
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Waste (Miscellaneous Amendments)
(EU Exit) Regulations 2019**

PART 3

Amendment of primary legislation

Environmental Protection Act 1990

5.—(1) The Environmental Protection Act 1990 is amended as follows.

(2) In section 57(8), as it extends to England and Wales, in the definition of “waste”, after “Waste Framework Directive” (as substituted by regulation 2(4)), insert “, as read with Articles 5 and 6 of that Directive,”.

(3) In section 75(1A) (as inserted by regulation 2(6)(a)), at the end insert “, and read in accordance with section 75A”.

(4) After section 75 insert—

“Modification of the Waste Framework Directive

75A.—(1) For the purposes of this Part, the Waste Framework Directive is to be read in accordance with this section.

(2) A reference to one or more member States in a provision of the Waste Framework Directive imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, waste regulation authority 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 England, Wales or Scotland.

(3) 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), as it extends to England and Wales, for the words from “Directive 2006/21/EC(1)” to the end there were substituted “the Mining Waste Directive”;

(iv) for point (d), as it extends to Scotland, there were substituted—

(1) OJ No L 102, 11.4.2006, p 15, as last amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).

- “(d) extractive waste, which has the same meaning as in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010 (S.S.I. 2010/60)(2).”;
- (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
- (c) paragraph 4 were omitted.
- (4) Article 5 is to be read as if paragraph 2 were omitted.
- (5) 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 Council Regulation (EU) No 333/2011, [Commission Regulation \(EU\) No 1179/2012](#) or [Commission Regulation \(EU\) No 715/2013](#) applies”;
- (ii) the second sentence were omitted.
- (6) 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 Secretary of State under regulation 8(1) of the Hazardous Waste (England and Wales) Regulations 2005 ([S.I. 2005/894](#))(3), or by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005 ([S.I. 2005/1806 \(W.138\)](#))(4), that a specific batch of waste is to be treated as hazardous waste;
- (b) a decision made by the Secretary of State under regulation 9(1) of the Hazardous Waste (England and Wales) Regulations 2005, or 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 regulation 8(2) or 9(2) of the Hazardous Waste (England and Wales) Regulations 2005, or regulation 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;
- (d) regulations (if any) made by the Secretary of State under section 62A(1) of the Environmental Protection Act 1990 or by the Welsh Ministers under section 62A(2) of that Act (lists of waste displaying hazardous properties);
- (e) a determination by the Scottish Ministers that a specific batch or type of waste—

(2) [S.S.I. 2010/60](#).

(3) [S.I. 2005/894](#); relevant amending instruments are [S.I. 2011/988](#) and [2015/1360](#).

(4) [S.I. 2005/1806 \(W. 138\)](#); relevant amending instruments are [S.I. 2011/971 \(W. 141\)](#) and [2015/1417\(W. 141\)](#).

- (i) is to be treated as hazardous waste because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex 3;
 - (ii) is to be treated as non-hazardous waste because the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex 3.”;
- (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.
- (7) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- (8) In subsection (2)—
 - “appropriate authority” means—
 - (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers;
 - (c) in relation to Scotland, the Scottish Ministers;
 - “local authority” means—
 - (a) in England outside Greater London—
 - (i) a district council,
 - (ii) a county council, or
 - (iii) the Council of the Isles of Scilly;
 - (b) in Greater London—
 - (i) the council of a London borough,
 - (ii) the Common Council of the City of London,
 - (iii) the Sub-Treasurer of the Inner Temple, or
 - (iv) the Under-Treasurer of the Middle Temple;
 - (c) in Wales—
 - (i) a county council, or
 - (ii) a county borough council;
 - (d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽⁵⁾.”.

(5) 1994 c. 39.