

2015 No. 188

ENVIRONMENTAL PROTECTION

The Waste (Meaning of Hazardous Waste and European Waste Catalogue) (Miscellaneous Amendments) (Scotland) Regulations 2015

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| <i>Made</i> - - - - | <i>5th May 2015</i> |
| <i>Laid before the Scottish Parliament</i> | <i>7th May 2015</i> |
| <i>Coming into force</i> - - | <i>8th June 2015</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Scottish Ministers that it is expedient for the references in regulations 4, 5, 8 and 11 to Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste(b) to be references to that instrument as amended from time to time.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Waste (Meaning of Hazardous Waste and European Waste Catalogue) (Miscellaneous Amendments) (Scotland) Regulations 2015 and come into force on 8th June 2015.

(2) These Regulations extend to Scotland only.

Amendment of the Environmental Protection Act 1990

2. In section 75 of the Environmental Protection Act 1990(c) (meaning of “waste”) for subsection (12) substitute—

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- (a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule, Part I. Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and amended by Part 1 of Schedule 1 to the 2008 Act. The functions conferred upon the Minister of the Crown under section 2(2), so far as they are exercisable within devolved competence, were transferred to Scottish Ministers by virtue of section 53 of the 1998 Act.
- (b) OJ L 226, 6.9.2000, p.3, as amended by Commission Decisions 2001/118/EC (OJ L 47, 16.2.2001, p.1), 2001/119/EC (OJ L 47, 16.2.2001, p.32) and 2014/955/EU (OJ L 370, 30.12.2014, p.44) and by Council Decision 2001/573/EC (OJ L 203, 28.7.2001, p.18).
- (c) 1990 c.43. Section 75 has been relevantly amended by S.S.I. 2011/226 and S.S.I. 2012/148.

“(12) In this Part, “the Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives^(a), as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III to Directive 2008/98/EC^(b).”.

Amendment of the Special Waste Regulations 1996

3. In regulation 1(4) of the Special Waste Regulations 1996^(c) (citation, commencement, extent, application and interpretation) for the definition of “the Waste Directive” substitute—

““the Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III to Directive 2008/98/EC;”.

Amendment of the Landfill (Scotland) Regulations 2003

4. In regulation 2(1) of the Landfill (Scotland) Regulations 2003^(d) (interpretation)—

(a) for the definition of “European Waste Catalogue” substitute—

““European Waste Catalogue” means the list of wastes set out in Commission Decision 2000/532/EC establishing a list of wastes, as that instrument may be amended from time to time;”; and

(b) for the definition of “Waste Framework Directive” substitute—

““Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III to Directive 2008/98/EC;”.

Amendment of the Landfill Allowances Scheme (Scotland) Regulations 2005

5. In regulation 2(1) of the Landfill Allowances Scheme (Scotland) Regulations 2005^(e) (interpretation)—

(a) for the definition of “European Waste Catalogue” substitute—

““European Waste Catalogue” means the list of wastes set out in Commission Decision 2000/532/EC establishing a list of wastes, as that instrument may be amended from time to time;”; and

(b) for the definition of “recovery” substitute—

““recovery” has the same meaning as in Article 3 of, and Annex II to, Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) 1357/2014 replacing Annex III to Directive 2008/98/EC;”.

(a) OJ L 312, 22.11.2008, p.3.

(b) OJ L 365, 19.12.2014, p.89.

(c) S.I. 1996/972, as relevantly amended by S.S.I. 2011/226.

(d) S.S.I. 2003/235, as relevantly amended by S.S.I. 2003/343 and S.S.I. 2011/226.

(e) S.S.I. 2005/157, as relevantly amended by S.S.I. 2011/226.

Amendment of the National Waste Management Plan for Scotland Regulations 2007

6. In regulation 2A of the National Waste Management Plan for Scotland Regulations 2007(**a**) (interpretation: the Waste Directive) for paragraph (a) substitute—

“(a) “the Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III of Directive 2008/98/EC;”.

Amendment of the Renewables Obligation (Scotland) Order 2009

7. In article 2(1) of the Renewables Obligation (Scotland) Order 2009(**b**) (interpretation) for the definition of “hazardous waste” substitute—

““hazardous waste” is as defined in Articles 3(2) and 7 of Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III of Directive 2008/98/EC;”.

Amendment of the Management of Extractive Waste (Scotland) Regulations 2010

8.—(1) The Management of Extractive Waste (Scotland) Regulations 2010(**c**) are amended as follows.

(2) In regulation 2(1) (interpretation) for the definition of “Directive 2008/98/EC” substitute—

““Directive 2008/98/EC” means Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III of Directive 2008/98/EC;”.

(3) In Schedule 2 (waste characterisation), in paragraph (b), for “Decision 2000/532/EC (the European Waste Catalogue)” substitute—

“Decision 2000/532/EC establishing a list of wastes (the European Waste Catalogue), as that instrument may be amended from time to time.”.

Amendment of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011

9. In paragraph 9 of Schedule 1 (descriptions of development) to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011(**d**) for “(as defined in Annex I to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives under heading D9)” substitute—

“(as defined under heading D9 in Annex I to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III of Directive 2008/98/EC)”.

(a) S.S.I. 2007/251. Regulation 2A was inserted by S.S.I. 2011/226.

(b) S.S.I. 2009/140, The definition of “hazardous waste” was substituted by S.S.I. 2011/226.

(c) S.S.I. 2010/60, as relevantly amended by S.S.I. 2011/226.

(d) S.S.I. 2011/139, to which there are amendments not relevant to this instrument.

Amendment of the Marine Licensing (Exempted Activities) (Scottish Inshore Region) Order 2011

10. In article 2(1) of the Marine Licensing (Exempted Activities) (Scottish Inshore Region) Order 2011(a) (interpretation) 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 and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III to Directive 2008/98/EC.”.

Amendment of the Waste Management Licensing (Scotland) Regulations 2011

11. In regulation 2(1) of the Waste Management Licensing (Scotland) Regulations 2011(b) (interpretation)—

(a) for the definition of “the Directive” substitute—

““the Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III to Directive 2008/98/EC;”;

(b) for the definition of “European Waste Catalogue” substitute—

““European Waste Catalogue” means the list of wastes set out in Commission Decision 2000/532/EC establishing a list of wastes, as that instrument may be amended from time to time;”.

Amendment of the Pollution Prevention and Control (Scotland) Regulations 2012

12. In regulation 3(1) of the Pollution Prevention and Control (Scotland) Regulations 2012(c) (interpretation: enactments etc.) for the definition of “Waste Framework Directive” substitute—

““Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as amended by Commission Regulation (EU) No 1357/2014 replacing Annex III of Directive 2008/98/EC.”.

AILEEN McLEOD

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
5th May 2015

(a) S.S.I. 2011/204, to which there are amendments not relevant to this instrument.
(b) S.S.I. 2011/228, to which there are amendments not relevant to this instrument.
(c) S.S.I. 2012/360, to which there are amendments not relevant to this instrument.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various enactments to effect changes as a consequence of (1) the amendment of Directive 2008/98/EC of the European Parliament and of the Council on waste (“the Directive”) (OJ L 312, 22.11.2008, p.89) by Commission Regulation 1357/2014/EU (“the Regulation”) (OJ L 365, 19.12.2014, p.89) and (2) the amendment of Commission Decision 2000/532/EC establishing a list of wastes (“the 2000 Decision”) (OJ L 226, 6.9.2000, p.3) by Commission Decision 2014/955/EU (“the 2014 Decision”) (OJ L 370, 30.12.2014).

The Regulation amends the Directive by replacing Annex III (properties of waste which render it hazardous) to the Directive.

The 2000 Decision sets out a list of wastes known as the European Waste Catalogue. The 2014 Decision amends that list.

No business and regulatory impact assessment has been prepared for these Regulations as no significant change is foreseen to the existing impacts upon business, charities or voluntary bodies.

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£4.25

S201505053 05/2015 19585

<http://www.legislation.gov.uk/id/ssi/2015/188>

ISBN 978-0-11-102773-8



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