
DRAFT STATUTORY INSTRUMENTS

2019 No.

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

PART 4

Amendment and revocation of retained direct EU legislation

CHAPTER 2

Decisions

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 exit 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 [Council Regulation \(EU\) 2017/997](#), 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 exit 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 5 is to be read as if paragraph 2 were omitted.

4. Article 6 is to be read as if—

- (a) paragraphs 1 to 3 were omitted;
- (b) in paragraph 4—
 - (i) in the first sentence, for the words from “Where criteria” to “paragraphs 1 and 2” there were substituted “Except where [Council Regulation \(EU\) No 333/2011](#), [Commission Regulation \(EU\) No 1179/2012](#) or [Commission Regulation \(EU\) No 715/2013](#) applies”;
 - (ii) the second sentence were omitted.

5. Article 7 is to be read as if—

- (a) in paragraph 1—
 - (i) the first and second sentences were omitted;
 - (ii) in the third sentence, for “shall be binding” there were substituted “shall, subject to paragraph 1A, be binding”;
- (b) after paragraph 1, there were inserted—

“1A. Paragraph 1 is subject to—

 - (a) a determination by the Secretary of State under regulation 8(1) of the Hazardous Waste (England and Wales) Regulations 2005, or by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005, that a specific batch of waste is to be treated as hazardous waste;
 - (b) a decision made by the Secretary of State under regulation 9(1) of the Hazardous Waste (England and Wales) Regulations 2005, or by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005, that a specific batch of waste is to be treated as non-hazardous waste;
 - (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulation 8(2) or 9(2) of the Hazardous Waste (England and Wales) Regulations 2005, or regulation 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;

- (d) regulations (if any) made by the Secretary of State under section 62A(1) of the Environmental Protection Act 1990 or by the Welsh Ministers under section 62A(2) of that Act (lists of waste displaying hazardous properties).”;
 - (c) paragraphs 2, 3 and 5 were omitted;
 - (d) after paragraph 6 there were inserted—
 - “**6A.** In this Article, the “list of waste” means the list established by Commission [Decision 2000/532/EC](#).”;
 - (e) paragraph 7 were omitted.
- 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 paragraph 2—
 - (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.