

Changes to legislation: Water Environment and Water Services (Scotland) Act 2003, PART 1 is up to date with all changes known to be in force on or before 23 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F1}SCHEDULE 5 INTERPRETATION OF DIRECTIVES FOR THE PURPOSES OF PART 1

Textual Amendments

- F1** Sch. 5 inserted (31.12.2020) by [The Environment \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2019 \(S.S.I. 2019/26\)](#), regs. 1, **2(6)** (as amended by [S.S.I. 2019/175](#), regs. 1(1)(b), **8(2)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

PART 1

THE DIRECTIVE

Introduction

- 1 (1) When interpreting the Directive for the purposes of Part 1 of this Act—
- a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the relevant 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 Scotland,
 - a reference to Community legislation is to be read as a reference to [^{F2}assimilated] law,
 - the Directive is to be read subject to the following rules.
- (2) In sub-paragraph 1(a)—
- “exit day” has the meaning given by section 20 of the European Union (Withdrawal) Act 2018,
- “relevant authority” means—
- the Scottish Ministers,
 - SEPA,
 - any responsible authority.

Textual Amendments

- F2** Word in [sch. 5 para. 1\(1\)\(b\)](#) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(a\)](#)

Modifications to the Articles

- 2 Article 2 is to be read as if—
- in paragraph 24, for the words from “in Annex IX” to the end, there were substituted “ by the Priority Substances Directive, and under relevant [^{F3}assimilated] law which sets environmental quality standards ”,
 - in paragraph 37, for the words from “Directive 80/778/EEC” to the end, there were substituted “ Council Directive [98/83/EC](#) on the quality of water intended for human consumption ”.

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Textual Amendments

F3 Word in sch. 5 para. 2(a) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(b\)](#)

3 Article 3(9) is to be ignored.

4 Article 4 is to be read as if—

- (a) in paragraph 1—
 - (i) in sub-paragraph (a)(iv), for “Article 16(1) and (8)” there were substituted “the Priority Substances Directive”,
 - (ii) in sub-paragraph (b)(iii), for “paragraphs 2, 4 and 5 of Article 17” there were substituted “the Groundwater Directive”,
- (b) in paragraph 8, the reference to “other Community environmental legislation” were a reference to “[^{F4}assimilated] law relating to the environment”,
- (c) in paragraph 9, the reference to “the existing Community legislation” were a reference to “other relevant [^{F5}assimilated] law”.

Textual Amendments

F4 Word in sch. 5 para. 4(b) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(c\)](#)

F5 Word in sch. 5 para. 4(c) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(d\)](#)

5 Article 7(2) is to be read as if—

- (a) for “at Community level under Article 16” there were substituted “by the Priority Substances Directive”,
- (b) for “Directive [80/778/EEC](#) as amended by Directive [98/83/EC](#)” there were substituted “the [^{F6}assimilated] law which implemented Council Directive [98/83/EC](#) on the quality of water intended for human consumption”.

Textual Amendments

F6 Word in sch. 5 para. 5(b) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(e\)](#)

6 Article 10 is to be ignored.

7 Article 11(3) is to be read as if—

- (a) in sub-paragraph (a), for the words from “to implement” to the end, there were substituted “under [^{F7}assimilated] law for the protection of water”,
- (b) in sub-paragraph (j), in the fourth indent, for the words from “Directive [2009/31/EC](#)” to the end, there were substituted “the [^{F8}assimilated] law

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which implemented Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide”,

- (c) in sub-paragraph (k)—
- (i) for “action taken pursuant to Article 16,” there were substituted “the Priority Substances Directive”,
 - (ii) for “agreed pursuant to Article 16(2)” there were substituted “in Annex X”.

Textual Amendments

- F7** Word in sch. 5 para. 7(a) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), sch. 1 para. 4(2)(f)
- F8** Word in sch. 5 para. 7(b) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), sch. 1 para. 4(2)(g)

8 Article 12 is to be ignored.

9 Article 15 is to be ignored.

10 Article 24 is to be ignored.

11 Annex II is to be read as if, in section 1.4—

- (a) in the second paragraph—
- (i) after “gathered under” there were inserted “the [F9]assimilated] law which implemented”,
 - (ii) in sub-paragraph (ii), the reference to information gathered under Articles 9 and 15 of Directive 96/61/EC were a reference to relevant information gathered under the [F10]assimilated] law which implemented Articles 5(3), 14 and 24 of Directive 2010/75/EC of the European Parliament and of the Council on industrial emissions”,
- (b) in the third paragraph—
- (i) at the start of sub-paragraph (i), there were inserted “[F11]assimilated] law which implemented”,
 - (ii) in sub-paragraph (ii), the reference to information gathered under Articles 7 and 17 of Directive 91/414/EEC were a reference to relevant information gathered under Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC”,
 - (iii) in sub-paragraph (iii), for “Directive 98/8/EC” there were substituted “Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products”.

Textual Amendments

- F9** Word in sch. 5 para. 11(a)(i) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), sch. 1 para. 4(2)(h)

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- F10** Word in sch. 5 para. 11(a)(ii) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 4(2)(i)**
- F11** Word in sch. 5 para. 11(b)(i) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 4(2)(j)**

12 Annex IV is to be read as if—

- (a) in paragraph 1—
- (i) in sub-paragraph (iii), for “Directive 76/160/EEC” there were substituted “ [F12assimilated] law which implemented Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC ”,
- (ii) in sub-paragraph (iv), after “under”, in both places it occurs, there were inserted “ the [F13assimilated] law which implemented ”,
- (iii) in sub-paragraph (v)—
- (A) after “under”, there were inserted “ the [F14assimilated] law which implemented ”,
- (B) for “Directive 79/409/EEC” there were substituted “ the [F15assimilated] law which implemented Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds ”,
- (b) in paragraph 2, the words “Community, national or local” were omitted.

Textual Amendments

- F12** Word in sch. 5 para. 12(a)(i) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 4(2)(k)**
- F13** Word in sch. 5 para. 12(a)(ii) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 4(2)(l)**
- F14** Word in sch. 5 para. 12(a)(iii)(A) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 4(2)(m)**
- F15** Word in sch. 5 para. 12(a)(iii)(B) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 4(2)(n)**

13 Annex V is to be read as if—

- (a) references in tables 1.2.1 to 1.2.5 to Directive 91/414/EC, in each place they occur, were references to Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC,
- (b) references in tables 1.2.1 to 1.2.5 to Directive 98/8/EC, in each place they occur, were references to Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products,

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- (c) in section 1.3.1, in the unnumbered paragraph headed “Selection of monitoring points”, the fourth indent (referring to “the Information Exchange Decision 77/795/EEC”) were omitted,
- (d) in section 1.3.5, for “Drinking Water Directive” there were substituted “ [F16assimilated] law which implemented Council Directive 98/83/EC on the quality of water intended for human consumption ”,
- (e) in section 1.4.3, for “Annex IX, Article 16 and under other relevant Community legislation” there were substituted “ the Priority Substances Directive and under relevant [F17assimilated] law ”,
- (f) in the table in section 2.3.2, in the column for “good status”, for “other relevant Community legislation in accordance with Article 17” there were substituted “ the Groundwater Directive ”,
- (g) in section 2.4.5, for “the Directives concerned” there were substituted “ the Priority Substances Directive and the Groundwater Directive ”.

Textual Amendments

F16 Word in sch. 5 para. 13(d) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(o\)](#)

F17 Word in sch. 5 para. 13(e) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(p\)](#)

- 14 Annex VI is to be read as if Part A were omitted.
- 15 Annex VII is to be read as if, in Part A, in point 7.1, for “to implement Community legislation” there were substituted “ under [F18assimilated] law ”.

Textual Amendments

F18 Word in sch. 5 para. 15 substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(q\)](#)

Definition of [F19assimilated] law

Textual Amendments

F19 Word in sch. 5 para. 16 cross-heading substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(r\)](#)

- 16 For the purposes of this Part, “[F20assimilated] law” has the meaning given by section 6(7) of the European Union (Withdrawal) Act 2018.]

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Textual Amendments

- F20** Word in sch. 5 para. 16 substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), [sch. 1 para. 4\(2\)\(s\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 23(5) inserted by [2014 asp 3 sch. 3 para. 8\(6\)\(b\)](#)