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(**1**) are amended as follows.

(2) In regulation 2(1)(**2**), in the definition of "waste facility" (*"cyfleuster gwastraff"*) (as substituted by regulation 4(2)), for "Directive 2008/98/EC of the European Parliament and of the Council on waste as last amended by Council Regulation (EU) 2017/997", substitute "the Waste Framework Directive".

(3) After the definition of "waste facility" (*"cyfleuster gwastraff"*) insert—

""the Waste Framework Directive" (*"y Gyfarwyddeb Fframwaith Gwastraff"*) means Directive 2008/98/EC of the European Parliament and of the Council on waste(**3**) as last amended by Council Regulation (EU) 2017/997(**4**), and read in accordance with paragraphs (3) to (9)."

(4) After paragraph (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 regulation 2A)";

(b) in paragraph 3, the words from "Without prejudice" to "Community legislation," were omitted;

(**1**) S.I. 2004/1490 (W.155).
(**2**) The definition of Waste Facility has been amended by SI.2011/971 (W.141) and S.I. 2016/691 (W.189). There are other amendments but none is relevant.
(**3**) OJ No L 312, 22.11.08, p 3.
(**4**) OJ No L 150, 14.6.2017, p 1.

(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 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 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;

(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).";

(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.

(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) (as amended by regulation 4(3)), at the end, insert "read in accordance with paragraph (11).

(7) After paragraph (10) insert—

"(11) For the purposes of regulation 7(10), the Directive is to be 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 Article 5 and 6 of that Directive;";

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

"(c) 'hazardous waste' has the meaning given by Article 3(2) of the Waste Framework Directive.".

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