRBW;]
- (b) SEPA;
- (c) The Secretary of State;
- (d) the Scottish Executive;
- (e) the Northern Ireland Department of the Environment <sup>M2</sup>;
- (f) the Health and Safety Executive; and
- (g) any organisation appearing to the Assembly to be representative of persons likely to be affected by the relevant determination, or revocation of a determination, as the case may be.

**Textual Amendments**

**F14** Reg. 11(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 29](#) (with Sch. 7)

**Marginal Citations**

**M2** The Northern Ireland Department of the Environment includes its executive agency the Environmental Heritage Service.

**Changes to legislation:**

There are currently no known outstanding effects for the The Hazardous Waste (Wales) Regulations 2005, PART 2 .