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STATUTORY INSTRUMENTS

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**2019 No. 620**

**EXITING THE EUROPEAN UNION  
ENVIRONMENTAL PROTECTION  
WASTE**

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

*Made - - - - 19th March 2019*

*Coming into force in accordance with regulation 1(2)*

The Secretary of State makes these Regulations in exercise of the powers conferred by—

- (a) in relation to Part 1, the provisions mentioned in paragraphs (b) and (c);
- (b) in relation to Part 2, section 2(2) of the European Communities Act 1972 <sup>M1</sup>;
- (c) in relation to the remainder of the Regulations, section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 <sup>M2</sup>.

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste <sup>M3</sup>.

In accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

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**Marginal Citations**

**M1** 1972 c. 68. Section 2(2) was amended by the [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), [section 27\(1\)\(a\)](#) and the [European Union \(Amendment\) Act 2008 \(c. 7\)](#), the Schedule, Part 1. It is prospectively repealed by the [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), [section 1](#) from exit day (see [section 20](#) of that Act). Paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006, section 28 and was amended by the European Union (Amendment) Act 2008, the Schedule, Part 1 and [S.I. 2007/1388](#). It is prospectively repealed by the European Union (Withdrawal) Act 2018, section 1 from exit day (see [section 20](#) of that Act). Under section 57(1) of the [Scotland Act 1998 \(c. 46\)](#), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Scotland. Under paragraph 5 of Schedule 3 to the

*Status: This version of this Instrument contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

Government of Wales Act 2006 (c. 32), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Wales. The function of the former Minister of Agriculture, Fisheries and Food of making regulations under section 2(2) was transferred to the Secretary of State by S.I. 2002/794.

**M2** 2018 c. 16.

**M3** S.I. 1992/2870, to which there are amendments not relevant to these Regulations.

## PART 1

### Introductory

#### Citation and commencement

1.—(1) These Regulations may be cited as the Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019.

(2) They come into force as follows—

- (a) as regards this Part and Part 2, on the day after the day on which they are made;
- (b) as regards the remainder, on exit day.

#### Commencement Information

**II** Reg. 1 in force at 20.3.2019, see reg. 1(2)(a)

## PART 2

### Amendment of out of date references

#### Environmental Protection Act 1990

2.—(1) The Environmental Protection Act 1990<sup>M4</sup> is amended as follows.

(2) In section 33(13)<sup>M5</sup>, as it extends to England and Wales, for the words from “Directive 2008/98/EC<sup>M6</sup>” to the end substitute “ the Waste Framework Directive ”.

(3) In section 34(2A)<sup>M7</sup>, as it extends to Scotland, for “Waste Directive” substitute “ Waste Framework Directive ”.

(4) In section 57(8)<sup>M8</sup>, as it extends to England and Wales, in the definition of “waste”, for “Directive 2008/98/EC of the European Parliament and of the Council on waste” substitute “ the Waste Framework Directive ”.

(5) In section 62A(1)(b) and (2)(b)<sup>M9</sup>, for “Directive 2008/98/EC, as last amended by Council Regulation (EU) 2017/997<sup>M10</sup>” substitute “ the Waste Framework Directive ”.

(6) In section 75<sup>M11</sup>—

(a) after subsection (1), insert—

“(1A) “Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by Council Regulation (EU) 2017/997.”;

- (b) in subsection (2)—
- (i) as it extends to England and Wales, for “Directive [2008/98/EC](#) of the European Parliament and of the Council on waste” substitute “the Waste Framework Directive”;
  - (ii) as it extends to Scotland, in paragraph (a), for “Waste Directive” substitute “Waste Framework Directive”;
- (c) omit subsection (12) as it extends to Scotland.

#### Commencement Information

**I2** Reg. 2 in force at 20.3.2019, see reg. 1(2)(a)

#### Marginal Citations

- M4** [1990 c. 43](#).
- M5** Section 33(13) was inserted in relation to England and Wales by [S.I. 2007/3538](#), and amended by [S.I. 2016/738](#).
- M6** OJ No L 312, 22.11.2008, p 3.
- M7** Section 34(2A) was inserted in relation to Scotland by [S.S.I. 2011/226](#).
- M8** Section 57(8) was substituted in relation to England and Wales by [S.I. 2005/3026](#), and amended by [S.I. 2011/988](#).
- M9** Section 62A was inserted by [S.I. 2005/894](#), and amended by S.I. 2011/988, 2015/1360, 2018/721 (W. 140) and 942.
- M10** OJ No L 150, 14.6.2017, p 1.
- M11** Section 75(2) as it extends to England and Wales, was substituted by [S.I. 2011/988](#); section 75(2) as it extends to Scotland was amended by [S.S.I. 2018/219](#). Section 75(12) as it extends to Scotland was substituted by S.S.I. 2015/188.

### Waste and Emissions Trading Act 2003

- 3.—(1) Section 37 of the Waste and Emissions Trading Act 2003 <sup>M12</sup> is amended as follows.
- (2) In subsection (2), as it extends to England and Wales and Scotland, at the end insert “, as last amended by Council Regulation (EU) 2017/997”.
- (3) For subsection (2), as it extends to Northern Ireland, substitute—
- “(2) For the purposes of this section, “the Waste Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by Council Regulation (EU) 2017/997.”.

#### Commencement Information

**I3** Reg. 3 in force at 20.3.2019, see reg. 1(2)(a)

#### Marginal Citations

- M12** [2003 c. 33](#). Section 37, as it extends to England and Wales, was amended by [S.I. 2011/988](#); section 37, as it extends to Scotland, was substituted by [S.S.I. 2011/226](#).

## PART 3

### Amendment of primary legislation

#### Control of Pollution (Amendment) Act 1989

4. Section 1(3) of the Control of Pollution (Amendment) Act 1989 <sup>M13</sup> is amended as follows—
- (a) after paragraph (a), omit the final “or”;
  - (b) omit paragraph (b).

#### Commencement Information

- I4** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)(b)

#### Marginal Citations

- M13** 1989 c. 14.

#### 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—

#### “75A Modification of the Waste Framework Directive

(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 [<sup>F1</sup>IP completion 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<sup>M14</sup>” to the end there were substituted “the Mining Waste Directive”;
- (iv) for point (d), as it extends to Scotland, there were substituted—

- (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)<sup>M15</sup>.’;
  - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
  - (c) paragraph 4 were omitted.
- [F2](4) Article 5 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 waste regulation authority for the purposes of this Article.”;
  - (c) paragraphs 2 and 3 were omitted.
- (5) Article 6 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 waste regulation 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;
  - (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 out as referred to in paragraph 1A(a), the waste regulation authority”;
      - (bb) the second sentence were omitted;
    - (ii) in the second subparagraph—

- (aa) for “Member States” there were substituted “The waste regulation authority”;
- (bb) “by competent authorities” were omitted.
- (6) Article 7 is to be read as if—
- (a) before paragraph 1 there were inserted—
- “**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales or Scotland (as the case may be).”;
- (b) in paragraph 1—
- (i) the first and second sentences were omitted;
- (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
- (c) paragraphs 2, 3, 6 and 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 [<sup>F3</sup>this section]—
- “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 <sup>M16</sup>.”.

<b>F1</b>	Words in reg. 5(4) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(2)(a)</b>
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- F2** Words in reg. 5(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(2)(b)**
- F3** Words in reg. 5(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(2)(c)**

#### Commencement Information

- I5** Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

#### Marginal Citations

- M14** 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).
- M15** [S.S.I. 2010/60](#).
- M16** [1994 c. 39](#).

### Waste and Emissions Trading Act 2003

6.—(1) The Waste and Emissions Trading Act 2003 is amended as follows.

(2) In section 1—

- (a) in subsection (1), for “must” substitute “ may ”;
- (b) omit subsection (2);
- (c) for subsection (4) substitute—

“(4) The power under subsection (1)(a) is exercisable only with the agreement of the Scottish Ministers, the Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

(4A) The power under subsection (1)(c) is exercisable only with the agreement of the Scottish Ministers.

(4B) The power under subsection (1)(d) is exercisable only with the agreement of the Welsh Ministers.

(4C) The power under subsection (1)(e) is exercisable only with the agreement of the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.”;

(d) omit subsection (5).

(3) In section 23, for subsection (3) substitute—

“(3) The power under subsection (2) is exercisable only with the agreement of the Scottish Ministers, the Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.”.

(4) In section 37—

(a) in subsection (2)—

(i) after “section” insert “ and section 37A ”;

(ii) at the end (and, in that subsection as it extends to England and Wales and Scotland, after the insertion made by regulation 3(2)) insert “ , and read in accordance with subsections (3) to (9) ”;

(b) after subsection (2) insert—

“(3) A reference to one or more member States in a provision of the Waste 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, appropriate agency or local authority which, immediately before [<sup>F4</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England, Wales, Scotland or Northern Ireland.

- (4) 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” [<sup>F5</sup>or, in relation to Northern Ireland, EU legislation which has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement];
    - (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” to the end there were substituted “the Mining Waste Directive” (see section 37A);
    - (iv) for point (d), as it extends to Scotland, there were substituted—

“(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).”;
    - (v) for point (d), as it extends to Northern Ireland, there were substituted—

“(d) extractive waste, which has the same meaning as in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 85) <sup>M17</sup>.”;
  - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
  - (c) paragraph 4 were omitted.
- [<sup>F6</sup>(5) Article 5 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 appropriate agency for the purposes of this Article.”;
  - (c) paragraphs 2 and 3 were omitted.
- (6) Article 6 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 appropriate agency 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;
  - (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 out as referred to in paragraph 1A(a), the appropriate agency”;
      - (bb) the second sentence were omitted;
    - (ii) in the second subparagraph—
      - (aa) for “Member States” there were substituted “The appropriate agency”;
      - (bb) “by competent authorities” were omitted.
- (7) Article 7 is to be read as if—
- (a) before paragraph 1 there were inserted—

“**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales, Scotland or Northern Ireland (as the case may be).”;
  - (b) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
  - (c) paragraphs 2, 3, 6 and 7 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.
- (9) In this section—
- “appropriate agency” means—
- (a) in relation to England, the Environment Agency;
  - (b) in relation to Wales, the Natural Resources Body for Wales;
  - (c) in relation to Scotland, the Scottish Environment Protection Agency;
  - (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

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**Changes to legislation:** There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)

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“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;
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

“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;
- (e) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972<sup>M18</sup>.

(5) After section 37 insert—

**“37A Meaning of “the Mining Waste Directive” in section 37: England and Wales**

(1) In section 37(4)(a)(iii), “the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries, read in accordance with subsections (2) to (5).

(2) Article 2 is to be read as if—

- (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#)<sup>M19</sup> were a reference to that Article read in accordance with subsection (4);
- (b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EC](#)<sup>M20</sup>” there were substituted “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive”.

(4) For the purposes of subsection (2)(a), Article 11(3)(j) of Directive [2000/60/EC](#) of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy is to be read as if—

- (a) the reference to “Member States” were a reference to the appropriate authority or appropriate agency;
- (b) in the words after the final indent, “environmental objectives”—

*Status: This version of this Instrument contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

- (i) in relation to the Northumbria River Basin District, means the environmental objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 (S.I. 2003/3245) <sup>M21</sup>;
- (ii) in relation to the Solway Tweed River Basin District, has the same meaning as in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (S.I. 2004/99) <sup>M22</sup>;
- (iii) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations.
- (5) In subsection (4)—
- “appropriate agency” and “appropriate authority” have the meanings given in section 37(9);
- “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (S.I. 2017/407) <sup>M23</sup>.”.

- F4** Words in reg. 6(4)(b) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(3)(a)**
- F5** Words in reg. 6(4)(b) inserted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(3)(b)**
- F6** Words in reg. 6(4)(b) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(3)(c)**

#### Commencement Information

- I6** Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

#### Marginal Citations

- M17** [S.R. 2015 No. 85](#).
- M18** 1972. c. 9 (N.I.); section 1 was amended by the [Local Government \(Boundaries\) Act \(Northern Ireland\) 2008 \(c. 7\) \(N.I.\)](#), section 3(1) and [S.I. 1985/454](#).
- M19** OJ No L 327, 22.12.2000, p 1, as last amended by Commission Directive 2014/101/EU (OJ No L 311, 31.10.2014, p 32).
- M20** OJ No L 194, 25.7.1975, p 47, repealed by Directive 2006/12/EC of the European Parliament and of the Council (OJ No L 114, 27.4.2006, p 9).
- M21** [S.I. 2003/3245](#), amended by [S.I. 2016/139](#) and 2017/407.
- M22** [S.I. 2004/99](#), amended by [S.I. 2016/139](#); there are other amending instruments but none is relevant.
- M23** [S.I. 2017/407](#).

#### Saving: regulations under section 1(1) or 23(2) of the Waste and Emissions Trading Act 2003

7. The amendments made by regulation 6(2) or 6(3) do not affect any regulations made under section 1(1) or 23(2) of the Waste and Emissions Trading Act 2003 before the coming into force of this Part.

*Status: This version of this Instrument contains provisions that are prospective.  
Changes to legislation: There are currently no known outstanding effects for the The Waste  
(Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

**Commencement Information**

**I7** Reg. 7 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)(b)

**PART 4**

Amendment and revocation of retained direct EU legislation

CHAPTER 1

Regulations

**Commission Regulation (EU) No 1103/2010 establishing, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, rules as regards capacity labelling of portable secondary (rechargeable) and automotive batteries and accumulators**

**8.—(1)** Commission Regulation (EU) No 1103/2010 establishing, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, rules as regards capacity labelling of portable secondary (rechargeable) and automotive batteries and accumulators is amended as follows.

(2) In Article 1—

[<sup>F7</sup>(za) for the heading, substitute “Scope and interpretation”];

(a) in paragraph 1, for “the date referred to in Article 5” substitute “ 30th November 2010 ”;

(b) after paragraph 1, insert—

“**1A.** In paragraph 1, ‘placed on the market’ means supplied or made available, whether in return for payment or free of charge, to a third party within the [<sup>F8</sup>Great Britain] and includes import into the [<sup>F8</sup>Great Britain].”.

[<sup>F9</sup>(c) after paragraph 2 insert—

“**3.** In this Regulation, “appliance” means any electrical or electronic equipment, as defined by Article 3(1)(a) of Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), which is fully or partly powered by batteries or accumulators or is capable of being so.”;]

(3) Omit Article 5.

(4) After Article 5, omit the words from “This Regulation” to “Member States”.

[<sup>F10</sup>(5) In Annex 1, in point (1), for “Article 11 of Directive 2006/66/EC” substitute “regulation 7 of the Batteries and Accumulators (Placing on the Market) Regulations 2008”.]

[<sup>F11</sup>(6) .....

**F7** Reg. 8(2)(za) inserted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), 14(4)(a)(i)

**F8** Words in reg. 8(2)(b) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), 14(4)(a)(ii)

- F9** Reg. 8(2)(c) inserted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(4)(a)(iii)**
- F10** Reg. 8(5) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(4)(b)**
- F11** Reg. 8(6) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(4)(c)**

**Commencement Information**

- I8** Reg. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

**Council Regulation (EU) No 333/2011 establishing criteria determining when certain types of scrap metal cease to be waste under Directive [2008/98/EC](#) of the European Parliament and of the Council**

9.—(1) Council Regulation (EU) No 333/2011 establishing criteria determining when certain types of scrap metal cease to be waste under Directive [2008/98/EC](#) of the European Parliament and of the Council is amended as follows.

(2) In Article 2—

- (a) the existing text becomes paragraph 1;
- (b) in that paragraph—
- (i) in point (e), in the definition of “importer”—
- (aa) for “Union” in the first place it occurs substitute “United Kingdom”;
- (bb) for “customs territory of the Union” substitute “United Kingdom”;
- (ii) after point (h), insert—
- “(i) “competent authority” means—
- (i) in relation to England, the Environment Agency;
- (ii) in relation to Wales, the Natural Resources Body for Wales;
- (iii) in relation to Scotland, the Scottish Environment Protection Agency;
- (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (j) “EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;
- (k) “local authority” means—
- (i) in England outside Greater London—
- a district council,
- a county council, or
- the Council of the Isles of Scilly;
- (ii) in Greater London—
- the council of a London borough,
- the Common Council of the City of London,

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*Status: This version of this Instrument contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

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- the Sub-Treasurer of the Inner Temple, or
  - the Under-Treasurer of the Middle Temple;
  - (iii) in Wales—
    - a county council, or
    - a county borough council;
  - (iv) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
  - (v) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972.”.
- (3) After Article 2 insert—

*“Article 2A*

*Modification of Directive 2008/98/EC of the European Parliament and of the Council*

1. For the purposes of this Regulation, a reference to Directive 2008/98/EC is a reference to Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by [<sup>F12</sup>Directive (EU) 2018/851], and read in accordance with this Article.

2. 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 competent authority, appropriate authority or local authority which, immediately before [<sup>F13</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion.

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” to the end there were substituted “the Mining Waste Directive”;
- (iv) for point (d), as it extends to Scotland, there were substituted—

“(d) extractive waste, which has the same meaning as in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010.”;

(v) for point (d), as it extends to Northern Ireland, there were substituted—

“(d) extractive waste, which has the same meaning as in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;

(c) paragraph 4 were omitted.

4. Article 3(20) is to be read as if for “Article 2(11) of Directive 96/61/EC<sup>M24</sup>” there were substituted “ Article 3(10) of the Industrial Emissions Directive ”.

[<sup>F14</sup>5. Article 5 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.

6. Article 6 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;
- (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 out 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 competent authority”;
    - (bb) “by competent authorities” were omitted.

7. Article 7 is to be read as if—

(a) before paragraph 1 there were inserted—

“**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales, Scotland or Northern Ireland (as the case may be).”;

(b) in paragraph 1—

(i) the first and second sentences were omitted;

(ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;

(c) paragraphs 2, 3, 6 and 7 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.

9. In [<sup>F15</sup>this Article], “the 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 Environment Protection Agency;

(d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

*Article 2B*

*Meaning of “the Mining Waste Directive” and “the Industrial Emissions Directive”*

1. In Article 2A(3)(a)(iii), “the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with paragraphs 2 and 3.

2. Article 2 is to be read as if—

(a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#) were a reference to that Article read in accordance with paragraph 7 of this Article;

(b) paragraphs 3 and 4 were omitted.

3. Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “ Article 3(1) of Directive [2008/98/EC](#), as read with Articles 5 and 6 of that Directive ”.

4. In Article 2A(4), “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 <sup>M25</sup>), read in accordance with paragraphs 5 and 6.



5. 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 Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation <sup>M26</sup> ”;
- (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 <sup>M27</sup> ”;
- (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 ”.

6. 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 <sup>M28</sup>” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 <sup>M29</sup> ”;
  - (ii) in point (b), in the words before point (i), for “Directive 91/271/EEC” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;
- (c) in point 5.4, the reference to Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste <sup>M30</sup> were a reference to the Landfill Directive;
- (d) in point 6.9, for “Directive 2009/31/EC<sup>M31</sup>” there were substituted “ the EU-derived domestic legislation which transposed Directive 2009/31/EC in respect of England and Wales <sup>M32</sup> ”;
- (e) in point 6.11, for “Directive 91/271/EEC” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”.

7. For the purposes of paragraph 2(a), Article 11(3)(j) of Directive 2000/60/EC is to be read as if—

- (a) the reference to “Member States” were a reference to the appropriate authority or the competent authority;
- (b) in the words after the final indent, “environmental objectives”—
  - (i) in relation to the Northumbria River Basin District, means the environmental objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;
  - (ii) in relation to the Solway Tweed River Basin District, has the same meaning as in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;

- (iii) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations.

[<sup>F16</sup>8. In paragraph 6(c), “the Landfill Directive” means Council Directive 1999/31/EC on the landfill of waste, as last amended by Directive (EU) 2018/850, and read as if, in Article 2—

- (a) in point (a) “‘waste’,” were omitted; and  
 (b) after point (a) there were inserted—  
     “(aa) “waste” means anything that—  
         (i) is waste within the meaning of Article 3(1) of Directive 2008/98/EC, as read with Articles 5 and 6 of that Directive, and  
         (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”.]

9. In paragraph 7—

- (a) in point (a), “the appropriate authority” has the meaning given by Article 2A(9);  
 (b) in point (b), “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.”.

(4) In Article 6—

- (a) in paragraph 5, in the first sentence, omit the words from “, or any other” to “(EMAS)”;  
 (b) after paragraph 6 insert—

“6A. In paragraph 6, “independent external verifier” means—

- (a) a conformity assessment body as defined in Regulation (EC) No 765/2008;  
 (b) a conformity assessment body as defined in Regulation (EC) No 765/2008 as it has effect in EU law <sup>M33</sup>;  
 (c) any other environmental verifier as defined in Article 2(20)(b) of Regulation (EC) No 1221/2009 as it has effect in EU law <sup>M34</sup>.”.

(5) After Article 6, insert—

*“Article 6A*

*EU exit: transitional provision*

1. Paragraph 3 applies to verification obtained in compliance with Article 6 as it had effect immediately before [<sup>F17</sup>IP completion day].

2. Paragraph 3 also applies where—

- (a) before [<sup>F17</sup>IP completion day], a producer or supplier has submitted a management system to a conformity assessment body or an environmental verifier for verification in compliance with Article 6 as it had effect immediately before [<sup>F17</sup>IP completion day], and  
 (b) after [<sup>F17</sup>IP completion day], the producer or supplier obtains that verification.

3. Where this paragraph applies, the verification obtained is deemed to be verification for the purposes of Article 6.

4. In paragraph 2, “supplier” means the supplier of a producer or of an importer.”.

(6) Omit Article 7.

(7) After Article 7, omit the words from “This Regulation shall” to “Member States”.

(8) In Annexes 1 and 2, in the first column—

(a) in Section 1.5, omit the second sentence;

(b) in Section 3.3(a), for the words from “Article 6” in the first place it occurs to the end substitute—

“the EU-derived domestic legislation that transposed—

(i) Article 6 of Directive 2000/53/EC of the European Parliament and of the Council on end-of life vehicles <sup>M35</sup>, as last amended by Commission Directive (EU) 2017/2096 <sup>M36</sup>, and

(ii) Article 8 of Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), as it had effect immediately before 4th July 2018 <sup>M37</sup>.”.

(9) In Annex 3, in the sixth entry of the table, in the second column, for “customs territory of the Union” substitute “ United Kingdom ”.

- F12** Words in reg. 9(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(5)(a)(i)**
- F13** Words in reg. 9(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(5)(a)(ii)**
- F14** Words in reg. 9(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(5)(a)(iii)**
- F15** Words in reg. 9(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(5)(a)(iv)**
- F16** Words in reg. 9(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(5)(b)**
- F17** Words in reg. 9(5) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(5)(c)**

#### Commencement Information

- I9** Reg. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. [1\(2\)\(b\)](#)

#### Marginal Citations

- M24** OJ No L 257, 10.10.1996, p 26, repealed by Directive 2008/1/EC of the European Parliament and of the Council (OJ No L 24, 29.1.2008, p 8).
- M25** OJ L No. 334, 17.12.2010, p 17, as corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).
- M26** OJ No L 13, 17.1.2014, p 1, as corrected by a corrigendum (OJ No L 72, 17.3.2016, p 69).

*Status: This version of this Instrument contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

- M27** OJ No L 343, 22.12.2009, p 74, as last amended by Commission Implementing Decision 2011/879/EU (OJ No L 343, 23.12.2011, p 105).
- M28** OJ No L 135, 30.5.1991, p 40, as last corrected by a corrigendum (OJ No L 189, 17.7.2015, p 41).
- M29** [S.I. 1994/2841](#), amended by [S.I. 2003/1788](#), 2005/2035, 2010/675, 2011/556, 2013/755 (W. 90) and 2016/1154.
- M30** OJ No L 182, 16.7.1999, p 1.
- M31** OJ No L 140, 5.6.2009, p 114, as last amended by Decision (EU) 2018/853 of the European Parliament and of the Council (OJ No L 150, 14.6.2018, p 155).
- M32** See for example: [S.I. 2010/1513](#), 2221, 2011/1483, 2305, 2453, 2012/461, 2013/2696, 2016/1154, 2017/571.
- M33** OJ No L 218, 13.8.2008, p 30.
- M34** OJ No L 342, 22.12.2009, p 1, as last amended by Commission Regulation (EU) 2017/1505 (OJ No L 222, 29.8.2017, p 1).
- M35** OJ No L 269, 21.10.2000, p 34.
- M36** OJ No L 299, 16.11.2017, p 24. See for example: generally, [S.I. 2003/2635](#), 2005/263; in relation to England and Wales, [S.I. 2016/1154](#); in relation to Scotland, [S.S.I. 2003/593](#); in relation to Northern Ireland, S.R. 2003 No. 493.
- M37** See for example [S.I. 2013/3113](#) and S.R. 2014 No.202.

### **Commission Regulation (EU) No 493/2012 laying down detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators**

**10.**—(1) Commission Regulation (EU) No 493/2012 laying down detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators is amended as follows.

(2) In Article 2—

- (a) the existing text becomes paragraph 1;  
 (b) in that paragraph, after point (4) insert—

“(4A) “waste battery or accumulator” means any battery or accumulator which is waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive;

(4B) “disposal” means any of the applicable operations provided for in Annex 1 to the Waste Framework Directive;

(4C) “Directive [2006/66/EC](#)” means Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators, as last amended by [<sup>F18</sup>Directive (EU) 2018/849] of the European Parliament and of the Council.”;

(c) after that paragraph, insert—

“**2.** In paragraph 1, “the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by [<sup>F19</sup>Directive (EU) 2018/851], read in accordance with paragraphs 3 and 4.

[<sup>F20</sup>**3.** Article 5 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 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;
    - (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 out 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 competent authority”;
        - (bb) “by competent authorities” were omitted.
- 5. In this Article—
  - “appropriate agency” means—
    - (a) in relation to England, the Environment Agency;
    - (b) in relation to Wales, the Natural Resources Body for Wales;
    - (c) in relation to Scotland, the Scottish Environment Protection Agency;

*Status: This version of this Instrument contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

“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.”].

(3) In Article 3(4) and (6), for “Member State's competent authorities” substitute “ competent authority ”.

(4) Omit Article 4.

(5) After Article 4, omit from “This Regulation” to “Member States”.

(6) In Annex 1, after point 6 insert—

“7. For the purposes of point 1, Directive 2006/66/EC is to be read as if “waste battery or accumulator” had the meaning given by Article 2(1)(4A).

8. In point 3, “producer” means any person <sup>F21</sup>... that, irrespective of the selling technique used, including by distance contract, places batteries or accumulators, including those incorporated into appliances or vehicles, on the market for the first time [<sup>F22</sup>within Great Britain] on a professional basis.

9. In point 8—

- (a) “appliance” means any electrical or electronic equipment, as defined by Article 3(1) (a) of Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) [<sup>F23</sup>as last amended by Directive (EU) 2018/849] , which is fully or partly powered by batteries or accumulators or is capable of being so;
- (b) “distance contract” has the meaning given in regulation 5 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 <sup>M38</sup>;
- (c) “placing on the market’ means supplying or making available, whether in return for payment or free of charge, to a third party within [<sup>F24</sup>Great Britain] and includes import into [<sup>F24</sup>Great Britain].”.

(7) In Annexes 2 and 3, after point 2 insert—

“3. For the purposes of point 1, Directive 2006/66/EC is to be read as if “waste battery or accumulator” had the meaning given by Article 2(1)(4A).”.

**F18** Words in reg. 10(2)(b) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(6)(a)**

**F19** Words in reg. 10(2)(c) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(6)(b)(i)**

**F20** Words in reg. 10(2)(c) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(6)(b)(ii)**

- F21** Words in reg. 10(6) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(6)(c)(i)(aa)**
- F22** Words in reg. 10(6) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(6)(c)(i)(bb)**
- F23** Words in reg. 10(6) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(6)(c)(ii)**
- F24** Words in reg. 10(6) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(6)(c)(iii)**

#### Commencement Information

- I10** Reg. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1(2)(b)

#### Marginal Citations

- M38** [S.I. 2013/3134](#), to which there are amendments not relevant to these Regulations.

### Commission Regulation (EU) No 1179/2012 establishing criteria determining when glass cullet ceases to be waste under Directive [2008/98/EC](#) of the European Parliament and of the Council

11.—(1) Commission Regulation (EU) No 1179/2012 establishing criteria determining when glass cullet ceases to be waste under Directive [2008/98/EC](#) of the European Parliament and of the Council is amended as follows.

(2) In Article 2, in the second paragraph—

(a) after point (1) insert—

“(1A) “competent authority” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;
- (c) in relation to Scotland, the Scottish Environment Protection Agency;
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;”;

(b) in point (4)—

- (i) for “Union” in the first place it occurs substitute “ United Kingdom ”;
- (ii) for “customs territory of the Union” substitute “ United Kingdom ”.

(3) After Article 2 insert—

#### “Article 2A

#### *Modification of Directive [2008/98/EC](#) of the European Parliament and of the Council*

1. For the purposes of this Regulation, a reference to Directive [2008/98/EC](#) is a reference to Directive [2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by [<sup>F25</sup>Directive (EU) 2018/851], and read in accordance with this Article.

2. 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 competent authority, appropriate authority or local authority which, immediately before [<sup>F26</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion.

[<sup>F27</sup>3. Article 5 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 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;
- (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 out 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 competent authority”;
  - (bb) “by competent authorities” were omitted.
- 5. Article 7 is to be read as if—
  - (a) before paragraph 1 there were inserted—

“**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales, Scotland or Northern Ireland (as the case may be).”;
  - (b) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
  - (c) paragraphs 2, 3, 6 and 7 were omitted.]
- 6. Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- 7. In [<sup>F28</sup>this Article]—
  - (a) “appropriate authority” means—
    - (i) in relation to England, the Secretary of State;
    - (ii) in relation to Wales, the Welsh Ministers;
    - (iii) in relation to Scotland, the Scottish Ministers;
    - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
  - (b) “local authority” means—
    - (i) in England outside Greater London—
      - a district council,
      - a county council, or
      - the Council of the Isles of Scilly;
    - (ii) in Greater London—
      - the council of a London borough,
      - the Common Council of the City of London,
      - the Sub-Treasurer of the Inner Temple, or
      - the Under-Treasurer of the Middle Temple;
    - (iii) in Wales—
      - a county council, or
      - a county borough council;
    - (iv) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

- (v) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972.”.
- (4) In Article 5—
- (a) in paragraph 4—
- (i) in the first sentence, omit the words from “, or an environmental” to “with that Regulation” in the second place it occurs;
- (ii) in the third sentence, for the words from “NACE codes” to the end substitute “UK Standard Industrial Classification (SIC) by Economic Activity, issued under section 9 of the Statistics and Registration Service Act 2007 <sup>M39</sup>, as updated from time to time <sup>M40</sup>”;
- (iii) in the first and second indents, for “\* NACE” substitute “UKSICEA”;
- (b) in paragraph 5—
- (i) in the second subparagraph, omit the words from “; or by” to the end;
- (ii) in the third subparagraph, omit the words from “or Regulation (EC)” to the end;
- (c) after paragraph 6, insert—
- “7. In paragraph 5, “independent external verifier” means—
- (a) a conformity assessment body as defined in Regulation (EC) No 765/2008;
- (b) a conformity assessment body as defined in Regulation (EC) No 765/2008 as it has effect in EU law which is accredited by an accreditation body successfully peer evaluated for this activity by the body recognised in Article 14 of that Regulation as it has effect in EU law;
- (c) any other environmental verifier as defined in Article 2(20)(b) of Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) as it has effect in EU law, which is accredited or licensed by an accreditation or licensing body which is subject to peer evaluation according to Article 31 of that Regulation as it has effect in EU law.”.
- (5) After Article 5 insert—

*“Article 5A*

*EU exit: transitional provision*

1. Paragraph 3 applies to verification obtained in compliance with Article 5 as it had effect immediately before [<sup>F29</sup>IP completion day].
2. Paragraph 3 also applies where—
  - (a) before exit day, a producer or supplier of an importer has submitted a management system to a conformity assessment body or an environmental verifier for verification in compliance with Article 5 as it had effect immediately before [<sup>F29</sup>IP completion day], and
  - (b) after [<sup>F29</sup>IP completion day], the producer or supplier obtains that verification.

3. Where this paragraph applies, the verification obtained is deemed to be verification for the purposes of Article 5.”
- (6) Omit Article 6.
- (7) After Article 6, omit the words from “This Regulation shall” to “Member States”.
- (8) In Annex 2, in the fifth entry in the table, in the second column, omit the words from “or by an environmental verifier” to the end.

- F25** Words in reg. 11(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(7)(a)(i)**
- F26** Words in reg. 11(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(7)(a)(ii)**
- F27** Words in reg. 11(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(7)(a)(iii)**
- F28** Words in reg. 11(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(7)(a)(iv)**
- F29** Words in reg. 11(5) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(7)(b)**

#### Commencement Information

- I11** Reg. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

#### Marginal Citations

- M39** [2007 c. 18](#).
- M40** A copy of the UK Standard Industrial Classification by Economic activity can be found at: <https://www.ons.gov.uk/methodology/classificationsandstandards/ukstandardindustrialclassificationofeconomicactivities>.

### Commission Regulation (EU) No 715/2013 establishing criteria determining when copper scrap ceases to be waste under Directive 2008/98/EC of the European Parliament and of the Council

12.—(1) Commission Regulation (EU) No 715/2013 establishing criteria determining when copper scrap ceases to be waste under Directive 2008/98/EC of the European Parliament and of the Council is amended as follows.

- (2) In Article 2—
- (a) the existing text becomes paragraph 1;
- (b) in that paragraph, in the second subparagraph—
- (i) after point (1) insert—
- “(1A) “appropriate authority” means—
- (i) in relation to England, the Secretary of State;
- (ii) in relation to Wales, the Welsh Ministers;
- (iii) in relation to Scotland, the Scottish Ministers;

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*Status: This version of this Instrument contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

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- (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (1B) “competent authority” means—
  - (i) in relation to England, the Environment Agency;
  - (ii) in relation to Wales, the Natural Resources Body for Wales;
  - (iii) in relation to Scotland, the Scottish Environment Protection Agency;
  - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (1C) “EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;
- (1D) “local authority” means—
  - (i) in England outside Greater London—
    - a district council,
    - a county council, or
    - the Council of the Isles of Scilly;
  - (ii) in Greater London—
    - the council of a London borough,
    - the Common Council of the City of London,
    - the Sub-Treasurer of the Inner Temple, or
    - the Under-Treasurer of the Middle Temple;
  - (iii) in Wales—
    - a county council, or
    - a county borough council;
  - (iv) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
  - (v) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972.”;
- (ii) in point (4)—
  - (aa) for “Union” in the first place it occurs substitute “ United Kingdom ”;
  - (bb) for “customs territory of the Union” substitute “ United Kingdom ”.
- (3) After Article 2 insert—

*“Article 2A*

*Modification of Directive 2008/98/EC of the European Parliament and of the Council*

1. For the purposes of this Regulation, a reference to Directive 2008/98/EC is a reference to Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by [<sup>F30</sup>Directive (EU) 2018/851], and read in accordance with this Article.

2. 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 competent authority, appropriate authority or local authority which, immediately before [<sup>F31</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion.

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” to the end there were substituted “the Mining Waste Directive”;

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

“(d) extractive waste, which has the same meaning as in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010.”;

(v) for point (d), as it extends to Northern Ireland, there were substituted—

“(d) extractive waste, which has the same meaning as in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;

(c) paragraph 4 were omitted.

4. 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”.

[<sup>F32</sup>5. Article 5 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.

6. Article 6 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;
  - (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 out 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 competent authority”;
      - (bb) “by competent authorities” were omitted.
7. Article 7 is to be read as if—
- (a) before paragraph 1 there were inserted—
    - “**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales, Scotland or Northern Ireland (as the case may be).”;
  - (b) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
  - (c) paragraphs 2, 3, 6 and 7 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.

## Article 2B

### *Meaning of “the Mining Waste Directive” and “the Industrial Emissions Directive”*

1. In Article 2A(3)(a)(iii), “the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with paragraphs 2 and 3.
2. Article 2 is to be read as if—
  - (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#) were a reference to that Article read in accordance with paragraph 7 of this Article;
  - (b) paragraphs 3 and 4 were omitted.
3. Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “ Article 3(1) of Directive [2008/98/EC](#), as read with Articles 5 and 6 of that Directive ”.
4. In Article 2A(4), “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 5 and 6.
5. 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 Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation ”;
  - (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 ”.
6. 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 (England and Wales) Regulations 1994 ”;
    - (ii) in point (b), in the words before point (i), for “Directive [91/271/EEC](#)” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;

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*Status: This version of this Instrument contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

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- (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 in respect of England and Wales ”;
- (e) in point 6.11, for “Directive 91/271/EEC” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”.

7. For the purposes of paragraph 2(a), Article 11(3)(j) of Directive 2000/60/EC is to be read as if—

- (a) the reference to “Member States” were a reference to the competent authority or appropriate authority;
- (b) in the words after the final indent, “environmental objectives”—
  - (i) in relation to the Northumbria River Basin District, means the environmental objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;
  - (ii) in relation to the Solway Tweed River Basin District, has the same meaning as in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
  - (iii) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations.

[<sup>F33</sup>8. In paragraph 6(c), “the Landfill Directive” means Council Directive 1999/31/EC on the landfill of waste, as last amended by Directive (EU) 2018/850, and read as if, in Article 2—

- (a) in point (a) “‘waste’,” were omitted; and
- (b) after point (a) there were inserted—
  - “(aa) “waste” means anything that—
    - (i) is waste within the meaning of Article 3(1) of Directive 2008/98/EC, as read with Articles 5 and 6 of that Directive, and
    - (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”.]

9. In paragraph 7(b), “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.”.

(4) In Article 5—

- (a) in paragraph 5—
  - (i) in the first subparagraph, in the first sentence omit the words from “or an environmental” to “with that Regulation,”;
  - (ii) in the second subparagraph—
    - (aa) in the words before point (a), for the words from “NACE Codes” to the end substitute “ UK Standard Industrial Classification (SIC) by Economic Activity, issued under section 9 of the Statistics and Registration Service Act 2007, as updated from time to time ”;



- (bb) in points (a) and (b), for “\* NACE” substitute “ UKSICEA ”;
- (b) in paragraph 6—
  - (i) in the second subparagraph, omit point (b);
  - (ii) in the third subparagraph omit the words from “or Regulation (EC) No 1221/2009” to the end.
- (5) After Article 5 insert—

*“Article 6A*

*EU exit: transitional provision*

1. Paragraph 3 applies to verification obtained in compliance with Article 5 as it had effect immediately before [<sup>F34</sup>IP completion day].
2. Paragraph 3 also applies where—
  - (a) before [<sup>F34</sup>IP completion day], a producer or supplier has submitted a management system to a conformity assessment body or an environmental verifier for verification in compliance with Article 5 as it had effect immediately before [<sup>F34</sup>IP completion day], and
  - (b) after [<sup>F34</sup>IP completion day], the producer or supplier obtains that verification.
3. Where this paragraph applies, the verification obtained is deemed to be verification for the purposes of Article 5.
4. In paragraph 2, “supplier” means the supplier of a producer or of an importer.”.
- (6) Omit Article 6.
- (7) After Article 6, omit the words from “This Regulation shall” to “Member States”.
- (8) In Annex 1, in the first column of the table—
  - (a) in Section 1.5, omit the second sentence;
  - (b) in Section 3.3, in the first indent, for the words from “Article 6” in the first place it occurs to the end substitute “ the EU-derived domestic legislation that transposed Article 6 of Directive 2000/53/EC of the European Parliament and of the Council on end-of life vehicles, as last amended by [<sup>F35</sup>Commission Delegated Directive (EU) 2020/363], and Article 8 of Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), [<sup>F36</sup>as last amended by Directive (EU) 2018/849] ”.
- (9) In Annex 2, in the sixth entry in the table, in the second column, for “customs territory of the Union” substitute “ United Kingdom ”.

<p><b>F30</b> Words in reg. 12(3) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a>, regs. 1(3), <b>14(8)(a)(i)</b></p>
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*Status: This version of this Instrument contains provisions that are prospective.*  
**Changes to legislation:** There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)

- F31** Words in reg. 12(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\), regs. 1\(3\), 14\(8\)\(a\)\(ii\)](#)
- F32** Words in reg. 12(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\), regs. 1\(3\), 14\(8\)\(a\)\(iii\)](#)
- F33** Words in reg. 12(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\), regs. 1\(3\), 14\(8\)\(b\)](#)
- F34** Words in reg. 12(5) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\), regs. 1\(3\), 14\(8\)\(c\)](#)
- F35** Words in reg. 12(8)(b) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\), regs. 1\(3\), 14\(8\)\(d\)\(i\)](#)
- F36** Words in reg. 12(8)(b) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\), regs. 1\(3\), 14\(8\)\(d\)\(ii\)](#)

**Commencement Information**

- I12** Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see reg. 1(2)(b)

CHAPTER 2

Decisions

PROSPECTIVE

**Commission Decision [2000/532/EC](#) replacing Decision [94/3/EC](#) establishing a list of waste pursuant to Article 1(a) of Council Directive [75/442/EEC](#) on waste and Council Decision [94/904/EC](#) establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive [91/689/EEC](#) on hazardous waste**

<sup>F37</sup> 13. ....

- F37** Reg. 13 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\), regs. 1\(3\), 14\(9\)](#)

**Commission Decision [2001/171/EC](#) establishing the conditions for a derogation for glass packaging in relation to the heavy metal concentration levels established in Directive [94/62/EC](#) on packaging and packaging waste**

14.—(1) Commission Decision [2001/171/EC](#) establishing the conditions for a derogation for glass packaging in relation to the heavy metal concentration levels established in Directive [94/62/EC](#) on packaging and packaging waste is amended as follows.

(2) Before Article 1, insert—

“Article A1

1. In this Decision, “Directive 94/62/EC” means European Parliament and Council Directive 94/62/EC on packaging and packaging waste <sup>M41</sup>, as last amended by [<sup>F38</sup>Directive (EU) 2018/852] of the European Parliament and of the Council <sup>M42</sup>, and read in accordance with paragraphs 2 and 3.

2. Article 2 is to be read as if—

- (a) in paragraph 1, for “[<sup>F39</sup>the Community]” there were substituted “[<sup>F40</sup>Great Britain]”;
- (b) paragraph 2 were omitted.

[<sup>F41</sup>3. Article 3 is to be read as if, in paragraph 2, for “Article 3 of Directive 2008/98/EC” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.]

4. In paragraph [<sup>F42</sup>3], the “Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by [<sup>F43</sup>Directive (EU) 2018/851], and read in accordance with paragraphs 5 and 6.

[<sup>F44</sup>5. Article 5 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 appropriate agency for the purposes of this Article.”;
- (c) paragraphs 2 and 3 were omitted.

6. Article 6 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 appropriate agency 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;
- (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 out as referred to in paragraph 1A(a), the appropriate agency”;
    - (bb) the second sentence were omitted;
  - (ii) in the second subparagraph—
    - (aa) for “Member States” there were substituted “The appropriate agency”;
    - (bb) “by competent authorities” were omitted.

7. In this Article—

“appropriate agency” means—

- (a) in relation to England, the Environment Agency;
- (b) in regulation to Wales, the Natural Resources Body for Wales;
- (c) in relation to Scotland, the Scottish Environment Protection Agency;

“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.”].

- (3) In Article 1, omit the words from “, and aims” to the end.
- (4) In Article 3, omit “established in Article 11 of Directive 94/62/EC”.
- (5) In Article 5—
  - (a) in the first paragraph, in the words before the first indent, in the first sentence, omit “in the Member States”;
  - (b) in the second paragraph—
    - (i) for “[<sup>F45</sup>the European] Union” substitute “[<sup>F46</sup>Great Britain] ”;
    - (ii) omit “Community”.
- (6) Omit Article 7.

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| <p><b>F38</b> Words in reg. 14(2) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a>, regs. 1(3), <b>14(10)(a)</b></p> <p><b>F39</b> Words in reg. 14(2) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647)</a>, regs. 1(2), <b>17(2)(a)(i)</b></p> <p><b>F40</b> Words in reg. 14(2) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647)</a>, regs. 1(2), <b>17(2)(a)(ii)</b></p> |
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- F41** Words in reg. 14(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(10)(b)**
- F42** Word in reg. 14(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(10)(c)(i)**
- F43** Words in reg. 14(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(10)(c)(ii)**
- F44** Words in reg. 14(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(10)(d)**
- F45** Words in reg. 14(5)(b)(i) substituted (31.12.2020 immediately before IP completion day) by [The Hazardous Substances and Packaging \(Legislative Functions and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1647\)](#), regs. 1(2), **17(2)(b)(i)**
- F46** Words in reg. 14(5)(b)(i) substituted (31.12.2020 immediately before IP completion day) by [The Hazardous Substances and Packaging \(Legislative Functions and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1647\)](#), regs. 1(2), **17(2)(b)(ii)**

#### Commencement Information

- I13** Reg. 14 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see reg. 1(2)(b)

#### Marginal Citations

- M41** OJ No L 365, 31.12.1994, p 10.  
**M42** OJ No L 115, 6.5.2015, p 11.

### Council Decision [2003/33/EC](#) establishing criteria and procedures for the acceptance of waste at landfills

15.—(1) Council Decision [2003/33/EC](#) establishing criteria and procedures for the acceptance of waste at landfills is amended as follows.

(2) Before Article 1 insert—

#### *“Article A1*

1. In this Decision—

(a) “appropriate agency” means—

- (i) in relation to England, the Environment Agency;
- (ii) in relation to Wales, the Natural Resources Body for Wales;
- (iii) in relation to Northern Ireland—
  - for the purposes of this Article, the Department of Agriculture, Environment and Rural Affairs;
  - otherwise, the Department for Infrastructure;

(b) “appropriate authority” means—

- (i) in relation to England, the Secretary of State;
- (ii) in relation to Wales, the Welsh Ministers;

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*Status: This version of this Instrument contains provisions that are prospective.*  
**Changes to legislation:** There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)

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- (iii) in relation to Northern Ireland—
  - for the purposes of this Article, the Department of Agriculture, Environment and Rural Affairs;
  - otherwise, the Department for Infrastructure;

(c) “local authority” means—

(i) in England outside Greater London—

- a district council,
- a county council, or
- the Council of the Isles of Scilly;

(ii) in Greater London—

- the council of a London borough,
- the Common Council of the City of London,
- the Sub-Treasurer of the Inner Temple, or
- the Under-Treasurer of the Middle Temple;

(iii) in Wales—

- a county council, or
- a county borough council;

(iv) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972.

2. In this Decision, “the Landfill Directive” means Council Directive [1999/31/EC](#) on the landfill of waste, as last amended by [<sup>F47</sup>Directive (EU) 2018/850], and read in accordance with paragraphs 3 to 12.

3. 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 appropriate authority, appropriate agency or local authority which, immediately before [<sup>F48</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England, Wales or Northern Ireland.

4. Article 1 is to be read as if—

- (a) in paragraph 1, the words from “With a view” to “thereof,” were omitted;
- (b) in paragraph 2, for “Directive [96/61/EC](#)”, in both places it occurs, there were substituted “ Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions ”.

5. Article 2 is to be read as if—

[<sup>F49</sup>(a) in point (a)—

- (i) “waste” were omitted; and
- (ii) for “[Directive 2008/98/EC](#)” there were substituted “the Waste Framework Directive”;

(b) after point (a) there were inserted—

- “(aa) “waste” means anything that—
- (i) is waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive, and
  - (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”];
- (c) for point (l) there were substituted—
- “(l) “operator”—
- (i) in relation to England and Wales, has the meaning given in regulation 7 of the Environmental Permitting (England and Wales) Regulations 2016 <sup>M43</sup>;
  - (ii) in relation to Northern Ireland, has the meaning given in regulation 2(1) of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 <sup>M44</sup>.”.
- [<sup>F50</sup>5A. Article 3 is to be read as if—
- (a) in paragraph 2, “Without prejudice to existing Community legislation” were omitted;
  - (b) for paragraph 3 there were substituted—
- “3. The management of extractive waste is excluded from the scope of this Directive—
- (a) in relation to England and Wales, where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to the Environmental Permitting (England and Wales) Regulations 2016 (“the 2016 Regulations”);
  - (b) in relation to Northern Ireland, where it falls within the scope of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015 (“the 2015 Regulations”).
- In this paragraph, “extractive waste”—
- (a) in relation to England and Wales, has the meaning given in regulation 2(1) of the 2016 Regulations;
  - (b) in relation to Northern Ireland, has the meaning given in regulation 2(2) of the 2015 Regulations.”.]

6. Article 5(3) is to be read as if—

    - (a) in point (b), for “Annex III to Directive 91/689/EEC<sup>M45</sup>” there were substituted “Annex 3 to the Waste Framework Directive ”;
    - (b) in point (c), for the words from “(property H9” to the end there were substituted “in Annex 3 to the Waste Framework Directive ”;
    - (c) in point (d)—
      - (i) for “two years from the date laid down in Article 18(1)” there were substituted “ 16th July 2001 ”;
      - (ii) for “five years from the date laid down in Article 18(1)” there were substituted “ from 16th July 2004 ”.

[<sup>F51</sup>(d) in point (f)—

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Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

- (i) after “waste”, in the first place it occurs, there were inserted “paper, metal, plastic and glass”;
- (ii) the words from “pursuant” to “Article 22 of that Directive” were omitted;
- (iii) for “Article 4 of that Directive” there were substituted “Article 4 of the Waste Framework Directive”;

[<sup>F52</sup>6A. Article 6(a) is to be read as if—

- (a) in the first paragraph, in the second sentence, for “may” there were substituted “does”;
- (b) in the second paragraph, for the words from “of Directive 2008/98/EC” to the end, there were substituted “set out in Part 1 of Schedule 1 to the Waste (England and Wales) Regulations 2011, or any objectives in retained EU law relating to the increase of preparing for re-use and recycling”.]

7. Article 9 is to be read as if, in the words before point (a), the words from “Specifying” to “Directive 96/61/EC,” were omitted.

8. Article 11(1)(b) is to be read as if—

- (a) in the first indent—
  - (i) for “Article 5(3) of Directive 91/689/EEC” there were substituted “Article 19(2) of the Waste Framework Directive”;
  - (ii) for the words from “Council Regulation (EEC) No 259/93” to the end there were substituted “Regulation (EC) 1013/2006 of the European Parliament and of the Council on shipments of waste”;
- (b) in the third indent, in the second sentence, “and Community” was omitted.

9. Article 13(d) is to be read as if the words from “and without prejudice” to “waste holder” were omitted.

10. Annex 1 is to be read as if—

- (a) in point 3.4, for “Directive 80/68/EEC<sup>M46</sup>”, there were substituted “Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy<sup>M47</sup>”;

<sup>F53</sup>(b) .....

11. Annex 2 is to be read as if—

- (a) point 1 were omitted;
- (b) in point 2, in the second paragraph, the third sentence were omitted;
- (c) in point 4, in the fourth and fifth paragraphs, for “covered by Directive 91/689/EEC” there were substituted “classified as hazardous waste”;

<sup>F53</sup>(d) .....

12. Annex 3 is to be read as if—



- (a) Annex 3 is to be read as if—
  - <sup>F53</sup>(i) . . . . .
  - (ii) in the table, for “14.00h CET” in both places it occurs there were substituted “ 1 p.m. ”;
- (b) in point 3, in the fourth paragraph, in the table, in table footnote (7), the words from “, and will report” to the end were omitted.

*Article A2*

1. In this Decision, “the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by [<sup>F54</sup>Directive (EU) 2018/851], and read in accordance with paragraphs 2 to 8.

2. 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 appropriate authority, appropriate agency or local authority which, immediately before [<sup>F55</sup>IP completion day] , was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England, Wales or Northern Ireland.

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](#)” to the end there were substituted “ the Mining Waste Directive ”;
    - (iv) for point (d), as it extends to Northern Ireland, there were substituted—
      - “(d) extractive waste, which has the same meaning as in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.”;
  - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
  - (c) paragraph 4 were omitted.

- [<sup>F56</sup>4. Article 5 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—

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*Status: This version of this Instrument contains provisions that are prospective.*  
**Changes to legislation:** There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)

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- (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 appropriate agency for the purposes of this Article.”;
  - (c) paragraphs 2 and 3 were omitted..
5. Article 6 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 appropriate agency 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;
  - (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 out as referred to in paragraph 1A(a), the appropriate agency”;
      - (bb) the second sentence were omitted;
    - (ii) in the second subparagraph—
      - (aa) for “Member States” there were substituted “The appropriate agency”;
      - (bb) “by competent authorities” were omitted.
6. Article 7 is to be read as if—
- (a) before paragraph 1 there were inserted—
    - “A1. In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales or Northern Ireland (as the case may be).”;
  - (b) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;

(c) paragraphs 2, 3, 6 and 7 were omitted.]

7. Article 19(2) is to be read as if, for “a Member State” there was substituted “ the United Kingdom ”.

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

#### *Article A3*

1. In Article A2(3)(a)(iii), the “Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with paragraphs 2 and 3.

2. Article 2 is to be read as if—

- (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#) were a reference to that Article read in accordance with paragraph 7 of this Article;
- (b) paragraphs 3 and 4 were omitted.

3. Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “ Article 3(1) of Directive [2008/98/EC](#), as read with Articles 5 and 6 of that Directive ”.

4. For the purposes of paragraph 2(a), Article 11(3)(j) of Directive [2000/60/EC](#) is to be read as if—

- (a) the reference to “Member States” were a reference to the competent authority or appropriate agency;
- (b) in the words after the final indent, “environmental objectives”—
  - (i) in relation to the Northumbria River Basin District, means the environmental objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;
  - (ii) in relation to the Solway Tweed River Basin District, has the same meaning as in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
  - (iii) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations.

5. In paragraph 4(b), “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.”.

(3) In Article 1—

- (a) the existing text becomes paragraph 1;
- (b) after that paragraph insert—

“2. This Decision does not extend to Scotland.”.

- (4) In Articles 2 and 3 for “Member States” substitute “ The appropriate agency ”.
- (5) In Article 5—
- (a) in the first sentence, omit “Without prejudice to existing Community legislation,”;
  - (b) omit the second sentence.
- (6) Omit Articles 6 to 8.
- (7) In the Annex—
- (a) in the introduction, omit the second and seventh paragraphs;
  - (b) in section 1—
    - (i) in section 1.1.1, in the final paragraph, for “Member State” substitute “ appropriate authority ”;
    - (ii) in section 1.1.2—
      - (aa) in point (f), for “the European waste list (Commission Decision [2001/118/EC](#))” substitute “ Commission Decision [2000/532/EC](#) ”;
      - (bb) in point (g), for the words from “Annex III” to the end, substitute “ Annex 3 to the Waste Framework Directive ”;
    - (iii) in section 1.2, in the seventh paragraph, for “Member State” substitute “ appropriate authority ”;
  - (c) in section 1.3—
    - (i) in the fourth paragraph, for “Member States” substitute “ The appropriate authority ”;
    - (ii) in the fifth paragraph, in the second sentence—
      - (aa) for “Member State” substitute “ appropriate authority ”;
      - (bb) for “Article 11(b)” substitute “ Article 11(1)(b) ”;
  - (d) in section 2—
    - (i) in the words before section 2.1—
      - (aa) for the third paragraph substitute—
 

“The Secretary of State must publish information on the annual number of permits issued in relation to England under this provision. The Welsh Ministers must publish information on the annual number of permits issued in relation to Wales under this provision. The first information under the first and second sentences must be published before 1st April 2022. Subsequent information must be published at intervals not exceeding 3 years.”;
      - (bb) in the fourth paragraph, for “Member States” substitute “ The appropriate authority ”;
    - (ii) in section 2.1.2.1, for “Member States” substitute “ The appropriate authority ”;
    - (iii) in section 2.1.2.2, in the table, in the fifth entry (PAHs), for “Member States” substitute “ The appropriate authority ”;
    - (iv) in section 2.2, for “Member States” substitute “ The appropriate authority ”;
    - [<sup>F57</sup>(v) in section 2.2.1, in the first paragraph—
      - (aa) for “Article 2(b) of the Landfill Directive” substitute “Article 3(2b) of the Waste Framework Directive”;

- (bb) for “the European waste list” substitute “Commission [Decision 2000/532/EC](#)”;
- (vi) in section 2.2.2 and 2.3.1—
  - (aa) in the first paragraph, in the second sentence, for “Member States” substitute “The appropriate authority”;
  - (bb) in the sentence after the table, for “Member States” substitute “The appropriate authority”;
- (vii) in section 2.3.2, in the second and third paragraphs, for “Member States” substitute “The appropriate authority”;
- (viii) in section 2.4.1—
  - (aa) in the first paragraph, in the third sentence, for “Member States” substitute “The appropriate authority”;
  - (bb) in the sentence after the table, for “Member States” substitute “The appropriate authority”;
- (e) in section 3—
  - (i) in the second paragraph, for “Member States” substitute “The appropriate authority”;
  - (ii) in the third paragraph, for “Member States” substitute “the appropriate authority”.
- (8) In Appendix A—
  - (a) in section 1.1, omit the second paragraph;
  - (b) in section 2.2, in the second paragraph, for “Member States” substitute “The appropriate agency”;
  - (c) in section 4.1, omit the fourth paragraph.
- (9) Omit Appendix B.

<b>F47</b>	Words in reg. 15(2) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(11)(a)(i)</b>
<b>F48</b>	Words in reg. 15(2) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(11)(a)(ii)</b>
<b>F49</b>	Words in reg. 15(2) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(11)(a)(iii)</b>
<b>F50</b>	Words in reg. 15(2) inserted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(11)(a)(iv)</b>
<b>F51</b>	Words in reg. 15(2) inserted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(11)(a)(v)</b>
<b>F52</b>	Words in reg. 15(2) inserted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(11)(a)(vi)</b>
<b>F53</b>	Words in reg. 15(2) omitted (31.12.2020 immediately before IP completion day) by virtue of <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(11)(a)(vii)</b>

*Status: This version of this Instrument contains provisions that are prospective.*  
**Changes to legislation:** There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)

- F54** Words in reg. 15(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(11)(b)(i)**
- F55** Words in reg. 15(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(11)(b)(ii)**
- F56** Words in reg. 15(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(11)(b)(iii)**
- F57** Reg. 15(7)(d)(v) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(11)(c)**

#### Commencement Information

- I14** Reg. 15 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), **Sch. 5 para. 1(1)**), see reg. 1(2)(b)

#### Marginal Citations

- M43** [S.I. 2016/1154](#), amended by [S.I. 2017/1012](#), 2018/110, 428, 575, 721 (W.140).
- M44** [S.R. 2013 No.160](#), to which there are amendments not relevant to these Regulations.
- M45** OJ No L 377, 31.12.1991, p 20, repealed by Directive 2008/98/EC of the European Parliament and of the Council (OJ No L 312, 22.11.2008, p 3).
- M46** OJ No L 20, 26.1.1980, p 43, repealed by Directive 2000/60/EC of the European Parliament and of the Council (OJ No L 327, 22.12.2000, p 1).
- M47** OJ No L 327, 22.12.2000, p 1, as last amended by Commission Directive 2014/101/EU (OJ No L 311, 31.10.2014, p 32).

### Commission Decision [2009/292/EC](#) establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive [94/62/EC](#) on packaging and packaging waste

16.—(1) Commission Decision [2009/292/EC](#) establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive [94/62/EC](#) on packaging and packaging waste is amended as follows.

(2) After Article 1 insert—

#### “Article 1A

1. In this Decision, “Directive [94/62/EC](#)” means European Parliament and Council Directive [94/62/EC](#) on packaging and packaging waste, as last amended by [<sup>F58</sup>Directive (EU) 2018/852] of the European Parliament and of the Council, and read in accordance with paragraphs 2 and 3.

[<sup>F59</sup>2. Article 3 is to be read as if, in paragraph 2, for “Article 3 of Directive [2008/98/EC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.]

3. Article 11(1) is to be read as if—

- (a) in the words before the first indent, for “Member States” there were substituted “The Secretary of State”;
- (b) in the first, second and third indents, for “the date referred to in Article 22(i)” there were substituted “30th June 1996”.

4. In paragraph [F60]2], the “Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by [F61]Directive (EU) 2018/851], and read in accordance with paragraphs 5 and 6.

[F62]5. Article 5 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 appropriate agency for the purposes of this Article.”;
- (c) paragraphs 2 and 3 were omitted.

6. Article 6 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 appropriate agency 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;
- (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 out as referred to in paragraph 1A(a), the appropriate agency”;

- (bb) the second sentence were omitted;
- (ii) in the second subparagraph—
  - (aa) for “Member States” there were substituted “The appropriate agency”;
  - (bb) “by competent authorities” were omitted.

7. In this Article—

“appropriate agency” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;
- (c) in relation to Scotland, the Scottish Environment Protection Agency;

“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.”].

(3) In Article 4—

- (a) in paragraph 2, for “Member States” substitute “ The Secretary of State ”;
- (b) in paragraph 3, omit “of the Member State concerned”.

(4) In Article 5—

- (a) in paragraph 1, in the first subparagraph, for “Member States” substitute “ The Secretary of State ”;
- (b) in paragraph 2, in the first sentence, for “Member States” substitute “ the Secretary of State ”;
- (c) in paragraph 3—
  - (i) in the first subparagraph, for “Member States” substitute “ The Secretary of State ”;
  - (ii) in the second subparagraph—
    - (aa) for “[<sup>F63</sup>the Community]” in the first place it occurs substitute “[<sup>F64</sup>Great Britain]”;
    - (bb) omit “Community” in the second place it occurs.

(5) In Article 6, for “Member States” substitute “ The Secretary of State ”.

(6) In Article 7—

- (a) the existing text becomes paragraph 1;
- (b) in that paragraph—
  - (i) for the words from “Member States” to “Article 17 of Directive 94/62/EC” substitute “ The Secretary of State must publish, in a manner which the Secretary of State considers appropriate, ”;
  - (ii) at the end, insert “ in respect of [<sup>F65</sup>Great Britain]”;
- (c) after that paragraph insert—

“2. The first report under paragraph 1 must be published before the end of the period of 3 years beginning with [<sup>F66</sup>IP completion day].



3. Subsequent information must be published at intervals not exceeding 3 years.”.

(7) Omit Articles 8 and 9.

- F58** Words in reg. 16(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(12)(a)(i)**
- F59** Words in reg. 16(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(12)(a)(ii)**
- F60** Word in reg. 16(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(12)(a)(iii)(aa)**
- F61** Words in reg. 16(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(12)(a)(iii)(bb)**
- F62** Words in reg. 16(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(12)(a)(iv)**
- F63** Words in reg. 16(4)(c)(ii)(aa) substituted (31.12.2020 immediately before IP completion day) by [The Hazardous Substances and Packaging \(Legislative Functions and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1647\)](#), regs. 1(2), **17(3)(a)(i)**
- F64** Words in reg. 16(4)(c)(ii)(aa) substituted (31.12.2020 immediately before IP completion day) by [The Hazardous Substances and Packaging \(Legislative Functions and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1647\)](#), regs. 1(2), **17(3)(a)(ii)**
- F65** Words in reg. 16(6)(b)(ii) substituted (31.12.2020 immediately before IP completion day) by [The Hazardous Substances and Packaging \(Legislative Functions and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1647\)](#), regs. 1(2), **17(3)(b)**
- F66** Words in reg. 16(6)(c) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(12)(b)**

#### **Commencement Information**

- I15** Reg. 16 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see reg. 1(2)(b)

#### **Commission Decision [2009/335/EC](#) on technical guidelines for the establishment of the financial guarantee in accordance with Directive [2006/21/EC](#) of the European Parliament and of the Council concerning the management of waste from extractive industries**

17.—(1) Commission Decision [2009/335/EC](#) on technical guidelines for the establishment of the financial guarantee in accordance with Directive [2006/21/EC](#) of the European Parliament and of the Council concerning the management of waste from extractive industries is amended as follows.

(2) In Article 1—

(a) in paragraph 1, in the words before point (a)—

(i) omit “Member States and”;

(ii) omit “referred to in Article 14 of Directive [2006/21/EC](#)”;

(b) after paragraph 2 insert—

*Status: This version of this Instrument contains provisions that are prospective.  
Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

- “3. In paragraph 1—
- [<sup>F67</sup>(a) in so far as it extends to England and Wales—
- (i) “financial guarantee” means the financial guarantee referred to in Article 14 of [Directive 2006/21/EC](#), as it applies by virtue of paragraph 7(j) of Schedule 20 to the Environmental Permitting (England and Wales) Regulations 2016 (“the 2016 Regulations”);
  - (ii) “rehabilitation” has the meaning given in Article 3(20) of [Directive 2006/21/EC](#), and for the purposes of that definition “waste facility” has the meaning given in paragraph (iv);
  - (iii) “treatment” has the meaning given in Article 3(8) of [Directive 2006/21/EC](#), and for the purposes of that definition “waste” has the meaning given in paragraph (b) of the definition of “waste” in regulation 2(1) of the 2016 Regulations;
  - (iv) “waste facility” has the meaning given to “mining waste facility” in paragraph 2(1) of Schedule 20 to the 2016 Regulations;
- (b) in so far as it extends to Scotland, “financial guarantee”, “rehabilitation”, “treatment” and “waste facility” have the meanings given in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010;
- (c) in so far as it extends to Northern Ireland, “financial guarantee”, “rehabilitation”, “treatment” and “waste facility” have the meanings given in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.”.

- <sup>F68</sup>(3) .....
- (4) Omit Article 2.

<p><b>F67</b> Words in reg. 17(2)(b) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a>, regs. 1(3), <b>14(13)(a)</b></p> <p><b>F68</b> Reg. 17(3) omitted (31.12.2020 immediately before IP completion day) by virtue of <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a>, regs. 1(3), <b>14(13)(b)</b></p> <hr/> <p><b>Commencement Information</b></p> <p><b>I16</b> Reg. 17 in force at 31.12.2020 on IP completion day (in accordance with <a href="#">2020 c. 1, Sch. 5 para. 1(1)</a>), see reg. 1(2)(b)</p>
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**Commission Decision [2009/337/EC](#) on the definition of the criteria for the classification of waste facilities in accordance with Annex III of Directive [2006/21/EC](#) of the European Parliament and of the Council concerning the management of waste from extractive industries**

18.—(1) Commission Decision [2009/337/EC](#) on the definition of the criteria for the classification of waste facilities in accordance with Annex III of Directive [2006/21/EC](#) of the European Parliament and of the Council concerning the management of waste from extractive industries is amended as follows.

- (2) Before Article 1 insert—

*“Article A1*

1. In this Decision, “appropriate agency” means—
  - (a) in relation to England, the Environment Agency;
  - (b) in relation to Wales, the Natural Resources Body for Wales;
  - (c) in relation to Scotland—
    - (i) a planning authority, or
    - (ii) a National Park authority within the meaning of section 35(1) of the National Parks (Scotland) Act 2000 <sup>M48</sup> (as the case may be);
  - (d) in relation to Northern Ireland—
    - (i) a district council established under section 1 of the Local Government Act (Northern Ireland) 1972, or
    - (ii) the Department for Infrastructure (as the case may be).
2. A term which is used in this Decision—
  - (a) as it extends to Scotland and which is defined in regulation 2(1) of the 2010 Scotland Regulations has the meaning given in that regulation;
  - (b) as it extends to Northern Ireland and which is defined in regulation 2(2) of the 2015 NI Regulations has the meaning given in that regulation.
3. In this Decision—
  - (a) “the 2010 Scotland Regulations” means the Management of Extractive Waste (Scotland) Regulations 2010;
  - (b) “the 2015 NI Regulations” means the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.

*Article A2*

1. For the purposes of this Decision, Directive [2006/21/EC](#) of the European Parliament and of the Council concerning the management of waste from extractive industries is to be read in accordance with this Article.
2. 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 appropriate authority, appropriate agency or local authority which, immediately before [<sup>F69</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England or Wales.
3. Article 3 is to be read as if—
  - (a) in point (1), for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”;

- (b) in point (2), for “Article 1(4) of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste” there were substituted “ Article 3(2) of the Waste Framework Directive ”;
- (c) in point (4), for the words from “the national law” to the end there were substituted “ national law ”;
- (d) in point (24), for the words from “the national law” to “takes place” there were substituted “ national law ”.

4. Annex 3 is to be read as if—

- (a) in the second indent, “under Directive 91/689/EEC” were omitted;
- (b) in the third indent, for “Directives 67/548/EEC or 1999/45/EC” there were substituted “ Regulation (EC) 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ”.

*Article A3*

1. In Article A2(3), the “Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by [F70 Directive (EU) 2018/851], and read in accordance with this Article.

2. 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 appropriate authority, appropriate agency or local authority which, immediately before [F71 IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England or Wales.

[F72] 3. Article 5 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 appropriate agency for the purposes of this Article.”;
- (c) paragraphs 2 and 3 were omitted.

4. Article 6 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 appropriate agency 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;
- (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 out as referred to in paragraph 1A(a), the appropriate agency”;
    - (bb) the second sentence were omitted;
  - (ii) in the second subparagraph—
    - (aa) for “Member States” there were substituted “The appropriate agency”;
    - (bb) “by competent authorities” were omitted.

5. Article 7 is to be read as if—

- (a) before paragraph 1 there were inserted—

“A1. In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales, Scotland or Northern Ireland (as the case may be).”;
- (b) in paragraph 1—
  - (i) the first and second sentences were omitted;
  - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
- (c) paragraphs 2, 3, 6 and 7 were omitted.]

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

#### *Article A4*

In Articles A2 and A3—

- (a) “appropriate authority” means—
  - (i) in relation to England, the Secretary of State;

- (ii) in relation to Wales, the Welsh Ministers;
- (b) “local authority” means—
  - (i) in England outside Greater London—
    - a district council,
    - a county council, or
    - the Council of the Isles of Scilly;
  - (ii) in Greater London—
    - the council of a London borough,
    - the Common Council of the City of London,
    - the Sub-Treasurer of the Inner Temple, or
    - the Under-Treasurer of the Middle Temple;
  - (iii) in Wales—
    - a county council, or
    - a county borough council.”.
- (3) In Article 1—
  - (a) in paragraph 1, in the words before point (a), for “indent of Annex III of Directive 2006/21/EC” substitute “ part of the categorisation legislation ”;
  - (b) after paragraph 2 insert—
    - “3. In paragraph 1, “first part of the categorisation legislation”—
      - (a) as it extends to England and Wales, means the first indent of Annex 3 to Directive 2006/21/EC;
      - (b) as it extends to Scotland, means paragraph (a) of the definition of “Category A waste facility” in regulation 2(1) of the 2010 Scotland Regulations;
      - (c) as it extends to Northern Ireland, means paragraph 1 of Schedule 3 to the 2015 NI Regulations.”.
- (4) In Article 3(2), omit “under Council Directive 91/689/EEC”.
- (5) In Article 4(1), for “Member States” substitute “ The appropriate agency ”.
- (6) In Article 7—
  - (a) in paragraph 1—
    - (i) in the words before point (a), for “indent of Annex III of Directive 2006/21/EC” substitute “ part of the categorisation legislation ”;
    - (ii) in point (a), omit “in accordance with Directive 91/689/EEC”;
  - (b) after paragraph 4 insert—
    - “5. In paragraph 1, “second part of the categorisation legislation”—
      - (a) as it extends to England and Wales, means the second indent of Annex 3 to Directive 2006/21/EC;
      - (b) as it extends to Scotland, means paragraph (b) of the definition of “Category A waste facility” in regulation 2(1) of the 2010 Scotland Regulations;

- (c) as it extends to Northern Ireland, means paragraph 2 of Schedule 3 to the 2015 NI Regulations.”.
- (7) In Article 8—
- (a) in paragraph 1—
- (i) for “Member States” substitute “ The appropriate agency ”;
- (ii) for “indent of Annex III of Directive 2006/21/EC” substitute “ part of the categorisation legislation ”;
- (b) in paragraph 2—
- (i) in the first subparagraph, in point (c) for the words from “Council Directive 67/548/EEC” to the end substitute “ Regulation (EC) No 1272/2008 of the European Parliament and of the Council ”;
- (ii) in the second subparagraph, for “Directives 1999/45/EC or 67/548/EEC” substitute “ Regulation (EC) No 1272/2008 of the European Parliament and of the Council ”;
- (c) in paragraph 3, for “Directive 1999/45/EC or 67/548/EEC” substitute “ Regulation (EC) No 1272/2008 of the European Parliament and of the Council ”;
- (d) in paragraph 4—
- (i) in the first sentence, for “Member States” substitute “ the appropriate agency ”;
- (ii) in the second sentence, for “Directives 1999/45/EC or 67/548/EEC” substitute “ Regulation (EC) No 1272/2008 of the European Parliament and of the Council ”;
- (e) after paragraph 4 insert—
- “5. In paragraph 1, “third part of the categorisation legislation”—
- (a) as it extends to England and Wales, means the third indent of Annex 3 to Directive 2006/21/EC;
- (b) as it extends to Scotland, means paragraph (c) of the definition of “Category A waste facility” in regulation 2(1) of the 2010 Scotland Regulations;
- (c) as it extends to Northern Ireland, means paragraph 3 of Schedule 3 to the 2015 NI Regulations.”.
- (8) Omit Article 11.

- F69** Words in reg. 18(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(14)(a)**
- F70** Words in reg. 18(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(14)(b)(i)**
- F71** Words in reg. 18(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(14)(b)(ii)**
- F72** Words in reg. 18(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(14)(b)(iii)**

**Commencement Information**

- I17** Reg. 18 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see reg. 1(2)(b)

### Marginal Citations

M48 2000 asp 10.

### Commission Decision [2009/359/EC](#) completing the definition of inert waste in implementation of Article 22(1)(f) of Directive [2006/21/EC](#) of the European Parliament and the Council concerning the management of waste from extractive industries

19.—(1) Commission Decision [2009/359/EC](#) completing the definition of inert waste in implementation of Article 22(1)(f) of Directive [2006/21/EC](#) of the European Parliament and the Council concerning the management of waste from extractive industries is amended as follows.

(2) In Article 1—

- (a) in paragraph 1, for “Article 3(3) of Directive [2006/21/EC](#)” substitute “ the relevant definition provision ”;
- (b) in paragraph 3, for “Member States” substitute “ appropriate agency ”;
- (c) after paragraph 3 insert—

“4. In paragraph 1, “the relevant definition provision”—

- (a) as it extends to England and Wales, means Article 3(3) of Directive [2006/21/EC](#);
- (b) as it extends to Scotland, means regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010;
- (c) as it extends to Northern Ireland, means regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.

5. In paragraph 3, “appropriate agency” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;
- (c) in relation to Scotland—
  - (i) a planning authority, or
  - (ii) a National Park authority within the meaning of section 35(1) of the National Parks (Scotland) Act 2000 (as the case may be);
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

6. A term which is used in this Article—

- (a) as it extends to Scotland and which is defined in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010 has the meaning given by that regulation;
- (b) as it extends to Northern Ireland and which is defined in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015 has the meaning given by that regulation.”.

(3) After Article 1 insert—



“Article 1A

1. For the purposes of Article 1, Directive [2006/21/EC](#) of the European Parliament and the Council concerning the management of waste from extractive industries is to be read in accordance with paragraphs 2 and 3.

2. 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 appropriate authority, appropriate agency or local authority which, immediately before [F73IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England or Wales.

3. Article 3 is to be read as if—

- (a) in point (1), for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”;
- (b) in point (2), for “Article 1(4) of Council Directive [91/689/EEC](#) of 12 December 1991 on hazardous waste” there were substituted “Article 3(2) of the Waste Framework Directive”;
- (c) in point (4), for the words from “the national law” to the end there were substituted “national law”;
- (d) in point (24), for the words from “the national law” to “takes place” there were substituted “national law”.

4. In paragraph 2—

- (a) “appropriate agency” has the meaning given in Article 1(5);
- (b) “appropriate authority” means—
  - (i) in relation to England, the Secretary of State;
  - (ii) in relation to Wales, the Welsh Ministers;
- (c) “local authority” means—
  - (i) in England outside Greater London—
    - a district council,
    - a county council, or
    - the Council of the Isles of Scilly;
  - (ii) in Greater London—
    - the council of a London borough,
    - the Common Council of the City of London,
    - the Sub-Treasurer of the Inner Temple, or
    - the Under-Treasurer of the Middle Temple;
  - (iii) in Wales—
    - a county council, or
    - a county borough council.

### *Article 1B*

1. In Article 1A(3), the “Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by [<sup>F74</sup>Directive (EU) 2018/851], and read in accordance with this Article.

2. 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 appropriate authority, appropriate agency or local authority which, immediately before [<sup>F75</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England or Wales.

[<sup>F76</sup>3. Article 5 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 appropriate agency for the purposes of this Article.”;

- (c) paragraphs 2 and 3 were omitted.

4. Article 6 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 appropriate agency 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;

- (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 out as referred to in paragraph 1A(a), the appropriate agency”;
    - (bb) the second sentence were omitted;
  - (ii) in the second subparagraph—
    - (aa) for “Member States” there were substituted “The appropriate agency”;
    - (bb) “by competent authorities” were omitted.
5. Article 7 is to be read as if—
- (a) before paragraph 1 there were inserted—

“**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales, Scotland or Northern Ireland (as the case may be).”;
  - (b) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
  - (c) paragraphs 2, 3, 6 and 7 were omitted.]
6. Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
7. In [<sup>F77</sup>this Article]—
- (a) “appropriate agency” has the meaning given in Article 1(5);
  - (b) “appropriate authority” and “local authority” have the meanings given in Article 1A(4).”.
- (4) Omit Article 3.

<b>F73</b>	Words in reg. 19(3) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(15)(a)</b>
<b>F74</b>	Words in reg. 19(3) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(15)(b)(i)</b>
<b>F75</b>	Words in reg. 19(3) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(15)(b)(ii)</b>
<b>F76</b>	Words in reg. 19(3) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(15)(b)(iii)</b>
<b>F77</b>	Words in reg. 19(3) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a> , regs. 1(3), <b>14(15)(b)(iv)</b>

*Status: This version of this Instrument contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

### Commencement Information

**I18** Reg. 19 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)(b)

### Commission Decision **2009/360/EC** completing the technical requirements for waste characterisation laid down by Directive **2006/21/EC** of the European Parliament and of the Council on the management of waste from extractive industries

**20.**—(1) Commission Decision **2009/360/EC** completing the technical requirements for waste characterisation laid down by Directive **2006/21/EC** of the European Parliament and of the Council on the management of waste from extractive industries is amended as follows.

(2) Before Article 1 insert—

#### *“Article A1*

**1.** A term which is used in this Decision—

- (a) as it extends to Scotland and which is defined in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010 has the meaning given in that regulation;
- (b) as it extends to Northern Ireland and which is defined in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015 has the meaning given in that regulation.

**2.** For the purposes of this Decision, Directive **2006/21/EC** of the European Parliament and the Council concerning the management of waste from extractive industries is to be read as if, in Article 3—

- (a) in point (1), for “Article 1(a) of Directive **75/442/EEC**” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”;
- (b) in point (2), for “Article 1(4) of Council Directive **91/689/EEC** of 12 December 1991 on hazardous waste” there were substituted “Article 3(2) of the Waste Framework Directive”;
- (c) in point (4), for the words from “the national law” to the end there were substituted “national law”;
- (d) in point (24), for the words from “the national law” to “takes place” there were substituted “national law”.

**3.** In paragraph 2, the “Waste Framework Directive” means Directive **2008/98/EC** of the European Parliament and of the Council on waste, as last amended by [<sup>F78</sup>Directive (EU) 2018/851], and read in accordance with paragraphs 4 to 8.

**4.** 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 appropriate authority, appropriate agency or local authority which, immediately before [<sup>F79</sup>IP

completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England or Wales.

- [<sup>F80</sup>5. Article 5 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 appropriate agency for the purposes of this Article.”;
  - (c) paragraphs 2 and 3 were omitted.
6. Article 6 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 appropriate agency 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;
  - (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 out as referred to in paragraph 1A(a), the appropriate agency”;
      - (bb) the second sentence were omitted;
    - (ii) in the second subparagraph—
      - (aa) for “Member States” there were substituted “The appropriate agency”;
      - (bb) “by competent authorities” were omitted.
7. Article 7 is to be read as if—
- (a) before paragraph 1 there were inserted—

“**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales, Scotland or Northern Ireland (as the case may be).”;

- (b) in paragraph 1—
  - (i) the first and second sentences were omitted;
  - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
- (c) paragraphs 2, 3, 6 and 7 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.

**9.** In [<sup>F81</sup>this Article]—

- (a) “appropriate authority” means—
  - (i) in relation to England, the Secretary of State;
  - (ii) in relation to Wales, the Welsh Ministers;
- (b) “local authority” means—
  - (i) in England outside Greater London—
    - a district council,
    - a county council, or
    - the Council of the Isles of Scilly;
  - (ii) in Greater London—
    - the council of a London borough,
    - the Common Council of the City of London,
    - the Sub-Treasurer of the Inner Temple, or
    - the Under-Treasurer of the Middle Temple;
  - (iii) in Wales—
    - a county council, or
    - a county borough council.

**10.** In this Decision, “appropriate agency” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;
- (c) in relation to Scotland—
  - (i) a planning authority, or
  - (ii) a National Park authority within the meaning of section 35(1) of the National Parks (Scotland) Act 2000 (as the case may be);
- (d) in relation to Northern Ireland—

- (i) a district council established under section 1 of the Local Government Act (Northern Ireland) 1972, or
- (ii) the Department for Infrastructure (as the case may be).”.
- (3) In Article 1(1), for “Member States” substitute “ The appropriate agency ”.
- (4) In Article 2(2), omit “European”.
- (5) Omit Article 3.

- F78** Words in reg. 20(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(16)(a)**
- F79** Words in reg. 20(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(16)(b)**
- F80** Words in reg. 20(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(16)(c)**
- F81** Words in reg. 20(2) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(16)(d)**

#### **Commencement Information**

- I19** Reg. 20 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

### **Commission Decision 2011/753/EU establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive 2008/98/EC of the European Parliament and of the Council**

**21.**—(1) Commission Decision 2011/753/EU establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive [2008/98/EC](#) of the European Parliament and of the Council is amended as follows.

- (2) In Article 1, after point (6) insert—
  - “(7) ‘appropriate authority’ means—
    - (i) in relation to England, the Secretary of State;
    - (ii) in relation to Wales, the Welsh Ministers;
    - (iii) in relation to Scotland, the Scottish Ministers;
    - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.”.
- (3) After Article 1 insert—

#### *“Article 1A*

#### *Modification of Directive [2008/98/EC](#) of the European Parliament and of the Council*

**1.** In this Decision, “Directive [2008/98/EC](#)” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by [<sup>F82</sup>Directive (EU) 2018/851], and read in accordance with paragraphs 2 to 7.

2. 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 appropriate authority, appropriate agency or local authority which, immediately before [<sup>F83</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion.

[<sup>F84</sup>2A. Article 3 is to be read as if points 2b, 2c, 15a and 17a were omitted.]

[<sup>F85</sup>3. Article 5 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 appropriate agency for the purposes of this Article.”;

- (c) paragraphs 2 and 3 were omitted.

4. Article 6 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 appropriate agency 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;

- (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 out as referred to in paragraph 1A(a), the appropriate agency”;

- (bb) the second sentence were omitted;

- (ii) in the second subparagraph—



- (aa) for “Member States” there were substituted “The appropriate agency”;
  - (bb) “by competent authorities” were omitted.
- 5. Article 7 is to be read as if—
  - (a) before paragraph 1 there were inserted—

“**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in England, Wales, Scotland or Northern Ireland (as the case may be).”;
  - (b) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
  - (c) paragraphs 2, 3, 6 and 7 were omitted.
- 6. Article 11(2) is to be read as if—
  - (a) in the words before point (a), for “European” there were substituted “United Kingdom”;
  - (b) points (c) to (e) 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 [<sup>F86</sup>this Article]—
  - (a) “appropriate agency” means—
    - (i) in relation to England, the Environment Agency;
    - (ii) in relation to Wales, the Natural Resources Body for Wales;
    - (iii) in relation to Scotland, the Scottish Environment Protection Agency;
    - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
  - (b) “local authority” means—
    - (i) in England outside Greater London—
      - a district council,
      - a county council, or
      - the Council of the Isles of Scilly;
    - (ii) in Greater London—
      - the council of a London borough,
      - the Common Council of the City of London,
      - the Sub-Treasurer of the Inner Temple, or
      - the Under-Treasurer of the Middle Temple;
    - (iii) in Wales—
      - a county council, or

— a county borough council;

(iv) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

(v) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972.”.

(4) In Article 2—

(a) in point (1), for “Member States” substitute “ The appropriate authority ”;

(b) omit point (4);

(c) in point (5), omit “out of the Union”.

(5) In Article 3—

(a) in paragraph 1, in the words before point (a) for “Member States” substitute “ the appropriate authority ”;

(b) in paragraph 2, for “Member State” substitute “ appropriate authority ”;

(c) in paragraph 3—

(i) for “Member States” substitute “ The appropriate authority ”;

(ii) for “Member State” substitute “ appropriate authority ”;

(d) in paragraph 4, for “Member States' implementation reports on” substitute “ The progress report under Article 5 in respect of ”;

(e) omit paragraphs 5 and 6.

(6) In Article 4—

(a) in paragraph 1, for “Member States” substitute “ the appropriate authority ”;

(b) in paragraph 2, for “Member States' implementation reports on” substitute “ The progress report under Article 5 in respect of ”.

(7) In Article 5—

(a) for the heading substitute “ Progress report for England ”;

(b) for paragraph 1 substitute—

“1. The Secretary of State must publish a report (“the progress report”) on whether the targets set in Article 11(2) of Directive [2008/98/EC](#) have been met in respect of England.

**1A.** The progress report must be published on or before 1st January 2022 in a manner which the Secretary of State considers appropriate.”;

(c) in paragraph 2—

(i) for the words from “Member States” to “reports” substitute “ The progress report must include data ”;

(ii) for the words from “either each year” to the end substitute “ 2019 and 2020 ”;

(d) in paragraph 3, for “implementation report covering the year 2020, Member States” substitute “ progress report for 2020, the Secretary of State ”;

(e) omit paragraph 4.

(8) Omit Article 6.

(9) In Annex 1, the third column of the table is amended in accordance with paragraphs (10) to (14).

- (10) In the column heading, for “Member State implementation reports” substitute “ the progress report ”.
- (11) In the first entry—
- (a) for “Member States” in both places it occurs substitute “ The Secretary of State ”;
  - (b) in the third sentence, omit the words from “and how” to the end.
- (12) In the second entry—
- (a) in the first paragraph—
    - (i) for “Member States” in both places it occurs substitute “ The Secretary of State ”;
    - (ii) in the fourth sentence—
      - (aa) for “a Member State” substitute “ the Secretary of State ”;
      - (bb) for “it” substitute “ the Secretary of State ”;
  - (b) omit the second paragraph.
- (13) In the third entry—
- (a) in the first paragraph—
    - (i) in the first sentence, for “Member States” substitute “ The Secretary of State ”;
    - (ii) in the second sentence, for “They” substitute “ The Secretary of State ”;
  - (b) omit the second and third paragraphs.
- (14) Omit the fourth entry.
- (15) In Annex 3, the second column of the table is amended in accordance with paragraphs (16) and (17).
- (16) In the column heading, for “Member State implementation reports” substitute “ the progress report ”.
- (17) In the first entry—
- (a) in point (1), in the second paragraph, for “Member States” substitute “ The Secretary of State ”;
  - (b) omit point (2);
  - (c) in point (3)—
    - (i) in the first sentence, for “Member States” substitute “ The Secretary of State ”;
    - (ii) in the second sentence—
      - (aa) for “they” substitute “ The Secretary of State ”;
      - (bb) omit the words from “and how” to the end;
    - (iii) omit the third sentence.

- |   |
|---|
| <p><b>F82</b> Words in reg. 21(3) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a>, regs. 1(3), <b>14(17)(a)</b></p> |
| <p><b>F83</b> Words in reg. 21(3) substituted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a>, regs. 1(3), <b>14(17)(b)</b></p> |
| <p><b>F84</b> Words in reg. 21(3) inserted (31.12.2020 immediately before IP completion day) by <a href="#">The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540)</a>, regs. 1(3), <b>14(17)(c)</b></p>    |

*Status: This version of this Instrument contains provisions that are prospective.*  
**Changes to legislation:** There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)

- F85** Words in reg. 21(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(17)(d)**
- F86** Words in reg. 21(3) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(17)(e)**

#### Commencement Information

- I20** Reg. 21 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

### CHAPTER 3

#### Consequential amendment and revocations

#### **Amendment of the Environmental Permitting (England and Wales) Regulations 2016**

**22.**—(1) Schedule 10 to the Environmental Permitting (England and Wales) Regulations 2016 is amended as follows.

- (2) In paragraph 7(a), for “member State” substitute “ appropriate authority ”.

#### Commencement Information

- I21** Reg. 22 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

#### **Revocations**

**23.**—(1) The retained direct EU legislation listed in the Schedule is revoked.

- (2) In the EEA Agreement, in Annex 20, in Chapter 5—
- (a) omit the adaptation in point 32aa;
  - (b) omit points 32da, 32ea, 32ed, 32fb, 32fc and 32fec;
  - (c) omit the adaptations in points 32ffa to 32ffc.

#### Commencement Information

- I22** Reg. 23 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

Department for Environment, Food and Rural  
Affairs

*Thérèse Coffey*  
Parliamentary Under Secretary of State

## SCHEDULE

Regulation 23(1)

### Revocations

#### Regulations

1. Commission Regulation (EU) No 1357/2014 replacing Annex III to Directive [2008/98/EC](#) of the European Parliament and of the Council on waste and repealing certain Directives.

##### Commencement Information

**I23** Sch. para. 1 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

2. Council Regulation (EU) 2017/997 amending Annex III to Directive [2008/98/EC](#) of the European Parliament and of the Council as regards the hazardous property HP 14 'Ecotoxic'.

##### Commencement Information

**I24** Sch. para. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

#### Decisions

3. Commission Decision [76/431/EEC](#) setting up a Committee on Waste Management.

##### Commencement Information

**I25** Sch. para. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

4. Commission Decision [94/741/EC](#) concerning questionnaires for Member States reports on the implementation of certain Directives in the waste sector.

##### Commencement Information

**I26** Sch. para. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

5. Commission Decision [97/129/EC](#) establishing the identification system for packaging materials pursuant to European Parliament and Council Directive [94/62/EC](#) on packaging and packaging waste.

##### Commencement Information

**I27** Sch. para. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

6. Commission Decision [97/622/EC](#) concerning questionnaires for Member States reports on the implementation of certain Directives in the waste sector.

*Status: This version of this Instrument contains provisions that are prospective.  
Changes to legislation: There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

**Commencement Information**

**I28** Sch. para. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

7. Commission Decision [2000/738/EC](#) concerning a questionnaire for Member States reports on the implementation of Directive [1999/31/EC](#) on the landfill of waste.

**Commencement Information**

**I29** Sch. para. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

8. Commission Decision [2001/753/EC](#) concerning a questionnaire for Member States reports on the implementation of Directive [2000/53/EC](#) of the European Parliament and of the Council on end-of-life vehicles.

**Commencement Information**

**I30** Sch. para. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

9. Commission Decision [2002/151/EC](#) on minimum requirements for the certificate of destruction issued in accordance with Article 5(3) of Directive [2000/53/EC](#) of the European Parliament and of the Council on end-of-life vehicles.

**Commencement Information**

**I31** Sch. para. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

10. Commission Decision [2003/138/EC](#) establishing component and material coding standards for vehicles pursuant to Directive [2000/53/EC](#) of the European Parliament and of the Council on end-of-life vehicles.

**Commencement Information**

**I32** Sch. para. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

11. Commission Decision [2004/249/EC](#) concerning a questionnaire for Member States reports on the implementation of Directive [2002/96/EC](#) of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE).

**Commencement Information**

**I33** Sch. para. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

12. Commission Decision [2005/270/EC](#) establishing the formats relating to the database system pursuant to European Parliament and Council Directive [94/62/EC](#) on packaging and packaging waste.

**Commencement Information**

I34 Sch. para. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

13. Commission Decision [2005/293/EC](#) laying down detailed rules on the monitoring of the reuse/recovery and reuse/recycling targets set down in Directive [2000/53/EC](#) of the European Parliament and of the Council on end-of-life vehicles.

**Commencement Information**

I35 Sch. para. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

14. Commission Decision [2005/369/EC](#) laying down rules for monitoring compliance of Member States and establishing data formats for the purposes of Directive [2002/96/EC](#) of the European Parliament and of the Council on waste electrical and electronic equipment.

**Commencement Information**

I36 Sch. para. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

15. Commission Decision [2007/151/EC](#) amending Decisions [94/741/EC](#) and [97/622/EC](#) as regards the questionnaires for the report on the implementation of Directive [2006/12/EC](#) of the European Parliament and of the Council on waste and on the implementation of Council Directive [91/689/EEC](#) on hazardous waste.

**Commencement Information**

I37 Sch. para. 15 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

16. Commission Decision [2008/350/EC](#) on the rules of England, Wales, Northern Ireland and Scotland concerning permit exemptions for undertakings and establishments recovering hazardous waste under Article 3 of Council Directive [91/689/EEC](#).

**Commencement Information**

I38 Sch. para. 16 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

17. Commission Decision [2008/763/EC](#) establishing, pursuant to Directive [2006/66/EC](#) of the European Parliament and of the Council, a common methodology for the calculation of annual sales of portable batteries and accumulators to end-users.

*Status: This version of this Instrument contains provisions that are prospective.*  
**Changes to legislation:** There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)

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**Commencement Information**

**I39** Sch. para. 17 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

**18.** Commission Decision [2009/358/EC](#) on the harmonisation, the regular transmission of the information and the questionnaire referred to in Articles 22(1)(a) and 18 of Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries.

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**Commencement Information**

**I40** Sch. para. 18 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

**19.** Commission Decision [2009/851/EC](#) establishing a questionnaire for Member States reports on the implementation of Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators.

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**Commencement Information**

**I41** Sch. para. 19 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

**20.** Council Decision (EU) 2015/1156 on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement (Batteries and Accumulators).

.....  
**Commencement Information**

**I42** Sch. para. 20 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)\(b\)](#)

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations (except Part 2) are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of waste and, in particular, amend legislation relating to waste batteries and accumulators, end of waste criteria, packaging waste, end-of-life vehicle destruction certification, landfill acceptance criteria, the management of waste from extractive industries, and calculation methods for verifying recycling target compliance. Part 3 amends primary legislation, and Part 4 amends and revokes retained direct EU legislation.



**Status:** *This version of this Instrument contains provisions that are prospective.*  
**Changes to legislation:** *There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019. (See end of Document for details)*

Part 2 of these Regulations is made in exercise of the powers in section 2(2) of the European Communities Act 1972 (c. 68), and updates references to Directive [2008/98/EC](#) of the European Parliament and of the Council on waste (OJ No L 312, 22.11.2008, p 3) in Part 2 of the Environmental Protection Act 1990 (c. 43) and in section 37(2) of the Waste and Emissions Trading Act 2003 (c. 33).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

**Status:**

This version of this Instrument contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019.