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WELSH STATUTORY INSTRUMENTS

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**2019 No. 414**

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

**PART 3**

Amendment of primary legislation

**The Waste (Wales) Measure 2010**

6.—(1) The Waste (Wales) Measure 2010(1) is amended as follows.

(2) In section 9(3) (as amended by regulation 3(2)), at the end insert—  
“, and read as if—

(a) in Article 2—

(i) for point (a) there were substituted—

“(a) ‘waste’ has the meaning given by Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive;”;

(ii) for point (c) there were substituted—

“(c) ‘hazardous waste’ has the meaning given in Article 3(2) of the Waste Framework Directive.”;

(b) in Article 3(2), “Without prejudice to existing Community legislation,” were omitted.”.

(3) In section 9A(3)—

(a) in the definition of “waste incineration plant” (“*peiriant llosgi gwastraff*”), for “[Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast)” substitute “Industrial Emissions Directive”;

(b) in the definition of “waste co-incineration plant” (“*peiriant cydlosgi gwastraff*”) for “that Directive” substitute “the Industrial Emissions Directive”;

(c) after subsection (3) insert—

“(4) In this section, “Industrial Emissions Directive” means “[Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions(2), and read as if in Article 3—

(a) in point (37), for “[Directive 2008/98/EC](#) of the European Parliament and of the Council of 19 November 2008 on waste” there were substituted “the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”;

(b) in point (38), for “[Directive 2008/98/EC](#)” there were substituted “the Waste Framework Directive.

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(1) [2010 nawm 8](#). Section 9A was inserted by the Environment (Wales) Act 2016, s 67.

(2) OJ No L 334, 17.12.2010, p 17, as corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

- (5) In reading the Industrial Emissions Directive in accordance with subsection (4), references in that Directive to the “Waste Framework Directive” (as inserted by subsection (4)) have the meaning given by section 17(2) of this measure.”.
- (4) In section 17—
- (a) in subsection (2) (as amended by regulation 3(3)), at the end insert “, and read in accordance with subsections (3) to (8)”;
- (b) after subsection (2) insert—
- “(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 Welsh Ministers, the Natural Resources Body for Wales 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 Wales.
- (4) 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), for the words from “Directive 2006/21/EC” to the end there were substituted “the Mining Waste Directive (see section 17A) ”;
- (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
- (c) paragraph 4 were omitted.
- (5) Article 5 is to be read as if paragraph 2 were omitted.
- (6) 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 waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013”;
- (ii) the second sentence were omitted.
- (7) 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 Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005(3) that a specific batch of waste is to be treated as hazardous waste;
  - (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005(4) 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 regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005(5);
  - (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of waste displaying hazardous properties)(6).”;
- (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.
- (8) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.”
- (5) After section 17 insert—

#### “Meaning of the “Mining Waste Directive”

17A.—(1) In reading Article 2 of the Waste Framework Directive in accordance with section 17(4), “the Mining Waste Directive” (as inserted by paragraph (a)(iii) of section 17(4)) means [Directive 2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries(7), read in accordance with subsections (2) to (5).

- (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](#)(8) were a reference to that Article read in accordance with subsection (4);
  - (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 the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.
- (4) For the purposes of subsection (2)(a), Article 11(3)(j) of [Directive 2000/60/EC](#) is to be read as if—
  - (a) the first reference to “Member States” were a reference to the Welsh Ministers or the Natural Resources Body for Wales;
  - (b) at the end there were inserted—

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(3) Regulation 8(1) has been amended by [S.I. 2011/971 \(W.141\)](#) and [S.I. 2015/1417 \(W.141\)](#).

(4) Regulation 9(1) has been amended by [S.I. 2011/971 \(W.141\)](#) and [S.I. 2015/1417 \(W.141\)](#).

(5) Regulations 8(2) and 9(2) has been amended by [S.I. 2015/1417 \(W.141\)](#)

(6) [1990 c.43](#). Section 62A was inserted by [S.I. 2005/894](#), and amended by [S.I. 2011/988](#), [2015/1360](#), [2018/721 \(W.140\)](#) and [2018/942](#).

(7) OJ No L 102, 11.4.2006, p 15, as amended by Regulation [\(EC\) No 596/2009](#) of the European Parliament and of the Council (OJ No L 118, 18.7.2009, p 14).

(8) 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).

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017<sup>(9)</sup> has the same meaning as in those Regulations.”.

(5) In reading the Mining Waste Directive in accordance with subsection (3), the reference in that Directive, to the “Waste Framework Directive” (as inserted by subsection (3)) has the meaning given by section 17(2) of this measure.”.

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(9) [S.I. 2017/407](#), to which there are amendments not relevant to these Regulations.