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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 26**

**The Environment (EU Exit) (Scotland)  
(Amendment etc.) Regulations 2019**

**PART 4**

Amendments to legislation concerning waste

**The Waste Management Licensing (Scotland) Regulations 2011**

**11.**—(1) The Waste Management Licensing (Scotland) Regulations 2011 <sup>M1</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of “battery” substitute—

““battery” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or one or more secondary battery cells (rechargeable; an accumulator), but does not include—

(a) equipment connected with the protection of essential security interests, arms, munitions and war material, with the exclusion of products that are not intended for specifically military purposes, or

(b) equipment designed to be sent into space,”

(ii) for the definition of “Directive waste” substitute—

““Directive waste” means anything that is waste within the meaning of section 75(2) (a) of the Environmental Protection Act 1990 <sup>M2</sup> as read with section 75A of that Act,”

(b) for paragraph (2)(c) substitute—

“(c) “the treatment conditions” are—

(i) treatment shall, as a minimum, include removal of all fluids and acids, and

(ii) treatment and any storage, including temporary storage, at treatment facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers, and”.

(3) For regulation 11 (conditions of site licences: treatment of WEEE) substitute—

**“Conditions of site licences: treatment of WEEE**

**11.**—(1) A site licence which is granted or varied by the waste regulation authority and which authorises the storage or treatment (or both) of WEEE must contain such conditions as it considers necessary to ensure that storage or treatment (or both) of WEEE is carried out in accordance with the requirements in paragraph (2).

- (2) For the purposes of paragraph (1), the requirements are—
- (a) in relation to treatment other than preparation for re-use, all fluids are removed and further relevant treatment is carried out in accordance with Annex VII to the WEEE Directive,
  - (b) best available treatment, recovery and recycling techniques are used,
  - (c) the waste is stored in accordance with paragraph 1 of Annex VIII to the WEEE Directive,
  - (d) the waste is treated in accordance with paragraph 2 of Annex VIII to the WEEE Directive, and
  - (e) the minimum recovery targets set out in Annex V to the WEEE Directive are met.
- (3) In this regulation, “best available treatment, recovery and recycling techniques” has the same meaning as in the document published jointly by the Department for Environment, Food and Rural Affairs, the Welsh Assembly Government and the Scottish Executive on 27th November 2006, entitled “Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE) M3”.
- (4) In regulation 13(2)(b) (conditions of site licences: incineration of waste industrial and automotive batteries), for “EU legislation” substitute “retained EU law”.
- (5) In regulation 17 (exemptions from waste management licensing)—
- (a) for paragraph (8) substitute—
 

“(8) In the case of a person carrying on an exempt activity which is a controlled activity, paragraph (1) applies only if that person—

    - (a) takes all reasonable steps to secure efficient and sustainable water use, and
    - (b) complies with the requirements of the retained EU law which implemented —
      - (i) Directive [2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration <sup>M4</sup> as last amended by Commission Directive 2014/80/EU <sup>M5</sup> (“the Groundwater Directive”), and
      - (ii) Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy <sup>M6</sup> as last amended by Commission Directive 2014/101/EU <sup>M7</sup> (“the Water Framework Directive”).”.
- (6) In regulation 23(2)(d) (register of exempt activities: requirements in respect of recovery and storage of scrap metal or waste motor vehicles), in the words after head (iv), for “referred to in” to the end substitute “set out in paragraph 6(1)(a) of schedule 4, and”.
- (7) In regulation 29 (waste framework Directive), omit “(which implements certain provisions of the Directive)”.
- (8) In schedule 4 (waste framework directive)—
- (a) in Part I (general)—
    - (i) in paragraph 2 (duties of the waste regulation authority)—
      - (aa) in sub-paragraph (2)(b) at the end insert “and”,
      - (bb) in sub-paragraph (2)(c) omit “and”,
      - (cc) omit sub-paragraph (2)(d),
      - (dd) after sub-paragraph (3) insert—

- “(4) The waste regulation authority must refuse to issue a permit where it considers that the intended method of treatment is unacceptable from the point of view of environmental protection and, in particular, when the method is not in accordance with paragraph 6(1)(a) of this schedule.”,
- (ii) for paragraph 6(3) (relevant objectives) substitute—
- (a) “(3) The waste hierarchy is to be applied in a way which —
- (i) delivers the best environmental outcome,
- (ii) takes account of—
- (aa) the environmental principles of precaution and sustainability,
- (bb) technical feasibility,
- (cc) economic viability,
- (dd) the protection of resources, including reducing overall impacts of resource use and improving efficiency of such use,
- (ee) the overall environmental, human health and social impacts,
- (b) the hierarchy may be departed from for particular types of waste where justified in order to ensure the best environmental outcome is delivered, and by reference to the overall impact of the generation and management of such types of waste.”
- (b) in Part II (waste disposal operations), in the text above the table, in the second sentence, for “In accordance with Article 13 of the Directive waste” substitute “ Waste ”,
- (c) in Part III (waste recovery operations), in the text above the table, in the second sentence, for “In accordance with Article 13 of the Directive waste” substitute “ Waste ”.

#### Commencement Information

- II** Reg. 11 in force at 31.12.2020 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1](#)

#### Marginal Citations

- M1** [S.S.I. 2011/228](#), relevant amending instruments are [S.I. 2011/1043](#)[S.S.I. 2018/391](#).
- M2** [1990 c.43](#), relevant amending instrument is [S.S.I 2011/226](#).
- M3** See <http://archive.defra.gov.uk/environment/waste/producer/electrical/documents/weee-batrrt-guidance.pdf>. Paper copies can be obtained from the SEPA National Waste Team, Strathallan House, Castle Business Park, Stirling, FK9 4TZ.
- M4** OJ L 372, 27.12.2006, p.19.
- M5** OJ L 182, 21.6.2014, p.52.
- M6** OJ L 327, 22.12.2000, p.1.
- M7** OJ L 311, 31.10.2014, p.32.

**Changes to legislation:**

There are currently no known outstanding effects for the The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019, Section 11.