
STATUTORY RULES OF NORTHERN IRELAND

2020 No. 284

**The Waste (Amendment) (EU Exit)
Regulations (Northern Ireland) 2020**

Amendment of the Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019

4.—(1) The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019⁽¹⁾ are amended as follows.

(2) In these Regulations for the words “exit day”, wherever they occur, substitute “IP completion day”.

(3) In regulation 3 (The Hazardous Waste Regulations (Northern Ireland) 2005)—

(a) for paragraph (2) substitute—

“(2) In regulation 2(1)—

(a) after the definition of “the 1997 Order” insert—

““appropriate authority” means the Department of Agriculture, Environment and Rural Affairs”; and

(b) after the definition of “industrial battery or accumulator” insert—

““Landfill Directive” means Council [Directive 1999/31/EC](#)⁽²⁾ on the landfill of waste, as last amended by Directive (EU) 2018/850⁽³⁾, and read as if—

(a) in Article 2—

(i) in point (a), ““waste”, “hazardous waste”, “non-hazardous waste” were omitted; and

(ii) after point (a), there were inserted—

(“aa) “waste” has the meaning given by regulation 3(1)(b) of the Hazardous Waste Regulations (Northern Ireland) 2005⁽⁴⁾;

(bb) “hazardous waste” and “non-hazardous waste” have the meaning given by regulation 2(1) of the Hazardous Waste Regulations (Northern Ireland) 2005;”; and

(b) in Article 3(2), “Without prejudice to existing Community legislation,” were omitted.”;”;

(b) in paragraph (4), in the inserted regulation 3A—

(i) omit paragraph (4);

(1) [S.I. 2019/271](#) as amended by [S.I. 2019/1443](#). See correction slip dated June 2019 (ISBN 978-0-11-118149-2) which made minor corrections to this S.I.

(2) OJ No. L182, 16.7.1999, p. 1–19

(3) OJ No. L150, 14.6.2018, p. 100–108

(4) [S.R. 2005 No. 300](#); relevant amendments are [S.R. 2011 No. 127](#) and [S.R. 2018 No. 200](#)

- (ii) for paragraphs (5), (6) and (7) substitute—
 - “(5) Article 5 is to be read as if—
 - (a) in paragraph 1, the words “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 for the purposes of this Article.”;
 - (c) paragraphs 2 and 3 were omitted.
 - (6) Article 6 is to read as if—
 - (a) in paragraph 1, the words “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 for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second subparagraph, for the words “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
 - (iii) the third and fourth sub-paragraphs 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 authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for the words “Member States” there were substituted “The appropriate authority”;
 - (bb) “by competent authorities” were omitted.
 - (7) Article 7 is to 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 Northern Ireland.”;
 - (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.”;
- (c) for paragraph (5) substitute—
- “(5) In regulation 9—
 - (a) in paragraph (2), for the words “Article 7(2) of the Waste Directive” substitute “paragraph (3)”;
 - (b) after paragraph (2) insert—
 - “(3) For the purposes of paragraph (2), a specific waste may be determined to be hazardous—
 - (a) in relation to Wales by the Welsh Ministers under regulation 8 of the Hazardous Waste (Wales) Regulations 2005(5);
 - (b) in relation to England by the Secretary of State under regulation 8 of the Hazardous Waste (England and Wales) Regulations 2005(6);
 - (c) in relation to Scotland, by the Scottish Ministers, because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex III.”
 - (4) In regulation 4 (the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007), in paragraph (3)—
 - (a) in the inserted regulation 2A—
 - (i) for paragraph (3) substitute—
 - “(3) Article 3 is to be read as if—
 - (a) in paragraph 2, for the words “Article 3 of [Directive 2008/98/EC](#)” there were substituted “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive;
 - (b) in paragraph 2c, for the words “[Directive 2008/98/EC](#)” there were substituted “the Waste Directive”.”;
 - (ii) omit paragraph (4);
 - (b) in the inserted regulation 2B—
 - (i) for paragraphs (3) and (4) substitute—
 - “(3) Article 5 is to be read as if—
 - (a) in paragraph 1, the words “Member States shall take appropriate measures to ensure that” were omitted;

(5) S.I. 2005/1806 (W. 138); relevant amendments are S.I. 2011/971 (W. 141) and 2015/1417 (W. 141)

(6) S.I. 2005/894

- (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 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, the words “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 for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second subparagraph, for the words “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 sub-paragraph—
 - (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 authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for the words “Member States” there were substituted “The appropriate authority”;
 - (bb) “by competent authorities” were omitted.”
- (c) for paragraph (4) substitute—
 - “(4) In regulation 24—
 - (a) in paragraph (3)(b)—
 - (i) in paragraph (i)—

- (aa) for the words “European Community” substitute “United Kingdom or a Member State”;
- (bb) for the words from “Article 6(2) of” to the end, substitute “any recovery or recycling operations taking place in each such site take place under conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom”;
- (ii) in paragraph (ii)—
 - (aa) for the words “European Community” substitute “United Kingdom or a Member State”;
 - (bb) for the words “of Article 6(2) of that Directive” substitute “applicable to the shipment of waste from the United Kingdom”;
- (b) in paragraph (8) for the words “the European Community” substitute “a Member State”;
- (c) in paragraph (9)—
 - (i) for the words “European Community” substitute “United Kingdom or a Member State”;
 - (ii) for the words “the requirements of Article 6(2) of the Packaging Waste Directive” substitute “conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom”;
- (d) for paragraph (5) substitute—
 - “(5) For regulation 26(2) substitute—
 - “(2) Where the appropriate authority has granted an accreditation to an exporter, and is no longer satisfied that the requirements in regulation 24(3)(b) or (9), which applied to that grant of accreditation, are met in relation to the export of one or more specified recyclable materials for reprocessing at one or more reprocessing sites outside the United Kingdom, the appropriate authority shall cancel the accreditation of an exporter to the extent that it relates to any such export which does not meet those requirements.”.
- (5) In regulation 5 (the Waste Regulations (Northern Ireland) 2011)—
 - (a) in paragraph (2)(d), in the definition of “Landfill Directive” for the words “Council Directive 2011/97/EU” substitute “Directive (EU) 2018/850”;
 - (b) in paragraph (3)—
 - (i) in the inserted regulation 9B, for paragraph (2) substitute—
 - “(2) In Article 2—
 - (a) in point (a)—
 - (i) “‘waste’, ‘hazardous waste’, ‘non-hazardous waste’” were omitted; and
 - (ii) for the words “[Directive 2008/98/EC](#)” there were substituted “the Waste Framework Directive”;
 - (b) after point (a) there were inserted—
 - “(aa) ‘waste’ has the meaning given by regulation 1(3) of the Waste Management Licensing Regulations (Northern Ireland) 2003;

- (bb) ‘hazardous waste’ and ‘non-hazardous waste’ have the meaning given in regulation 2(1) of the Hazardous Waste Regulations (Northern Ireland) 2005;”;
- (ii) in the inserted regulation 9D, for paragraphs (5), (6) and (7) substitute—
 - “(5) Article 5 is to be read as if—
 - (a) in paragraph 1, the words “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 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, the words “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 for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second subparagraph, for the words “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 sub-paragraph—
 - (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 authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—

- (aa) for the words “Member States” there were substituted “The appropriate 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](#)(7), as that list has effect in Northern Ireland.”;
 - (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.”;
- (iii) for paragraph (10) substitute—
- “(10) Article 35(1) is to be read as if, for the second paragraph, there were substituted—
- “They shall make that data available to the appropriate authority through any electronic registry established for the reporting of such data or, if no such registry is in operation, in such form and manner the appropriate authority may specify.”;”;
- (iv) in paragraph (13) for the words “(11)(c)” substitute “(12)(c)”;
- (v) after paragraph (13) insert—
- “(14) Annex 4a is to be read as if, in point 6, “including through Union funds” were omitted.”