
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 55

**The Marine Environment (EU Exit)
(Scotland) (Amendment) Regulations 2019**

PART 3

Amendments to subordinate legislation

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

3.—(1) The Marine Licensing (Exempted Activities) (Scottish Offshore Region) Order 2011⁽¹⁾ is amended as follows.

(2) In article 3(1), for the definition of “waste” substitute—

““waste” has the same meaning as in section 75(2) of the Environmental Protection Act 1990⁽²⁾ as read with section 75A⁽³⁾ of that Act;”.

(3) For article 5(3) substitute—

“(3) Condition 2 is that the type and quantity of waste involved and the method of disposal or recovery are consistent with the objective that waste management is carried out without endangering human health, without harming the environment and, in particular:

- (a) without risk to water, air, soil, plants or animals;
- (b) without causing nuisance through noise or odour; and
- (c) without adversely affecting the countryside or places of special interest.”.

(4) For article 5(7)(c) substitute—

“(c) “non-hazardous waste” means any waste which is not special waste within the meaning of regulation 2 of the Special Waste Regulations 1996⁽⁴⁾.”.

(5) In article 24(2)—

- (a) in paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”,
- (b) in paragraph (b), for “a member State” substitute “the United Kingdom”.

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

4.—(1) The Marine Licensing (Exempted Activities) (Scottish Inshore Region) Order 2011⁽⁵⁾ is amended as follows.

(1) S.S.I. 2011/57 amended by S.S.I. 2012/25, 2015/438 and 2017/1013.

(2) 1990 c.43; relevant amending instrument S.S.I. 2011/226.

(3) Section 75A is prospectively inserted by the Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019.

(4) S.I. 1996/972; regulation 2 is substituted by S.S.I. 2019/26 having effect on exit day.

(5) S.S.I. 2011/204 amended by S.S.I. 2012/25, 2015/438 and 2017/1013.

- (2) In article 2(2), for the definition of “waste” substitute—
 ““waste” has the same meaning as in section 75(2) of the Environmental Protection Act 1990(6) as read with section 75A(7) of that Act;”.
- (3) For article 4(3) substitute—
 “(3) Condition 2 is that the type and quantity of waste involved and the method of disposal or recovery are consistent with the objective that waste management is carried out without endangering human health, without harming the environment and, in particular:
 (a) without risk to water, air, soil, plants or animals;
 (b) without causing nuisance through noise or odour; and
 (c) without adversely affecting the countryside or places of special interest.”.
- (4) For article 4(7)(c) substitute—
 “(c) “non-hazardous waste” means any waste which is not special waste within the meaning of regulation 2 of the Special Waste Regulations 1996(8).”.
- (5) In article 34(2)—
 (a) in paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”,
 (b) in paragraph (b), for “a member State” substitute “the United Kingdom”.

Amendment of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017

5.—(1) The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017(9) are amended as follows.

- (2) In regulation 2—
 (a) in paragraph (1)—
 (i) after the definition of “multi-stage regulatory approval” insert—
 ““public” means one or more natural or legal persons and, in accordance with the law of any part of the United Kingdom or practice, their associations, organisations or groups;
 “public concerned” means the public affected or likely to be affected by, or having an interest in, environmental decision making procedures (for the purposes of this definition non-governmental organisations promoting environmental protection and meeting any requirements under the law of any part of the United Kingdom are deemed to have an interest);”,
 (ii) omit the definition of “Union legislation”,
 (b) for paragraph 2(2) substitute—
 “(2) Unless the context otherwise requires, expressions not defined in paragraph (1) which are used in these Regulations and also in the Directive (whether or not also used in the 2010 Act) have the same meaning as in the Directive.”.
- (3) In regulation 8—
 (a) in paragraphs (1) and (5), omit “(but without prejudice to Article 7 of the Directive)”.

(6) 1990 c.43; relevant amending instrument S.S.I. 2011/226.

(7) Section 75A is prospectively inserted by the Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019.

(8) S.I. 1996/972; regulation 2 is substituted by S.S.I. 2019/26 having effect on exit day.

(9) S.S.I. 2017/115 amended by S.S.I. 2017/168 and S.S.I. 2017/1013.

- (b) in paragraph (4)(b), after “requirements of” insert “any law of any part of the United Kingdom that implemented”,
- (c) after paragraph (5), insert—
 - “(6) For the purpose of paragraph (1), Article 2(4) of the Directive is to be read as if—
 - (a) in the first sub-paragraph—
 - (i) “Without prejudice to Article 7,” were omitted;
 - (ii) for “Member States” there were substituted “the Scottish Ministers”;
 - (b) in the second sub-paragraph—
 - (i) for “Member States”, there were substituted “Scottish Ministers”;
 - (ii) point (c) were omitted;
 - (c) the third and fourth sub-paragraphs (each beginning “The Commission”) were omitted.
 - (7) For the purpose of paragraph (5), Article 2(5) of the Directive is to be read as if—
 - (a) in the first sub-paragraph—
 - (i) “Without prejudice to Article 7,” were omitted;
 - (ii) for “Member States” there were substituted “The Scottish Ministers”;
 - (b) the second sub-paragraph were omitted.”.
- (4) In regulations 16(2)(b) and 22(3)(b), for “another” substitute “an”.
- (5) In regulation 24(2)(b), for “Union legislation” substitute “retained EU law (within the meaning of schedule 1 of the Interpretation Act 1978)”.
- (6) In regulation 30—
 - (a) in paragraph (1)(a), omit “other than the United Kingdom”,
 - (b) in paragraph (1)(b) omit—
 - (i) “other than the United Kingdom”,
 - (ii) “under Article 7 of the Directive”,
 - (c) in paragraph (3)(a), for “another” substitute “the”,
 - (d) in paragraph (6) —
 - (i) omit “, in accordance with Article 7 of the Directive,”,
 - (ii) for “the other EEA State” substitute “that EEA State”.
- (7) In regulation 31(1) omit—
 - (a) “other than the United Kingdom pursuant to Article 7(2) of the Directive”,
 - (b) “, in accordance with Article 7(4) of the Directive”,
 - (c) “pursuant to Article 7(3)(b) of the Directive”.
- (8) In regulation 37—
 - (a) renumber the existing paragraph as paragraph (1),
 - (b) after paragraph (1), insert—
 - “(2) For the purpose of paragraph (1), Article 11(1) of the Directive is to be read as if the reference to—
 - (a) “Member States” were a reference to “The Scottish Ministers”,
 - (b) “a Member State” were a reference to “Scotland”.”.
- (9) In schedule 1—

- (a) in paragraph 19, after “pursuant to” insert “chapter 3 of Part 1 of the Energy Act 2008(10) and any law of any part of the United Kingdom that implemented”,
 - (b) in paragraph 20, after “pursuant to” insert “chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented”.
- (10) In Schedule 3, in paragraph 2(c)(vi) for “Union legislation” substitute “retained EU law”.
- (11) In Schedule 4—
- (a) in paragraph 6—
 - (i) for “established at Union or Member State level” substitute “in retained EU law or under the law of any part of the United Kingdom”,
 - (ii) omit the words from “including” to “birds”,
 - (b) in paragraph 9—
 - (i) for “legislation of the European Union such as” substitute “retained EU law such as any law that implemented”,
 - (ii) after “requirements of” insert “any law that implemented”.

(10) 2008 c.32; Chapter 3 was relevantly amended by the Marine and Coastal Access Act 2009 (c.23), the Energy Act 2011(c.16), the Energy Act 2016 (c.20) and S.I. 2011/2453 and 2017/524 and S.S.I. 2011/224.