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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

**The Environment (EU Exit) (Scotland)  
(Amendment etc.) (No. 2) Regulations 2019**

**PART 2**

Amendments of primary legislation relating to withdrawal from the European Union

- 2.—**(1) The Regulatory Reform (Scotland) Act 2014<sup>(1)</sup> is amended as follows.
- (2) In section 16 (general purpose: protecting and improving the environment)—
- (a) for subsection (1)(b) substitute—
    - “(b) implementing—
      - (i) the relevant EU instruments, or
      - (ii) any international obligations relating to protecting and improving the environment.”,
  - (b) in subsection (2)—
    - (i) for “subsection (1),” substitute “subsection (1)—  
““the relevant EU instruments” has the same meaning as in paragraph 22(2) of schedule 2, and”,
    - (ii) in the definition of “international obligations” omit “other than obligations to observe and implement EU obligations”.
- (3) In schedule 2 (particular purposes for which provision may be made under section 18)—
- (a) in paragraph 3 (regulators)—
    - (i) for sub-paragraph (3)(b) substitute—
      - “(b) directions given for the purpose of the implementation of—
        - (i) the relevant EU instruments, or
        - (ii) any international obligations of the United Kingdom relating to protecting and improving the environment,”,
    - (ii) after sub-paragraph (3) insert—
      - “(4) In sub-paragraph (3)(b) “the relevant EU instruments” has the same meaning as in paragraph 22(2) of this schedule.”,
  - (b) in paragraph 22 (general) for sub-paragraphs (1)(b) and (2) substitute—
    - “(b) any provision (not being a provision within any of paragraphs 1 to 21 or paragraph (a)) that might be made by an Act of the Scottish Parliament in connection with the relevant EU instruments, other than provision—
      - (i) imposing or increasing taxation,

- (ii) taking effect from a date earlier than that of the making of the instrument containing the provision,
  - (iii) conferring any power to legislate by means of order, rules, regulations or other subordinate instrument, other than rules of procedure for any court or tribunal.
- (2) In sub-paragraph (1)(b) “the relevant EU instruments” means—
- (a) Council [Directive 91/271/EEC](#) concerning urban waste water treatment(2),
  - (b) Council [Directive 91/676/EEC](#) concerning the protection of waters against pollution caused by nitrates from agricultural sources(3),
  - (c) European Parliament and Council [Directive 94/62/EC](#) on packaging and packaging waste(4),
  - (d) Council [Directive 96/59/EC](#) on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)(5),
  - (e) Council [Directive 1999/31/EC](#) on the landfill of waste(6),
  - (f) [Directive 2000/53/EC](#) of the European Parliament and of the Council on end-of life vehicles(7),
  - (g) [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(8),
  - (h) [Directive 2002/49/EC](#) of the European Parliament and of the Council relating to the assessment and management of environmental noise(9),
  - (i) [Directive 2006/7/EC](#) of the European Parliament and of the Council concerning the management of bathing water quality and repealing [Directive 76/160/EEC](#)(10),

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- (2) OJ L 135, 30.5.1991, p.40, as relevantly amended by Commission [Directive 98/15/EC](#) (OJ L 67, 7.3.1998, p.29), Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1) and Regulation (EC) No 1137/2008 (OJ L 311, 21.11.2008, p.1). Commission [Directive 98/15/EC](#) was corrected by Corrigendum (OJ L 139, 2.6.1999, p.34) and Corrigendum (OJ L 189, 17.7.2015, p.41).
  - (3) OJ L 375, 31.12.1991, p.1, as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1) and Regulation (EC) No 1137/2008 (OJ L 311, 21.11.2008, p.1).
  - (4) OJ L 365, 31.12.1994, p.10, as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1), [Directive 2004/12/EC](#) (OJ L 47, 18.2.2004, p.26), [Directive 2005/20/EC](#) (OJ L 70, 16.3.2005, p.17), Regulation (EC) No 219/2009 (OJ L 87, 31.3.2009, p.109), Commission [Directive 2013/2/EU](#) (OJ L 37, 8.2.2013, p.10), Directive (EU) 2015/720 (OJ L 115, 6.5.2015, p.11) and Directive (EU) 2018/852 (OJ L 150, 14.6.2018, p.141).
  - (5) OJ L 243, 24.9.1996, p.31, as amended by Regulation (EC) No 596/2009 (OJ L 188, 18.7.2009, p.14).
  - (6) OJ L 182, 16.7.1999, p.1, as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1), Regulation (EC) No 1137/2008 (OJ L 311, 21.11.2008, p.1), Council [Directive 2011/97/EU](#) (OJ L 328, 10.12.2011, p.49) and Directive (EU) 2018/850 (OJ L 150, 14.6.2018, p.100).
  - (7) OJ L 269, 21.10.2000, p.34, as amended by Commission [Decision 2002/525/EC](#) (OJ L 170, 29.6.2002, p.81), Commission [Decision 2005/63/EC](#) (OJ L 25, 28.1.2005, p.73), Commission [Decision 2005/438/EC](#) (OJ L 152, 15.6.2005, p.19), Council [Decision 2005/673/EC](#) (OJ L 254, 30.9.2005, p.69), [Directive 2008/33/EC](#) (OJ L 81, 20.3.2008, p.62), Commission [Decision 2008/689/EC](#) (OJ L 225, 23.8.2008, p.10), [Directive 2008/112/EC](#) (OJ L 345, 23.12.2008, p.68), Commission [Decision 2010/115/EU](#) (OJ L 48, 25.2.2010, p.12), Commission [Directive 2011/37/EU](#) (OJ L 85, 31.3.2011, p.3), Commission [Directive 2013/28/EU](#) (OJ L 135, 22.5.2013, p.14), Commission Directive (EU) 2016/774 (OJ L 128, 19.5.2016, p.4), Commission Directive (EU) 2017/2096 (OJ L 299, 16.11.2017, p.24) and Directive (EU) 2018/849 (OJ L 150, 14.6.2018, p.93).
  - (8) OJ L 327, 22.12.2000, p.1, as amended by Decision No 2455/2001/EC (OJ L 331, 15.12.2001, p.1), [Directive 2008/32/EC](#) (OJ L 81, 20.3.2008, p.60), [Directive 2008/105/EC](#) (OJ L 348, 24.12.2008, p.84), [Directive 2009/31/EC](#) (OJ L 140, 5.6.2009, p.114), [Directive 2013/39/EU](#) (OJ L 226, 24.8.2013, p.1), [Directive 2013/64/EU](#) (OJ L 353, 28.12.2013, p.8) and Commission [Directive 2014/101/EU](#) (OJ L 311, 31.10.2014, p.32).
  - (9) OJ L 189, 18.7.2002, p.12, as amended by Regulation (EC) No 1137/2008 (OJ L 311, 21.11.2008, p.1) and Commission Directive (EU) 2015/996 (OJ L 168, 1.7.2015, p.1), Regulation (EU) 2019/10/10 (OJ L 170, 25.6.2019, p.115) and Regulation (EU) 2019/1243 (OJ L 198, 25.7.2019, p.241). Commission Directive (EU) 2015/996 was corrected by Corrigendum (OJ L 005, 10.1.2018, p.35).
  - (10) OJ L 64, 4.3.2006, p.37, as amended by Regulation (EC) No 596/2009 (OJ L 188, 18.7.2009, p.14) and [Directive 2013/64/EU](#) (OJ L 353, 28.12.2013, p.8).

- (j) [Directive 2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing [Directive 91/157/EEC](#)(**11**),
- (k) [Directive 2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration(**12**),
- (l) [Directive 2008/50/EC](#) of the European Parliament and of the Council on ambient air quality and cleaner air for Europe(**13**),
- (m) [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste and repealing certain Directives(**14**),
- (n) [Directive 2008/105/EC](#) of the European Parliament and of the Council on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives [82/176/EEC](#), [83/513/EEC](#), [84/156/EEC](#), [84/491/EEC](#), [86/280/EEC](#) and amending [Directive 2000/60/EC](#) of the European Parliament and of the Council(**15**),
- (o) Commission [Directive 2009/90/EC](#) laying down, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status(**16**),
- (p) [Directive 2009/126/EC](#) of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations(**17**),
- (q) [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)(**18**),
- (r) Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products(**19**),
- (s) Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals(**20**),
- (t) [Directive 2012/19/EU](#) of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE)(**21**),

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(11) OJ L 266, 26.9.2006, p.1, as amended by [Directive 2008/12/EC](#) (OJ L 76, 19.3.2008, p.39), [Directive 2008/103/EC](#) (OJ L 327, 5.12.2008, p.7), [Directive 2013/56/EU](#) (OJ L 329, 10.12.2013, p.5) and Directive (EU) 2018/849 (OJ L 150, 14.6.2018, p.93), and as corrected by Corrigendum (OJ L 311, 10.11.2006, p.58).

(12) OJ L 372, 27.12.2006, p.19, as amended by Commission [Directive 2014/80/EU](#) (OJ L 182, 21.6.2014, p.52).

(13) OJ L 152, 11.6.2008, p.1, as amended by Commission Directive (EU) 2015/1480 (OJ L 226, 29.8.2015, p.4). Commission Directive (EU) 2015/1480 was corrected by Corrigendum (OJ L 72, 14.3.2019, p.141).

(14) OJ L 312, 22.11.2008, p.3, as amended by [Commission Regulation \(EU\) No 1357/2014](#) (OJ L 365, 19.12.2014, p.89), Commission Directive (EU) 2015/1127 (OJ L 184, 11.7.2015, p.13), Council Regulation (EU) 2017/997 (OJ L 150, 14.6.2017, p.1) and Directive (EU) 2018/851 (OJ L 150, 14.6.2018, p.109). Commission Directive (EU) 2015/1127 was corrected by Corrigendum (OJ L 297, 13.11.2015, p.9) and [Commission Regulation \(EU\) No 1357/2014](#) was corrected by Corrigendum (OJ L 42, 18.2.2017, p.43).

(15) OJ L 348, 24.12.2008, p.84, as amended by [Directive 2013/39/EU](#) (OJ L 226, 24.8.2013, p.1).

(16) OJ L 201, 1.8.2009, p.36.

(17) OJ L 285, 31.10.2009, p.36, as amended by Commission [Directive 2014/99/EU](#) (OJ L 304, 23.10.2014, p.89) and Regulation (EU) 2019/1243 (OJ L 198, 25.7.2019, p.241).

(18) OJ L 334, 17.12.2010, p.17, as corrected by Corrigendum (OJ L 158, 19.6.2012, p.25).

(19) OJ L 167, 27.6.2012, p.1, as amended by Commission Delegated Regulation (EU) No 736/2013 (OJ L 204, 31.7.2013, p.25), Commission Delegated Regulation (EU) No 837/2013 (OJ L 234, 3.9.2013, p.1) and Regulation (EU) No 334/2014 of the European Parliament and of the Council (OJ L 103, 5.4.2014, p.22), and as corrected by Corrigendum (OJ L 280, 28.10.2017, p.57).

(20) OJ L 201, 27.7.2012, p.60, as amended by Commission Delegated Regulation (EU) No 1078/2014 (OJ L 297, 15.10.2014, p.1), Commission Delegated Regulation (EU) 2015/2229 (OJ L 317, 3.12.2015, p.13), Commission Delegated Regulation (EU) 2018/172 (OJ L 32, 6.2.2018, p.6) and Commission Delegated Regulation (EU) 2019/330 (OJ L 59, 27.2.2019, p.1). Commission Delegated Regulation (EU) No 1078/2014 was corrected by Corrigendum ( OJ L 363, 18.12.2014, p.185).

(21) OJ L 197, 24.7.2012, p.38, as amended by Directive (EU) 2018/849 (OJ L 150, 14.6.2018, p.93).

- (u) Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom**(22)**,
  - (v) Directive (EU) 2015/2193 of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants**(23)**,
  - (w) Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008**(24)**,
  - (x) Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment**(25)**,
  - (y) Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants**(26)**.
- (3) In sub-paragraph (1)(b)(iii), the reference to provision conferring any power to legislate does not include provision—
- (a) amending or extending a power to legislate conferred other than under this paragraph,
  - (b) giving directions as to matters of administration.
- (4) Making provision about the application of the regulations to the Crown.”
- (c) paragraph 30 (power to specify EU instruments for the purposes of paragraph 22) and the cross-heading immediately preceding it is repealed.

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**(22)** OJ L 13, 17.1.2014, p.1.

**(23)** OJ L 313, 28.11.2015, p.1.

**(24)** OJ L 137, 24.5.2017, p.1.

**(25)** OJ L 155, 12.6.2019, p.1.

**(26)** OJ L 169, 25.6.2019, p.45.