

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Text with EEA relevance)

CHAPTER I

**SUBJECT MATTER, SCOPE AND DEFINITIONS**

*Article 5*

**By-products**

[<sup>F1</sup> Member States shall take appropriate measures to ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met:]

- a further use of the substance or object is certain;
- b the substance or object can be used directly without any further processing other than normal industrial practice;
- c the substance or object is produced as an integral part of a production process; and
- d further use is lawful, i.e. the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

[<sup>F12</sup> The Commission may adopt implementing acts in order to establish detailed criteria on the uniform application of the conditions laid down in paragraph 1 to specific substances or objects.

Those detailed criteria shall ensure a high level of protection of the environment and human health and facilitate the prudent and rational utilisation of natural resources.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 39(2). When adopting those implementing acts, the Commission shall take as a starting point the most stringent and environmentally protective of any criteria adopted by Member States in accordance with paragraph 3 of this Article and shall prioritise replicable practices of industrial symbiosis in the development of the detailed criteria.]

[<sup>F23</sup> Where criteria have not been set at Union level under paragraph 2, Member States may establish detailed criteria on the application of the conditions laid down in paragraph 1 to specific substances or objects.

Member States shall notify the Commission of those detailed criteria in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council<sup>(1)</sup> where so required by that Directive.]

---

**Textual Amendments**

- F1** Substituted by [Directive \(EU\) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste \(Text with EEA relevance\)](#).

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

**F2** Inserted by Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste (Text with EEA relevance).

---

**Status:** EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

---

- (1) [<sup>F2</sup>Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).]

---

**Textual Amendments**

- F2** Inserted by Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste (Text with EEA relevance).