

WELSH STATUTORY INSTRUMENTS

2019 No. 414

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

PART 4

Amendment of subordinate legislation

The Landfill Allowances Scheme (Wales) Regulations 2004

7.—(1) The Landfill Allowances Scheme (Wales) Regulations 2004^{M1} are amended as follows.

[^{F1}(2) In regulation 2(1)—

- (a) in the definition of “waste facility (*“cyfleuster gwastraff”*)”, omit “(as substituted by regulation 4(2))”;
- (b) after the definition of “waste facility” insert—

““the Waste Framework Directive” (*“y Gyfarwydddeb Fframwaith Gwastraff”*) means [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by Directive (EU) 2018/851 and read in accordance with paragraphs (3) to (9).”]

[^{F2}(3)

(4) [^{F3}After regulation 2(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 [^{F4}IP completion day (within the meaning given to that expression in the European Union (Withdrawal Agreement) Act 2020)], 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 regulation 2A)”;
- (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
- (c) paragraph 4 were omitted.

- [^{F5}(5) Article 5 is to be read as if—
- (a) in paragraph 1, for “Member States shall take appropriate measures to ensure that a”, there were substituted “A”;
 - (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 Welsh Ministers or the Natural Resources Body for Wales 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, for “Member States shall take appropriate measures to ensure that waste” there were substituted “Waste”;
 - (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 (within the meaning given to that expression in the European Union (Withdrawal) Act 2018) 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 Welsh Ministers or the Natural Resources Body for Wales for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second sub-paragraph, 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 sub-paragraphs were omitted;
 - (d) paragraph 3 were omitted;
 - (e) in paragraph 4—
 - (i) in the first sub-paragraph—
 - (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 Natural Resources Body for Wales”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for “Member States” there were substituted “The Natural Resources Body for Wales”;
 - (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 Wales.”;

(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.

(9) In paragraph (3) “local authority” means a county council or a county borough council.”.

(5) After regulation 2, insert—

“**Meaning of “the Mining Waste Directive” in regulation 2**

2A.—(1) In regulation 2(4)(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) to (4).

(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 (4) of this regulation;

(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/EC](#)” 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 paragraph (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—

“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 has the same meaning as in those Regulations.”.

(6) In regulation 7(10) ^{F6}... , at the end, insert “read in accordance with paragraph (11).

[^{F7}(7) After regulation 7(10) insert—

“(11) For the purposes of regulation 7(10) [Directive 1999/31/EC](#) is to be read as if—

(a) in Article 2—

(i) in point (a), the reference to the definition of ‘waste’ were omitted;

(ii) after point (a) there were inserted—

“(aa) ‘Waste’ has the meaning given in Article 3(1) of [Directive 2008/98/EC](#) (“the Waste Framework Directive”), as read with Articles 5 and 6 of that Directive”;

(b) in Article 3—

(i) in paragraph (2) for “Without prejudice to existing Community legislation the” there were substituted “The”;

(ii) for paragraph (3) there were substituted—

(3) The management of extractive waste, within the meaning given in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016, is excluded from the scope of this Directive where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to those Regulations.”]

Textual Amendments

- F1** Reg. 7(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(3)(a)**
- F2** Reg. 7(3) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(3)(b)**
- F3** Words in reg. 7(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(3)(c)(i)**
- F4** Words in reg. 7(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(3)(c)(ii)**
- F5** Words in reg. 7(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(3)(c)(iii)**
- F6** Words in reg. 7(6) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(3)(d)**
- F7** Reg. 7(7) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(3)(e)**

Commencement Information

- I1** Reg. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

Marginal Citations

- M1** [S.I. 2004/1490 \(W.155\)](#).

Changes to legislation:

There are currently no known outstanding effects for the The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019, Section 7.