
STATUTORY INSTRUMENTS

2020 No. 1647

The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020

PART 3

Amendment of subordinate legislation: Great Britain

The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012

12.—(1) The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 are amended as follows.

(2) In regulation 2—

- (a) in the definition of “the Directive”, for “Commission Delegated Directive (EU) 2019/178” substitute “Commission Delegated Directive (EU) 2019/1846”(1), and read in accordance with regulation 2B”;
- (b) for the definition of “importer”, substitute—
 - ““importer” means a person who is established in—
 - (a) the United Kingdom, who places on the market EEE from a country outside of the United Kingdom; or
 - (b) Northern Ireland, who places on the market EEE that has been supplied to that person for distribution, consumption or use in the course of a commercial activity, whether in return for payment or free of charge, from an EEA state;”;
- (c) in the definitions of “make available on the market” and “place on the market”, for “on the EU market” substitute “on the market of Great Britain”;

(3) In regulation 3—

- (a) in paragraph (1), for “Annex II to the Directive, as amended from time to time” substitute “Schedule A1”;
- (b) in paragraph (2), for “that Annex, as so amended” substitute “Schedule A1”;
- (c) in paragraph (4), for “Annex III and IV to the Directive, as amended from time to time” substitute “Schedule A2”.

(4) In regulation 14, in paragraph (5), omit “in the United Kingdom”.

(5) In regulation 16, for paragraph (2) substitute—

- “(2) The UK marking must be affixed to—
- (a) the EEE;
- (b) a data plate affixed to the EEE; or

- (c) where paragraph (2A) applies—
 - (i) a label affixed to the EEE; or
 - (ii) a document accompanying the EEE.
- (2A) This paragraph applies to EEE that is placed on the market within a period of 24 months beginning with IP completion day.”.
- (6) In regulation 24, for paragraph (2) substitute—
 - “(2) Paragraph (1) does not apply where—
 - (a) either—
 - (i) it is not possible to set out the information referred to in paragraph (1) on the EEE; or
 - (ii) the importer has imported the EEE from the EU and places it on the market within the period of 24 months beginning with IP completion day; and
 - (b) before placing the EEE on the market, the importer sets out the information referred to in paragraph (1) on the packaging of the EEE or in a document accompanying the EEE.”.
- (7) After regulation 34A(2), insert—

“Expiry of regulation 34A

- 34B.**—(1) Subject to paragraphs (2) and (3), regulation 34A ceases to have effect at the end of the period of 12 months beginning with IP completion day.
- (2) Notwithstanding the expiry of regulation 34A—
 - (a) any EEE which was placed on the market pursuant to regulation 34A may continue to be made available on the market on or after the expiry of regulation 34A;
 - (b) any obligation to which a person was subject in respect of EEE placed on the market pursuant to regulation 34A continues to have effect after the expiry of regulation 34A, in respect of that EEE.
- (3) Regulation 34A continues to apply to EEE that—
 - (a) was available on the market in the EU prior to IP completion day; and
 - (b) is placed on the market on or after IP completion day.
- (4) Where EEE is placed on the market pursuant to paragraph (3), regulation 24(1) does not apply where—
 - (a) the importer has imported the EEE from the EU; and
 - (b) before placing the product on the market, the importer sets out the information referred to in regulation 24(1) in a document accompanying the EEE.

Qualifying Northern Ireland goods

- 34C.**—(1) Where paragraph (2) applies, EEE is to be treated as being in conformity with these Regulations.
- (2) This paragraph applies where—
 - (a) the goods which are EEE—
 - (i) are in conformity with these Regulations as they apply in Northern Ireland; and
 - (ii) are qualifying Northern Ireland goods; and

(2) Regulation 34A is inserted prospectively by [S.I. 2019/188](#), with effect from IP completion day.

- (b) an importer has complied with the obligations set out in paragraph (3).
- (3) The obligations referred to in paragraph (2)(b) are that, before placing the EEE on the market, the importer—
 - (a) complies with regulation 21; and
 - (b) ensures that the manufacturer has done all of the following in relation to the EEE, in accordance with these Regulations as they apply in Northern Ireland—
 - (i) carried out the conformity assessment procedure in accordance with regulation 12(1);
 - (ii) drawn up the technical documentation; and
 - (iii) affixed the CE marking.
- (4) For the purposes of this regulation—
 - (a) “in conformity with these Regulations” means, in relation to EEE, that—
 - (i) the EEE is not prohibited by regulation 3 from being placed on the market; and
 - (ii) each person who has obligations under this Part in respect of the EEE has complied, or is complying, with those obligations;
 - (b) “CE marking” and “technical documentation” have the meanings given in regulation 2 of these Regulations as they apply in Northern Ireland;
 - (c) “qualifying Northern Ireland goods” has the meaning given to it from time to time in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018.”.
- (8) Before Schedule 1, insert Schedules A1 and A2 as set out in Schedule 2 to these Regulations.

The Packaging (Essential Requirements) Regulations 2015

- 13.**—(1) The Packaging (Essential Requirements) Regulations 2015(3) are amended as follows.
- (2) After regulation 6 insert—

“Qualifying Northern Ireland Goods

- 6A.**—(1) Where paragraph (2) applies, packaging is to be treated as being in conformity with these Regulations.
- (2) This paragraph applies where—
 - (a) the packaging—
 - (i) is in conformity with these Regulations as they apply in Northern Ireland; and
 - (ii) is a qualifying Northern Ireland good.
- (3) For the purposes of this regulation—
 - (a) “in conformity with these Regulations” means, in relation to packaging, that—
 - (i) the packaging is not prohibited by regulation 4 or 5 from being placed on the market; and
 - (ii) the responsible person has complied, or is complying, with any obligations under this Part in respect of the packaging;

(3) [S.I. 2015/1640](#), amended by [S.I. 2018/942](#) and [2020/904](#), and prospectively amended from IP completion day by [S.I. 2019/188](#). [S.I. 2019/188](#) is amended by [S.I. 2020/1540](#) to limit the extent of its amendments to [S.I. 2015/1640](#) to England and Wales and Scotland.

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- (b) “qualifying Northern Ireland goods” has the meaning given to it from time to time in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018.”.