
STATUTORY INSTRUMENTS

2020 No. 1620

**The Control of Mercury (Amendment)
(EU Exit) Regulations 2020**

PART 4

Amendments to retained direct EU legislation

CHAPTER 1

Amendments to the EU Mercury Regulation

Amendments to Article 2

13.—(1) Article 2 is amended as follows.

(2) The existing paragraph becomes paragraph 1.

(3) In that paragraph—

(a) in point (6)—

(i) in the words before point (a), after “export” insert “(except in the expressions “exporting country” and “exported mercury”);

(ii) in point (a)—

(aa) after “export” insert “from the United Kingdom to a country other than one which is a member state on IP completion day”;

(bb) omit the words from “meeting” to the end;

(iii) omit point (b);

(b) in point (7)—

(i) for “customs territory of the Union”, in the first place it occurs, substitute “United Kingdom from a country other than one which is a member state on IP completion day”;

(ii) omit the words from “that are placed” to the end;

(c) in point (11), in the first sentence, after “available” insert “in Great Britain”;

(d) after point (11) insert—

“(12) ‘competent authority’ means—

(a) for England and offshore installations in the English offshore area, the Environment Agency;

(b) for Scotland and offshore installations in the Scottish offshore area, the Scottish Environment Protection Agency;

(c) for Wales, the Natural Resources Body for Wales;

and ‘offshore installation’, ‘English offshore area’ and ‘Scottish offshore area’ have the meanings given in Schedule 2 to the Control of Mercury (Enforcement) Regulations 2017.

- (13) ‘appropriate authority’ means—
- (a) in relation to England, the Secretary of State;
 - (b) in relation to Scotland, the Scottish Ministers;
 - (c) in relation to Wales, the Welsh Ministers;

but, for making regulations under these Regulations in relation to Scotland, the appropriate authority is the Secretary of State, if consent is given by the Scottish Ministers, and, for making regulations under these Regulations in relation to Wales, the appropriate authority is the Secretary of State, if consent is given by the Welsh Ministers.”.

- (4) After paragraph 1 insert—

“2. For the purposes of these Regulations, “[Directive 2008/98/EC](#)” means [Directive 2008/98/EC\(1\)](#) as last amended by [Directive \(EU\) 2018/851\(2\)](#) and read in accordance with paragraphs 3 and 4.

3. Article 5 of [Directive 2008/98/EC](#) is to be read as if—

- (a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;
- (b) after paragraph 1 there were inserted—

“1A. Any decision as to whether a substance or object is a by-product must be made—

- (a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and
- (b) having regard to any guidance published by the appropriate authority or the competent authority for the purposes of this Article.”;

- (c) paragraphs 2 and 3 were omitted.

4. Article 6 of [Directive 2008/98/EC](#) is to be read as if—

- (a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;
- (b) after paragraph 1 there were inserted—

“1A. Any decision as to whether a substance or object has ceased to be waste must be made—

- (a) in accordance with any regulations or retained direct EU legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and
- (b) having regard to any guidance published by the appropriate authority or the competent authority for the purposes of this Article.”;

- (c) in paragraph 2—

- (i) the first subparagraph were omitted;
- (ii) in the second subparagraph, for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
- (iii) the third and fourth subparagraphs were omitted;

(1) OJ No. L 312, 22.11.2008, p. 3.

(2) OJ No. L 150, 14.6.2018, p. 109.

- (d) paragraph 3 were omitted;
- (e) in paragraph 4—
 - (i) in the first subparagraph—
 - (aa) in the first sentence, for the words from the beginning to “Member State” there were substituted “Where criteria have not been set as referred to in paragraph 1A(a), the competent authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for “Member States” there were substituted “The appropriate authority”;
 - (bb) “by competent authorities” were omitted.”.