

SCHEDULE 3

Regulation 48(2)

Amendments to the Environmental Permitting (England and Wales) Regulations 2010

1. The Environmental Permitting (England and Wales) Regulations 2010 ^{M1} are amended as follows.

Marginal Citations

M1 [S.I. 2010/675](#), to which there are amendments not relevant to these Regulations.

2. In regulation 2—

(a) in paragraph (1), for the definition of “waste”, substitute—

““waste”, except where otherwise defined, and subject to paragraph (4), means anything that—

(a) is waste within the meaning of Article 3(1) of the Waste Framework Directive; and

(b) is not excluded from the scope of that Directive by Article 2(1), (2) or (3).”;

(b) after paragraph (3), insert—

“(4) Notwithstanding section 15(2) of the Radioactive Substances Act 1993, radioactive waste must be treated as waste for the purposes of these Regulations and is subject to the requirement for an environmental permit where it—

(a) would (but for this paragraph) be exempt from the requirement for an environmental permit by virtue of—

(i) the Radioactive Substances (Phosphatic Substances, Rare Earths etc.) Exemption Order 1962;

(ii) the Radioactive Substances (Lead) Exemption Order 1962; or

(iii) the Radioactive Substances (Substances of Low Activity) Exemption Order 1986; and

(b) is subject to a radioactive substances activity falling within paragraph 5(2)(b) or (c) or (4) of Part 2 of Schedule 23.”.

3. In regulation 3, for the definition of “the Waste Framework Directive”, substitute—

““the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste;”.

4.—(1) Regulation 72 is renumbered as paragraph (1) of that regulation.

(2) After that paragraph, insert—

“(2) But on the coming into force of the Waste (England and Wales) Regulations 2011, paragraph (1) ceases to apply to radioactive waste to the extent that it is to be treated as waste by virtue of regulation 2(4).”.

5. In Part 2 of Schedule 1—

(a) in paragraph 1 of Section 5.1 of Chapter 5—

(i) in the definition of “hazardous waste”, for “Article 4”, substitute “ Article 13 ”,

(ii) in the definition of “waste”, for “Article 1(1)(a)”, substitute “ Article 3(1) ”;

(b) in paragraph (c) of Part A(1) of Section 5.3 and in paragraph 3 following that Part of that Section, for each occurrence of “Annex IIA”, substitute “ Annex I ”;

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- (c) in paragraph 3 following Part A(1) of Section 5.4, for “Annex IIB”, substitute “ Annex II ”.
- 6. In Schedule 2—
 - (a) omit paragraph 2(3);
 - (b) in paragraph 3(1)(c), for “Article 4(1)” substitute “ Article 13 ”;
 - (c) in paragraph 14—
 - (i) in sub-paragraph (3)(a), after “keep”, insert “ chronological ”,
 - (ii) for sub-paragraph (4)(a), substitute—
 - “(a) retain any records that it is required to keep under sub-paragraph (3) for a period of—
 - (i) 3 years, if the operation involves the treatment of hazardous waste;
 - (ii) otherwise 2 years;”.
- 7. In Section 2 of Chapter 2 of Part 1 of Schedule 3—
 - (a) in the table in paragraph U9 (use of waste to manufacture finished goods), omit the tenth entry (020106);
 - (b) in each of the tables in paragraphs U10 (spreading waste on agricultural land to confer benefit) and U11 (spreading waste on non-agricultural land to confer benefit), omit the second entry (020106).
- 8. In section 2 of Chapter 3 of Part 1 of Schedule 3—
 - (a) in the table in paragraph T13 (treatment of food waste)—
 - (i) omit the first entry (020203, 020501),
 - (ii) in the second entry (020304, 020501, 020601, 020704), omit the words “excluding milk only”,
 - (iii) in the third entry (200199), omit the words “but excluding foods covered by the Animal By-Products Regulations”;
 - (b) omit paragraph T22 (treatment of animal by-product waste at a collection centre).
- 9. In Schedule 9—
 - (a) for paragraph 4 substitute—

“Exercise of relevant functions

- 4.—(1) The regulator must exercise its relevant functions—
 - (a) for the purposes of ensuring that—
 - (i) the waste hierarchy referred to in Article 4 of the Waste Framework Directive is applied to the generation of waste by a waste operation;
 - (ii) waste generated by a waste operation is treated in accordance with Article 4 of the Waste Framework Directive;
 - (b) for the purposes of implementing Article 13 of the Waste Framework Directive, but not in respect of nuisances and hazards arising from traffic beyond the site of a waste operation;
 - (c) so as to ensure that the requirements in the second paragraph of Article 23(1) of the Waste Framework Directive are met;
 - (d) so as to ensure compliance with the following Articles of the Waste Framework Directive—

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- (i) Article 18(2)(b) and (c);
- (ii) Article 23(3);
- (iii) Article 23(4);
- (iv) Article 35(1).

(2) But the following duties take effect in relation to an environmental permit which is in force on the date of coming into force of the Waste (England and Wales) Regulations 2011 on the first review of the permit by the regulator (under regulation 34(1)) after that date—

- (a) the duty in paragraphs (1)(a), (1)(d)(i) and (1)(d)(iii);
- (b) the duty in paragraph (1)(c), to the extent that it is imposed in relation to Article 23(1)(e) and (f).”;

(b) omit paragraph 5.

10. In Schedule 10, for paragraph 5(1)(d), substitute—

“(d) Article 8, but not in respect of nuisances and hazards arising from traffic beyond the site of a landfill;”.

11. In paragraph 2 of Schedule 11, in each definition of “waste”, for “Article 1(1)(a)”, substitute “Article 3(1)”.

12. In paragraph 2(2)(c) of Schedule 12, for “Article 1(1)(a)”, substitute “Article 3(1)”.

13. In paragraph 2 of Schedule 21, in paragraph (a) of the definition of “waste”, after “Article 2(1)”, insert “, (2) or (3)”.

14. In Part 1 of Schedule 25—

- (a) omit the definitions in paragraph 1(1) except for “collection”, “collection point” and “place of production”;
- (b) for the definition of “collection”, substitute “collection” has the same meaning as in Article 3(10) of the Waste Framework Directive;”;
- (c) omit paragraph 2.

15. Omit Part 2 of Schedule 25.

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Changes and effects yet to be applied to :

- Sch. 3 para. 8(a)(iii) substituted by [S.I. 2011/600 Sch. 2 para. 61](#) (This amendment not applied to legislation.gov.uk. S.I. 2011/600 is revoked and the amendments made by Sch. 2 thereof are undone by S.I. 2011/2377, reg. 28(1)(3))

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 13(1A) inserted by [S.I. 2023/1290 reg. 11](#)
- reg. 14(A1) inserted by [S.I. 2023/1290 reg. 12](#)
- reg. 15A inserted by [S.I. 2023/1290 reg. 13](#)
- reg. 16(3)(ba) substituted for reg. 16(3)(b) by [2023 c. 55 Sch. 8 para. 32](#)