
STATUTORY INSTRUMENTS

2019 No. 188

**The Waste (Miscellaneous Amendments)
(EU Exit) (No. 2) Regulations 2019**

PART 3

Amendments to secondary legislation

The Waste Electrical and Electronic Equipment Regulations 2013

19.—(1) The Waste Electrical and Electronic Equipment Regulations 2013 are amended as follows.

(2) In regulation 2—

- (a) in the definition of “the Directive” (as substituted by regulation 8(2)), at the end insert “, as read in accordance with regulation 2A”;
- (b) in the definition of “the Waste Directive”, at the end insert “and as read in accordance with regulation 2B”;
- (c) in the definition of “active implantable medical device”, for the words from “point (c)” to “devices”, substitute “regulation 2(1) of the Medical Devices Regulations 2002(1)”;
- (d) in the definition of “in vitro diagnostic medical device”, for the words from “within the meaning of” to the end, substitute “within the meaning of regulation 2(1) of the Medical Devices Regulations 2002, which is EEE”;
- (e) in the definition of “making available on the market”, for “a Member State” substitute “the United Kingdom”;
- (f) in the definition of “medical device”, for the words from “within the meaning of” to the end, substitute “within the meaning of regulation 2(1) of the Medical Devices Regulations 2002, which is WEEE”;
- (g) omit the definition of “Member State”;
- (h) in the definition of “placing on the market”, omit “within the territory of a Member State”;
- (i) in the definition of “producer”—
 - (i) in the words before sub-paragraph (a), omit the words from “in accordance” to “consumer rights”;
 - (ii) in sub-paragraphs (a) and (b)—
 - (aa) for “a Member State” substitute “the United Kingdom”;
 - (bb) for “territory of that Member State” substitute “United Kingdom”;
 - (iii) for sub-paragraphs (c) and (d) substitute—

- “(c) is established in the United Kingdom and places on the market, on a professional basis, EEE from a country other than the United Kingdom; or
 - (d) sells EEE by means of distance communication directly to private households or to users other than private households in the United Kingdom and is established in a country other than the United Kingdom.”.
- (3) After regulation 2, insert—

“Modification of the Directive

2A.—(1) For the purposes of these Regulations, the Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States or the competent authorities in a provision imposing an obligation or conferring a discretion on a member State, member States or competent authority is to be read as a reference to the Secretary of State or appropriate authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion.

(3) A reference to a term in the Directive which is defined in regulation 2 to these Regulations is to be read as if it had the meaning given in regulation 2.

(4) Article 3 is to be read as if paragraphs 1(e), (f) and (l) and (2) were omitted.

(5) Article 5(2)(e) is to be read as if “and Union” were omitted.

(6) Article 8 is to be read as if—

(a) paragraph 4 were omitted;

(b) in paragraph 5, the second to fifth subparagraphs were omitted.

(7) Article 9 is to be read as if—

(a) in paragraphs 1 and 2, for “[Directive 2008/98/EC](#)” there were substituted “the Waste Directive”;

(b) in paragraph 3, for the words “Article 11” there were substituted “paragraphs 23 and 24 of Schedule 11 to the Waste Electrical and Electronic Equipment Regulations 2013;

(c) after paragraph 3, there were inserted—

“4. In paragraph 3, “permit”—

(a) in relation to England and Wales, means an environmental permit issued under regulation 13(1) of the Environmental Permitting Regulations 2016;

(b) in relation to Northern Ireland, means—

(i) a waste management licence granted under Article 6 of the Waste and Contaminated Land (Northern Ireland) Order 1997(2), or

(ii) a permit granted under regulation 10 of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(3);

(2) [S.I. 1997/2778 \(N.I. 19\)](#).

(3) [S.R. 2013 No. 160](#), amended by [S.R. 2014 No. 304](#); there are other amending instruments but none is relevant.

- (c) in relation to Scotland, means a site licence issued under section 35 of the Environmental Protection Act 1990(4) or a permit issued under regulation 13 of the Pollution Prevention and Control (Scotland) Regulations 2012.”.
- (8) Article 11 is to be read as if paragraphs 3 and 6 were omitted.
- (9) Annex 7 is to be read as if, in paragraph 1—
 - (a) in the first subparagraph—
 - (i) in the first indent, for the words from “Council Directive 96/59/EC(5)” to the end there were substituted “the relevant PCB legislation”;
 - (ii) in the thirteenth indent, for the words from “Commission Directive 97/69/EC(6)” to the end there were substituted “Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures”;
 - (iii) in the fourteenth indent, for the words from “Article 3” to the end there were substituted “Annex 7 to the Basic Safety Standards Directive”;
 - (b) in the second subparagraph, for “Directive 2008/98/EC” there were substituted “the Waste Directive”.
- (10) Annex 8 is to be read as if, in paragraph 1, in the words before the first indent, the words from “(without prejudice” to “landfill of waste)” were omitted.
- (11) In paragraph (8)(a)(i), the “relevant PCB legislation” means—
 - (a) in relation to England and Wales, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000(7);
 - (b) in relation to Scotland, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000(8);
 - (c) in relation to Northern Ireland, the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) Regulations (Northern Ireland) 2000(9).

Modification of the Waste Directive

2B.—(1) For the purposes of these Regulations, the Waste Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States or a competent authority in a provision imposing an obligation or conferring a discretion on a member State, member States or competent authority is to be read as a reference to the Secretary of State or appropriate authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion.

(3) Article 3(20) is to be read as if for “Article 2(11) of Directive 96/61/EC” there were substituted “Article 3(10) of the Industrial Emissions Directive”.

(4) Section 35 was amended by paragraph 66(2) of Schedule 22 to the Environment Act 1995 (c.25), by paragraph 3(20) of Part 1 of Schedule 3 to the Regulatory Reform (Scotland) Act 2014 (asp 3) and by S.S.I. 2000/323 and 2011/226.

(5) OJ No L 243, 24.9.1996, p 31, as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).

(6) OJ No L 343, 13.12.1997, p 19, repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L 353, 31.12.2008, p 1).

(7) S.I. 2000/1043, amended by S.I. 2000/3359, 2005/894, 1806 (W 138), 2010/1159, 1820 (W 177), 2011/988, 2013/755 (W 90).

(8) S.S.I 2000/95, to which there are amendments not relevant to these Regulations.

(9) S.R. 2000 No. 232, to which there are amendments not relevant to these Regulations.

- (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 Regulations (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, or by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005, or by the Department of Agriculture, Environment and Rural Affairs under regulation 9(1) of the Hazardous Waste Regulations (Northern Ireland) 2005 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, or by the Department of Agriculture, Environment and Rural Affairs under regulation 10(1) of the Hazardous Waste Regulations (Northern Ireland) 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 regulations 8(2) or 9(2) of the Hazardous Waste (England and Wales) Regulations 2005, or regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005, or regulations 9(2) or 10(2) of the Hazardous Waste Regulations (Northern Ireland) 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—
 - (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) Article 23 is to be read as if in paragraph 5, “or Community” were omitted.

(8) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.

Meaning of “the Basic Safety Standards Directive” and “the Industrial Emissions Directive”

2C.—(1) In regulation 2A(8)(a)(iii) and this regulation, “the Basic Safety Standards Directive” means Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, read in accordance with paragraphs (2) to (4).

(2) A reference to one or more member States or a competent authority in a provision imposing an obligation or conferring a discretion on a member State, member States or competent authority is to be read as a reference to the Secretary of State or appropriate authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion.

(3) Article 4(79) is to be read as if “under the legislative and regulatory framework of the Member State” there were substituted “in the United Kingdom”.

(4) Annex 7 is to be read as if, in section 2—

(a) in points (c) and (d), “Community” were omitted;

(b) in point (e), in the second sentence, for “Article 75” there were substituted “regulation 7 of the Ionising Radiation (Basic Safety Standards) (Miscellaneous Provisions) Regulations 2018(10)”.

(5) In regulation 2B(3), “the Industrial Emissions Directive” means [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control), read in accordance with paragraphs (6) and (7).

(6) Article 3 is to be read as if—

(a) in point (1)(a), for the words from “Article 1” to the end there were substituted “Article 4(78) of the Basic Safety Standards Directive”;

(b) in point (10)(b), for “Member State in question” there were substituted “United Kingdom”;

(c) in point (23), for the words from “point 1” to the end there were substituted “point 1 of the second subparagraph of Article 2 of Council [Directive 2009/158/EC](#) on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs”;

(d) in point (37), for the words from “of the European” to the end there were substituted “, read with Articles 5 and 6 of that Directive”.

(7) Annex 1 is to be read as if—

(a) in the words before point 1, the second paragraph were omitted;

(b) in point 5.3—

- (i) in point (a), in the words before point (i), for “Council [Directive 91/271/EEC](#) of 21 May 1991 concerning urban waste-water treatment” there were substituted “the urban waste water treatment legislation”;
 - (ii) in point (b), in the words before point (i), for “[Directive 91/271/EEC](#)” there were substituted “the urban waste water treatment legislation”;
 - (c) in point 5.4, the reference to Council [Directive 1999/31/EC](#) of 26 April 1999 on the landfill of waste were a reference to the Landfill Directive;
 - (d) in point 6.9, for “[Directive 2009/31/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2009/31/EC](#)”;
 - (e) in point 6.11, for “[Directive 91/271/EEC](#)” there were substituted “the urban waste water treatment legislation”.
- (8) In paragraph (7)(b) and (e), “the urban waste water treatment legislation” means—
- (a) in England and Wales, the Urban Waste Water Treatment (England and Wales) Regulations 1994;
 - (b) in Scotland, the Urban Waste Water Treatment (Scotland) Regulations 1994;
 - (c) in Northern Ireland, the Urban Waste Water Treatment Regulations (Northern Ireland) 2007.
- (9) In paragraph (7)(c), “the Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Council [Directive 2011/97/EU](#), and read as if—
- (a) in Article 2—
 - (i) for point (a) there were substituted—
 - “(a) ‘waste’ has the meaning given by Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive.”;
 - (ii) for point (c) there were substituted—
 - “(c) ‘hazardous waste’ has the meaning given in Article 3(2) of the Waste Directive.”;
 - (b) in Article 3(2), “Without prejudice to existing Community legislation,” were omitted.”.
- (4) In regulation 7—
- (a) in paragraph (a), for “Member States” substitute “the United Kingdom”;
 - (b) in paragraph (b), for “this Directive” substitute “these Regulations”.
- (5) In regulation 10—
- (a) for the heading substitute “Retained EU law”;
 - (b) for “existing EU legislation” substitute “retained EU law”.
- (6) Omit regulation 13.
- (7) In regulation 14(1A), for “Member State” substitute “country”.
- (8) In regulation 44(a), for “requirement on each Member State under Article 5(1) of the Directive” substitute “need”.
- (9) In regulation 71, in paragraph (1)—
- (a) after sub-paragraph (a), omit “or”;
 - (b) omit sub-paragraph (b).
- (10) In regulation 74(2)(a), for the words “the framework”, substitute “accordance with Article 1(1)”.

(11) In Schedule 8—

- (a) in paragraph 7, omit “European or”;
- (b) in paragraphs 26 and 31—
 - (i) in sub-paragraph (c), for “a Member State” substitute “the United Kingdom”;
 - (ii) in sub-paragraph (d), for “another destination within or outside the Union” substitute “a destination outside the United Kingdom”.

(12) In Schedule 9—

- (a) in paragraph 1—
 - (i) in the words before sub-paragraph (a), for “Member States shall require the holder to” substitute “the holder must”;
 - (ii) in sub-paragraph (c), at the end insert “, as read with Articles 5 and 6 of that Directive”;
- (b) in paragraph 3—
 - (i) for “, Member States” substitute “the appropriate authority”;
 - (ii) in sub-paragraph (d)(i), for the words from “Annex II” to “Annex III” substitute “Schedule 2 or Schedule 4, as appropriate, and category set out in Schedule 1 or Schedule 2”;
- (c) in paragraph 5, for “Member State authorities” substitute “the appropriate authority”.