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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2020 No.**

**EXITING THE EUROPEAN UNION**

**ENVIRONMENTAL PROTECTION**

**WASTE**

The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020

*Made* - - - -

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*Coming into force in accordance with regulation 1*

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The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(1) and 8C of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

In accordance with 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 resolution of each House of Parliament.

## PART 1

### Introduction

#### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020.

(2) These Regulations come into force on IP completion day, except as provided in paragraphs (3) and (4).

(3) Regulations 10 to 12 and 14 come into force immediately before IP completion day.

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(a) 2018 c. 16, amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(4) Regulations 13 and 15, and this regulation, come into force immediately before the coming into force of the Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019<sup>(a)</sup>.

(5) Parts 1 and 2 extend to the United Kingdom.

(6) An amendment, repeal or revocation made by Part 3, 4 or 5 or the Schedule has the same extent as the provision being amended, repealed or revoked, subject to paragraph (7).

(7) The revocations in paragraphs 7, 9, 10 and 11 of the Schedule extend to England and Wales and Northern Ireland.

## PART 2

### Retention of legislative functions: list of waste

#### Interpretation

2.—(1) In this Part—

“the Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste<sup>(b)</sup>, as last amended by Directive (EU) 2018/851<sup>(c)</sup>, and read in accordance with paragraph (2);

“the appropriate authority” has the meaning given in paragraphs (3) and (4);

“hazardous waste” and “non-hazardous waste” have the meanings given in Article 3(2) and (2a) of the Waste Framework Directive;

“waste” has the meaning given in Article 3(1) of the Waste Framework Directive.

(2) For the purposes of this Part, the Waste Framework Directive is to be read as if, in Annex 3, in entry HP 9, in the second sentence, “in the Member States” were omitted.

(3) “The appropriate authority” means—

- (a) for regulations applying in relation to England, the Secretary of State;
- (b) for regulations applying in relation to Wales, the Welsh Ministers;
- (c) for regulations applying in relation to Scotland, the Scottish Ministers;
- (d) for regulations applying in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

(4) But the appropriate authority is the Secretary of State if consent is given by—

- (a) for regulations applying in relation to Wales, the Welsh Ministers;
- (b) for regulations applying in relation to Scotland, the Scottish Ministers;
- (c) for regulations applying in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

#### Power to prescribe list of waste

3.—(1) The appropriate authority may, by regulations, make provision for or in connection with prescribing or amending a list which categorises different types of waste (a “list of waste”).

(2) The provision which may be made by regulations under paragraph (1) includes—

- (a) provision specifying identifying codes for categories of waste; and
- (b) provision specifying categories of waste which—

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(a) S.I. 2019/1078. Regulation 1 states that those Regulations come into force immediately before exit day. By virtue of Schedule 5, paragraph 1(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1) they instead come into force immediately before IP completion day.

(b) OJ No L 312, 22.11.2008, p. 3.

(c) OJ No L 150, 14.6.2018, p. 109.

- (i) are hazardous waste;
  - (ii) are non-hazardous waste; or
  - (iii) are hazardous waste if they contain a concentration of a substance which exceeds a value specified in the regulations, and are non-hazardous waste otherwise;
- (c) provision amending Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes 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>(a)</sup>.

(3) The inclusion of a substance or object in a list of waste is not conclusive as to whether it is waste in all circumstances, and a substance or object is only to be considered as waste for the purposes of any legislation if, in the circumstances, it meets the definition of waste which applies for those purposes.

### **Consultation**

4. Before making any regulations under regulation 3, the appropriate authority must consult such persons as the appropriate authority considers appropriate.

### **Regulations: procedure**

5.—(1) Regulations by the Secretary of State or the Welsh Ministers under regulation 3 are to be made by statutory instrument.

(2) For regulations made by the Scottish Ministers under regulation 3, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010<sup>(b)</sup>.

(3) Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under regulation 3 is exercisable by statutory rule for the purpose of the Statutory Rules (Northern Ireland) Order 1979<sup>(c)</sup>.

(4) A statutory instrument containing regulations made by the Secretary of State under regulation 3 is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) A statutory instrument containing regulations by the Welsh Ministers under regulation 3 is subject to annulment in pursuance of a resolution of the Senedd Cymru.

(6) Regulations made by the Scottish Ministers under regulation 3 are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

(7) Regulations made by the Department of Agriculture, Environment and Rural Affairs under regulation 3 are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954<sup>(d)</sup>.

### **Power to make consequential etc. provision**

6. Regulations made under regulation 3 may—

- (a) include consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);
- (b) make different provision for different purposes.

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(a) EUDN 2000/532.

(b) 2010 asp 10.

(c) S.I. 1979/1573 (N.I. 12).

(d) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

## PART 3

### Amendment of primary legislation

#### **Environmental Protection Act 1990**

7. In the Environmental Protection Act 1990(a), omit section 62A.

## PART 4

### Amendment of subordinate legislation

#### **The Hazardous Waste (England and Wales) Regulations 2005**

8. In the Hazardous Waste (England and Wales) Regulations 2005(b), omit regulations 6(b), 8(1)(b), 9(1)(b) and 72(3).

#### **The Marine Licensing (Exempted Activities) Order 2011**

9.—(1) The Marine Licensing (Exempted Activities) Order 2011(c) is amended as follows.

(2) In article 3, in the definition of waste, at the end insert—

“,

and for this purpose Article 5(1) of that Directive is to be read as if the words “Member States shall take appropriate measures to ensure that” were omitted”.

#### **The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019**

10.—(1) In the Schedule to the Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019(d), the inserted Schedule 1A to the Environmental Permitting (England and Wales) Regulations 2016(e) is amended as follows.

(2) In paragraph 4—

(a) in sub-paragraph (2)(b), for “exit day” substitute “IP completion day”;

(b) in sub-paragraph (5), for paragraph (a) substitute—

“(a) in paragraph 1, for “Directive 2008/98/EC of the European Parliament and of the Council” there were substituted “the Waste Framework Directive”;;”;

(3) In paragraph 6(3)(f) and (g), for “exit day” substitute “IP completion day”;

(4) In paragraph 7—

(a) in sub-paragraph (2)(d), for “exit day” substitute “IP completion day”;

(b) for sub-paragraph (4) substitute—

“(4) Article 2 is to be read as if—

(a) for point (a) there were substituted—

“(a) the definitions of ‘municipal waste’, ‘waste producer’, ‘waste holder’, ‘waste management’, ‘separate collection’, ‘preparing for re-use’ and

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(a) 1990 c. 43. Section 62A was inserted by S.I. 2005/894 for England and Wales, and amended by S.I. 2011/988, 2015/1360 and 2019/620.

(b) S.I. 2005/894, to which relevant amendments were made by S.I. 2011/988.

(c) S.I. 2011/409, to which relevant amendments were made by S.I. 2016/738, 2018/942 and 2020/904.

(d) S.I. 2019/39, amended by S.I. 2019/559 and 2019/1078.

(e) S.I. 2016/1154; relevant amending instruments are S.I. 2018/575, 2018/721 and 2020/904. In regulation 2(1), the definition of “waste” is prospectively amended from IP completion day by S.I. 2019/39.

- ‘recycling’ in the Waste Framework Directive apply, with references to ‘waste’ in those definitions being interpreted in accordance with the definition of ‘waste’ in Part 1 of the Environmental Permitting (England and Wales) Regulations 2016;”;
- (b) points (l), (p) and (r) were omitted.”;
- (c) for sub-paragraph (5) substitute—
- “(5) Article 3 is to be read as if—
- (a) in paragraph 2, in the words before the first indent, “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 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.”.”;
- (d) in sub-paragraph (6), at the end insert—
- “(d) in point (f)—
- (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;
- (ii) for “Article 4 of that Directive” there were substituted “Article 4 of the Waste Framework Directive””;
- (e) for sub-paragraph (7) substitute—
- “(7) In Article 6, point (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(a), or any objectives in retained EU law relating to the increase of preparing for re-use and recycling”.”;
- (f) omit sub-paragraphs (15)(d) and (16)(d);
- (g) for sub-paragraph (17)(a) substitute—
- “(a) in Section 2, in the table, in the first column, for “14.00 h CET” in both places it occurs there were substituted “1 p.m.”.”;
- (5) In paragraph 9(2)(c), for “exit day” substitute “IP completion day”.
- (6) In paragraph 12—
- (a) for sub-paragraph (2) substitute—
- “(2) When interpreting the Waste Framework Directive for the purposes of these Regulations—
- (a) an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) “permit” means an environmental permit;
- (c) 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 IP completion day, was responsible for the United Kingdom’s

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(a) S.I. 2011/988, to which relevant amendments are made by S.I. 2020/904.

compliance with that obligation or able to exercise that discretion so far as it related to England or Wales;

(d) the competent authority is the regulator.”;

(b) for sub-paragraphs (6), (7) and (8) substitute—

“(6) 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.

(7) 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.

(8) 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 or in Wales (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.”;

(c) after sub-paragraph (9) insert—

“(9A) Article 35(1) is to be read as if, for the second paragraph, there were substituted—

“They shall make that data available to the regulator through any electronic registry established for the reporting of such data or, if no such registry is in operation, in such form and manner as the regulator may specify.”.”;

(d) at the end insert—

“(11) Annex 4a is to be read as if, in point 6, “, including through Union funds” were omitted.

(12) In sub-paragraph (2)(c), “local authority” has the meaning given in paragraph 4(7).”.

(7) In paragraph 14(2), for “exit day” substitute “IP completion day”.

## **The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019**

**11.**—(1) The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019(a) are amended as follows.

(2) After regulation 1 insert—

### **“Extent**

**1A.**—(1) Subject to paragraph (2), the amendments made by Parts 2 and 3 have the same extent as the Regulations being amended.

(2) The amendments made by regulations 18 and 20 do not extend to Northern Ireland.”.

(3) In regulation 9—

(a) in paragraph (3), in the inserted regulation 2A—

(i) for paragraphs (2), (3) and (4) substitute—

“(2) 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.”;

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(a) S.I. 2019/188, amended by S.I. 2019/1078.

- (c) paragraphs 2 and 3 were omitted.
- (3) 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.
- (4) In this regulation—
- “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;
- “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.”;
- (b) in paragraph (5), for sub-paragraph (b) substitute—
    - “(b) for “existing EU legislation and relevant national legislation” substitute “any other relevant legislation”.”.
- (4) In regulation 10—
- (a) in paragraph (3), in the inserted regulation 2A—

- (i) in paragraph (2), for “exit day” substitute “IP completion day”;
- (ii) in paragraph (5), for sub-paragraph (a) substitute—
  - “(a) in paragraph 3—
    - (i) in the first paragraph, for “Treatment facilities, which have obtained a permit in accordance with Article 6,” there were substituted “Authorised treatment facilities”;
    - (ii) in the third paragraph, the final sentence were omitted;”;
  - (iii) omit paragraph (6);
- (b) in paragraph (3), in the inserted regulation 2B—
  - (i) in paragraph (2), for “exit day” substitute “IP completion day”;
  - (ii) omit paragraph (3);
  - (iii) for paragraphs (4) to (6) substitute—
    - “(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 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, 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.”;
  - (iv) omit paragraphs (7) and (8);
  - (c) in paragraph (3), omit the inserted regulation 2C;
  - (d) for paragraph (4) substitute—
    - “(4) In regulation 3(2), for “the appropriate Community or domestic provisions” substitute “any relevant legislation”.”;
  - (e) in paragraph (5), for sub-paragraph (b) substitute—
    - “(b) for “existing EU legislation and relevant national legislation” substitute “any other relevant legislation””;
  - (f) after paragraph (6) insert—
    - “(7) In regulation 12(1), for “the requirements of Article 6 and Annex I of the Directive” substitute “the requirements set out in Annex 1 to the Directive, and the general requirements referred to in Article 13 of the Waste Directive”.”.
- (5) In regulation 11—
  - (a) in paragraph (3), in the inserted regulation 2A—
    - (i) in paragraph (2), for “exit day” substitute “IP completion day”;
    - (ii) omit paragraph (4);
    - (iii) for paragraphs (5) to (7) substitute—
      - “(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 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 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 Agency”;
      - (bb) the second sentence were omitted;
    - (ii) in the second subparagraph—
      - (aa) for “Member States” there were substituted “The 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.”;
  - (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.”;
- (b) in paragraph (3), in the inserted regulation 2B—
- (i) in the heading, omit “and “Industrial Emissions Directive””;
  - (ii) omit paragraphs (4), (5) and (6);
- (c) in paragraph (4)(b), for the inserted definition of “Landfill Directive” substitute—
- ““Landfill Directive” means Council Directive 1999/31/EC on the landfill of waste(a), as last amended by Directive (EU) 2018/850, and read as if—
- (a) in Article 2—

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(a) OJ L 182, 16.7.1999, p. 1.

- (i) in point (a)—
    - (aa) “‘waste’,” were omitted; and
    - (bb) for “Directive 2008/98/EC” there were substituted “the Waste Framework Directive”;
  - (ii) after point (a) there were inserted—
    - “(aa) ‘waste’ has the meaning given by regulation 2(1)(b) of the Hazardous Waste (England and Wales) Regulations 2005(a);”;
  - (b) in Article 3—
    - (i) in paragraph (2), “Without prejudice to existing Community legislation,” were omitted;
    - (ii) for paragraph (3) there were substituted—
      - “**3.** The management of extractive waste, within the meaning given in regulation 2(1) of the Environmental Permitting Regulations, is excluded from the scope of this Directive where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to those Regulations.”;
  - (d) in paragraph (7), after “landfill of waste” insert “, as last amended by Directive (EU) 2018/850”.
- (6) In regulation 12—
- (a) in paragraph (2)(b), for paragraph (i) substitute—
    - “(i) in the definition of “appropriate authority”, in paragraph (a), for “regulation 4(7)” substitute “regulations 2A, 2B and 4(7)”;”;
  - (b) in paragraph (3), in the inserted regulation 2A—
    - (i) in paragraph (1), for “Packaging Directive” substitute “Packaging Waste Directive”;
    - (ii) in paragraph (2), for “exit day” substitute “IP completion day”;
    - (iii) for paragraph (3) substitute—
      - “(3) Article 3 is to be read as if—
        - (a) in paragraph 2, for “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 “Directive 2008/98/EC” there were substituted “the Waste Directive”.”;
    - (iv) omit paragraph (4);
  - (c) in paragraph (3), in the inserted regulation 2B—
    - (i) in paragraph (2), for “exit day” substitute “IP completion day”;
    - (ii) for paragraphs (3) and (4) substitute—
      - “(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

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(a) S.I. 2005/894; relevant amendments were made by S.I. 2011/988.

- (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.”;
- (d) for paragraph (4) substitute—
  - “(4) In regulation 24—
    - (a) in paragraph (3)(b)—
      - (i) in paragraph (i)—
        - (aa) for “European Union” substitute “United Kingdom”;
        - (bb) for the words from “the requirements” 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 “European Union” substitute “United Kingdom”;
        - (bb) for “of Article 6(2) of that Directive” substitute “applicable to the shipment of waste from the United Kingdom”;
    - (b) omit paragraph (8);
    - (c) in paragraph (9)—
      - (i) for “European Union” substitute “United Kingdom”;

- (ii) for “the requirements of Article 6(2) of the Packaging Waste Directive” substitute “requirements that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom”.”;
- (e) after paragraph (4) insert—
  - “(4A) In regulation 26(2), for the words from the beginning to “Directive”, substitute “Where the appropriate Agency 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,”.”;
- (f) in paragraph (5), in paragraph (2) of the inserted regulation 43, for “exit day” substitute “IP completion day”.
- (7) In regulation 13—
  - (a) for paragraph (2)(b) substitute—
    - “(b) for the definition of “placing on the market” substitute—
      - ““placing on the market”—
      - (a) except in relation to a person in Northern Ireland, means supplying or making available, whether in return for payment or free of charge, to a third party within the United Kingdom;
      - (b) in relation to a person in Northern Ireland, means supplying or making available, whether in return for payment or free of charge, to a third party within the United Kingdom or the European Economic Area, and includes import into the customs territory of the Union as defined in Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code(a), as that Regulation applies in EU law;”.”;
  - (b) for paragraph (3) substitute—
    - “(3) In regulation 3—
    - (a) in paragraph (2)(a), for “the essential security interests of EEA states” substitute “essential security interests”;
    - (b) after paragraph (2) insert—
      - “(3) In paragraph (2)(a)—
      - (a) as it applies in England and Wales and Scotland, “essential security interests” means the essential security interests of the United Kingdom;
      - (b) as it applies in Northern Ireland, “essential security interests” means the essential security interests of the United Kingdom or EEA states.”.”;
  - (c) in paragraph (4)(b), for the inserted paragraphs (5), (6) and (7) substitute—
    - “(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.”;

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(a) OJ L 269, 10.10.2013, p. 1.

- (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 paragraphs (5) and (6)—
- “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;
- “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.”.
- (8) In regulation 14—
- (a) in paragraph (2)—
    - (i) in sub-paragraph (a), at the end insert—
      - “(iv) after the definition of “waste disposal authority” insert—

““the Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by Directive (EU) 2018/851, and as read in accordance with regulation 2A;”;

(ii) for sub-paragraph (c) substitute—

“(c) omit paragraph (1A).”;

(b) in paragraph (3), in the inserted regulation 2A—

(i) omit paragraph (2);

(ii) for paragraphs (3) and (4) substitute—

“(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.”;

- (iii) omit paragraphs (5) and (6);
- (iv) in paragraph (7)—
  - (aa) for “paragraph (2)” substitute “paragraphs (2) and (3)”;
  - (bb) omit the definition of “local authority”;
- (c) after paragraph (3) insert—
  - “(3A) In regulation 6—
    - (a) in paragraph (2)(a), for “the essential security interests of EEA states” substitute “essential security interests”;
    - (b) after paragraph (2) insert—
      - “(3) In paragraph (2)(a)—
        - (a) as it applies in England and Wales and Scotland, “essential security interests” means the essential security interests of the United Kingdom;
        - (b) as it applies in Northern Ireland, “essential security interests” means the essential security interests of the United Kingdom or EEA states.”;
- (d) in paragraph (9), in the inserted regulation 56A, for paragraph (2) substitute—
  - “(2) Article 2 is to be read as if—
    - (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’ has the meaning given by Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive;”;
  - (e) in paragraph (13), in the substituted text, at the end insert “and, in relation to Northern Ireland, EU legislation which has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement”.
- (9) In regulation 15(3)—
  - (a) in the inserted regulation 2A, in paragraph (2), for “exit day” substitute “IP completion day”;
  - (b) in the inserted regulation 2C—
    - (i) in paragraph (1), for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
    - (ii) in paragraph (2), for “exit day” substitute “IP completion day”;
    - (iii) for paragraphs (4), (5) and (6) substitute—
      - “(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 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 or in Wales (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.”;
- (c) in the inserted regulation 2D, for paragraph (4) substitute—
- “(4) In paragraph (3)(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)—
    - (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;”.
- (10) In regulation 16—
- (a) in paragraph (2)(b), in the inserted text, in the definition of “Landfill Directive”, for “Council Directive 2011/97/EU” substitute “Directive (EU) 2018/850”;
  - (b) in paragraph (3), in the inserted regulation 3B—
    - (i) for paragraph (2)(a) substitute—
      - “(a) in point (a)—
        - (i) “‘waste’,” were omitted; and
        - (ii) for “Directive 2008/98/EC” there were substituted “the Waste Framework Directive”;
      - (aa) 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;”;
      - (ii) for paragraph (3) substitute—
    - “(3) 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, within the meaning given in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016, is excluded from the scope of this Directive where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to those Regulations.”;
  - (c) in paragraph (3), in the inserted regulation 3C, in paragraph (2), for “exit day” substitute “IP completion day”;
  - (d) in paragraph (3), in the inserted regulation 3D—
    - (i) in paragraph (2), for “exit day” substitute “IP completion day”;
    - (ii) for paragraphs (5), (6) and (7) substitute—
  - “(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 body 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 body 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 body”;
      - (bb) the second sentence were omitted;
    - (ii) in the second subparagraph—
      - (aa) for “Member States” there were substituted “The appropriate body”;
      - (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 or in Wales (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.”;

(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 body through any electronic registry established for the reporting of such data or, if no such registry is in operation, in such form and manner as the appropriate body may specify.”;

(iv) at the end insert—

“(13) Annex 4a is to be read as if, in point 6, “including through Union funds” were omitted.”;

- (e) in paragraph (5), in sub-paragraphs (a) and (c)(i), in the words to be replaced, at the end insert “as last amended by Directive (EU) 2018/850”;
  - (f) in paragraph (6), omit sub-paragraph (a).
- (11) In regulation 17—
- (a) in paragraph (2), after sub-paragraph (a) insert—
    - “(aa) in the definition of “Directive waste”, in paragraph (a), after “Waste Directive” insert “as read with Articles 5 and 6 of that Directive”;
  - (b) in paragraph (3), in the inserted paragraph 2A—
    - (i) in paragraph (2), for “exit day” substitute “IP completion day”;
    - (ii) for paragraphs (4), (5) and (6) substitute—
      - “(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 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 or in Wales (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.”;
  - (c) in paragraph (3), in the inserted paragraph 2B, in paragraph (2), for “exit day” substitute “IP completion day”.
- (12) In regulation 19—
- (a) in paragraph (2)—
    - (i) after sub-paragraph (g) insert—
      - “(ga) before the definition of “Natural Resources Body for Wales” insert—
        - ““national 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;”;
    - (ii) at the end insert—
      - “(j) in the definition of “waste electrical and electronic equipment”, after “Waste Directive” insert “, as read with Articles 5 and 6 of that Directive,”;
  - (b) in paragraph (3), in the inserted paragraph 2A, in paragraph (2), for “Secretary of State or appropriate authority which, immediately before exit day” substitute “national authority or appropriate authority which, immediately before IP completion day”;
  - (c) in paragraph (3), in the inserted paragraph 2B—
    - (i) in paragraph (2), for “Secretary of State or appropriate authority which, immediately before exit day” substitute “national authority or appropriate authority which, immediately before IP completion day”;
    - (ii) for paragraphs (4), (5) and (6) substitute—
- “(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 relevant guidance published by the national authority or the appropriate authority.”;
  - (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 relevant guidance published by the national authority or the appropriate authority.”;
  - (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 authority”;
      - (bb) the second sentence were omitted;
    - (ii) in the second subparagraph—
      - (aa) for “Member States” there were substituted “The appropriate 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, 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.”;
  - (iii) after paragraph (7) insert—
    - “(7A) Article 25 is to be read as if paragraph 3 were omitted.”;
  - (d) in paragraph (3), in the inserted paragraph 2C—

- (i) in paragraph (2), for “Secretary of State or appropriate authority which, immediately before exit day” substitute “national authority or appropriate authority which, immediately before IP completion day”;
  - (ii) for paragraph (9) substitute—
    - “(9) In paragraph (7)(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;”.
  - (e) in paragraph (5)—
    - (i) in sub-paragraph (a), in the substituted heading, at the end insert “etc”;
    - (ii) in sub-paragraph (b), in the substituted text, at the end insert “and, in relation to Northern Ireland, EU legislation which has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.
- (13) In regulation 20—
- (a) in paragraph (3), in the inserted regulation 2A, for paragraphs (2), (3) and (4) substitute—
    - “(2) 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.
  - (3) 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.
- (4) In this regulation—
  - “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.”;
  - (b) in paragraph (5), for sub-paragraph (a) substitute—
    - “(a) in paragraph (1), for “EU market” substitute “market of Great Britain”.”;
  - (c) for paragraph (6) substitute—
    - “(6) In regulation 5(1), for “EU market” substitute “market of Great Britain”.”.

**The Environment (Amendment etc.) (EU Exit) Regulations 2019**

**12.—**(1) The Environment (Amendment etc.) (EU Exit) Regulations 2019(a) are amended as follows.

- (2) In regulation 3—
  - (a) in paragraph (3)(a)(iii) and (iv), in the substituted text, for “exit day” substitute “IP completion day”;
  - (b) in paragraph (14)(a), in paragraph (b)(i) of the substituted text, for “exit day” substitute “IP completion day”.
- (3) In regulation 6(2)(a), in the substituted text, for “exit day” substitute “IP completion day”.
- (4) In regulation 7(4)(a), in the inserted paragraph 1A, for “exit day” substitute “IP completion day”.
- (5) In regulation 8(1) and (3), for “exit day”, in each place that it occurs, substitute “IP completion day”.

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(a) S.I. 2019/458, to which there are amendments not relevant to these Regulations.

### **The Environment (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019**

**13.**—(1) The Environment (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 3(3), in the inserted paragraph 6(5A), in paragraph (b), for “exit day” substitute “IP completion day”.

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

**14.**—(1) The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019(b) are amended as follows.

(2) In regulation 5(4), in the inserted section 75A of the Environmental Protection Act 1990(c)—

(a) in subsection (2), for “exit day” substitute “IP completion day”;

(b) for subsections (4) to (6) substitute—

“(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;

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(a) S.I. 2019/559.

(b) S.I. 2019/620, amended by S.I. 2019/1078.

(c) 1990 c. 43. Section 75A was inserted by S.I. 2019/620, and amended by S.I. 2020/904.

- (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.”;
  - (c) in subsection (8), for “subsection (2)” substitute “this section”.
- (3) In regulation 6(4)(b)—
  - (a) in the inserted subsection (3) of section 37 of the Waste and Emissions Trading Act 2003(a), for “exit day” substitute “IP completion day”;
  - (b) in the inserted subsection (4) of that section, in paragraph (a)(i), at the end of the substituted text insert “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”;
  - (c) for the inserted subsections (5), (6) and (7) of that section substitute—
 

“(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—

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(a) 2003 c. 33. Section 37 was amended by S.I. 2011/988 (as it extends to England and Wales), S.S.I. 2011/226 (as it extends to Scotland), S.I. 2019/620 and S.I. 2020/904.

- (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.”.
- (4) In regulation 8—
- (a) in paragraph (2)—
    - (i) before sub-paragraph (a) insert—
      - “(za) for the heading, substitute “Scope and interpretation”.”;
    - (ii) in sub-paragraph (b), in the inserted paragraph 1A, for “United Kingdom”, in both places that it occurs, substitute “Great Britain”;
    - (iii) after sub-paragraph (b) insert—
      - “(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.”;

(b) for paragraph (5) substitute—

“(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(a)”.”;

(c) omit paragraph (6).

(5) In regulation 9—

(a) in paragraph (3), in the inserted Article 2A—

(i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;

(ii) in paragraph 2, for “exit day” substitute “IP completion day”;

(iii) for paragraphs 5, 6 and 7 substitute—

“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—

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(a) S.I. 2008/2164, to which relevant amendments were made by S.I. 2015/63 and 2019/188.

- (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.”;
  - (iv) in paragraph 9, for “paragraph 2” substitute “this Article”;
- (b) in paragraph (3), in the inserted Article 2B, for paragraph 8 substitute—
- “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;”.
  - (c) in paragraph (5), in the inserted Article 6A, for “exit day” in each place that it occurs, substitute “IP completion day”.
- (6) In regulation 10—
- (a) in paragraph (2)(b), in the inserted point (4C), for “Directive 2013/56/EU” substitute “Directive (EU) 2018/849”;
  - (b) in paragraph (2)(c), in the inserted text—
    - (i) in paragraph 2, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
    - (ii) for paragraphs 3, 4 and 5 substitute—
- “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—



- (bb) for “within the United Kingdom” substitute “within Great Britain”;
  - (ii) in point 9(a), for “as it had effect immediately before 4th July 2018” substitute “as last amended by Directive (EU) 2018/849”;
  - (iii) in point 9(c), for “the United Kingdom”, in both places that it occurs, substitute “Great Britain”.
- (7) In regulation 11—
- (a) in paragraph (3), in the inserted Article 2A—
    - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
    - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
    - (iii) for paragraphs 3, 4 and 5 substitute—
- “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.”;

(iv) in paragraph 7, for “paragraph 2” substitute “this Article”.

(b) in paragraph (5), in the inserted Article 5A, for “exit day”, in each place that it occurs, substitute “IP completion day”.

(8) In regulation 12—

(a) in paragraph (3), in the inserted Article 2A—

(i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;

(ii) in paragraph 2, for “exit day” substitute “IP completion day”;

(iii) for paragraphs 5, 6 and 7 substitute—

“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.”;
  - (b) in paragraph (3), in the inserted Article 2B, for paragraph 8 substitute—
    - “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;”.”;
  - (c) in paragraph (5), in the inserted Article 6A, for “exit day” in each place that it occurs, substitute “IP completion day”;
  - (d) in paragraph (8)(b)—
    - (i) for “Commission Directive (EU) 2017/2096” substitute “Commission Delegated Directive (EU) 2020/363”;
    - (ii) for “as it had effect immediately before 4th July 2018” substitute “as last amended by Directive (EU) 2018/849”.
- (9) Omit regulation 13.
- (10) In regulation 14(2), in the inserted Article A1—

- (a) in paragraph 1 for “Directive (EU) 2015/720” substitute “Directive (EU) 2018/852”;
- (b) for paragraph 3 substitute—
  - “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”.”;
- (c) in paragraph 4—
  - (i) for “3(b)” substitute “3”;
  - (ii) for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
- (d) for paragraphs 5, 6 and 7 substitute—
  - “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.”.

(11) In regulation 15—

(a) in paragraph (2), in the inserted Article A1—

- (i) in paragraph 2, for “Council Directive 2011/97/EU” substitute “Directive (EU) 2018/850”;
- (ii) in paragraph 3, for “exit day” substitute “IP completion day”;
- (iii) in paragraph 5, for points (a) and (b) substitute—

“(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;”;

(iv) after paragraph 5 insert—

“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(a) (“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.”;

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(a) S.R. 2015 No. 85.

- (v) in paragraph 6, at the end insert—
- “(d) in point (f)—
  - (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”;
- (vi) after paragraph 6, insert—
- “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”;
  - (vii) omit paragraphs 10(b), 11(d) and 12(a)(i);
- (b) in paragraph (2), in the inserted Article A2—
  - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
  - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
  - (iii) for paragraphs 4, 5 and 6, substitute—
- “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 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.”;
- (c) for paragraph (7)(d)(v) substitute—
  - “(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”;

(12) In regulation 16—

- (a) in paragraph (2), in the inserted Article 1A—
  - (i) in paragraph 1, for “Directive (EU) 2015/720” substitute “Directive (EU) 2018/852(a)”;
  - (ii) for paragraph 2 substitute—
    - “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”.
  - (iii) in paragraph 4—
    - (aa) for “2(b)” substitute “2”;
    - (bb) for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
  - (iv) for paragraphs 5, 6 and 7 substitute—
    - “5. Article 5 is to be read as if—

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(a) OJ L 150, 14.6.2018, p. 141.

- (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.”;

(b) in paragraph (6)(c), in the inserted paragraph 2, for “exit day” substitute “IP completion day”.

(13) In regulation 17—

(a) in paragraph (2)(b), for the inserted paragraph 3(a) substitute—

“(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) omit paragraph (3).

(14) In regulation 18(2)—

(a) in the inserted Article A2, in paragraph 2, for “exit day” substitute “IP completion day”;

(b) in the inserted Article A3—

- (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
- (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
- (iii) for paragraph 3, 4 and 5 substitute—

“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.”.

(15) In regulation 19(3)—

- (a) in the inserted Article 1A, in paragraph 2, for “exit day” substitute “IP completion day”;
- (b) in the inserted Article 1B—
  - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
  - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
  - (iii) for paragraphs 3, 4 and 5 substitute—

“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.”;
  - (iv) in paragraph 7, for “paragraph 2” substitute “this Article”.
- (16) In regulation 20(2), in the inserted Article A1—
- (a) in paragraph 3, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
  - (b) in paragraph 4, for “exit day” substitute “IP completion day”;
  - (c) for paragraphs 5, 6 and 7 substitute—
- “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.”;

(d) in paragraph 9, for “paragraph 4” substitute “this Article”.

(17) In regulation 21(3), in the inserted Article 1A—

(a) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;

(b) in paragraph 2, for “exit day” substitute “IP completion day”;

(c) after paragraph 2 insert—

“2A. Article 3 is to be read as if points 2b, 2c, 15a and 17a were omitted.”;

(d) for paragraphs 3 to 6 substitute—

“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.”;
  - (e) in paragraph 8, for “paragraph 2” substitute “this Article”.

**The Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019**

**15.**—(1) The Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019(a) are amended as follows.

- (2) In regulation 4(3), for “regulations 13(3) and” substitute “regulation”.
- (3) Omit regulation 5.

**PART 5**

Amendment and revocation of retained direct EU legislation

**Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes 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**

**16.**—(1) Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes 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 is amended as follows.

- (2) Omit Articles 4, 5 and 6.
- (3) In the Annex, in the “Definitions” section, before point 1 insert—

“A1. ‘the Waste Framework Directive’ means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by Directive (EU) 2018/851, and

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(a) S.I. 2019/1078.

read as if, in Annex 3, in entry HP 9, in the second sentence, “in the Member States” were omitted;

A2. ‘waste’, ‘hazardous waste’ and ‘non-hazardous waste’ have the meanings given in the Waste Framework Directive;”.

(4) In the Annex, in the “Assessment and Classification” section—

(a) for “Directive 2008/98/EC”, in each place that it occurs, substitute “the Waste Framework Directive”;

(b) in paragraph 2 (classification of waste as hazardous)—

(i) in the first subparagraph, for the words from “pursuant” to the end, substitute “for the purposes of any legislation relating to hazardous waste”;

(ii) after that subparagraph, insert—

“This is subject to any legislation which provides, or gives a person power to determine, that—

(a) waste of a kind which is listed as hazardous waste in the list of wastes is to be treated as non-hazardous waste in particular cases or circumstances (including in the case of a particular batch or consignment of waste); or

(b) waste of a kind which is listed as non-hazardous waste in the list of wastes is to be treated as hazardous waste in particular cases or circumstances (including in the case of a particular batch or consignment of waste).”;

(iii) in the second subparagraph (commencing “For those wastes”), in the first indent, in the second sentence, omit “in the Member States”.

**Commission Implementing Decision (EU) 2020/248 laying down technical guidelines for inspections in accordance with Article 17 of Directive 2006/21/EC of the European Parliament and of the Council**

17.—(1) Commission Implementing Decision (EU) 2020/248 laying down technical guidelines for inspections in accordance with Article 17 of Directive 2006/21/EC of the European Parliament and of the Council is amended as follows.

(2) In Article 1—

(a) the existing text is numbered paragraph 1;

(b) in paragraph 1, for “waste facilities in accordance with Article 17 of Directive 2006/21/EC” substitute “mining waste facilities”;

(c) after paragraph 1 insert—

“2. In this Decision—

“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<sup>(a)</sup>, read with the modifications in Article 1A;

“the Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by Directive (EU) 2018/851;

“Category A facility” or “Category A waste facility” means a mining waste facility classified as Category A in accordance with the criteria in Annex 3 to the Mining Waste Directive;

“competent authority” means an authority responsible for carrying out inspections of mining waste facilities under the inspection provisions;

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(a) OJ L 102, 11.4.2006, p. 15.

“the inspection provisions” means the provisions of the relevant mining waste legislation which, immediately before IP completion day, implemented Article 17 of the Mining Waste Directive;

“mining waste facility” or “waste facility”—

- (a) in relation to England and Wales, has the meaning given to “mining waste facility” by paragraph 2(1) of Schedule 20 to the Environmental Permitting (England and Wales) Regulations 2016;
- (b) in relation to Scotland, has the meaning given to “waste facility” by regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010<sup>(a)</sup>;
- (c) in relation to Northern Ireland, has the meaning given to “waste facility” by regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015<sup>(b)</sup>;

“the relevant mining waste legislation” means—

- (a) in relation to England and Wales, Schedule 20 to the Environmental Permitting (England and Wales) Regulations 2016;
- (b) in relation to Scotland, the Management of Extractive Waste (Scotland) Regulations 2010;
- (c) in relation to Northern Ireland, the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015;

“waste management plan” has the meaning given in the relevant mining waste legislation.

3. Other expressions used in this Decision which are defined in the Mining Waste Directive have the meanings given in that Directive.”.

(3) After Article 1 insert—

#### **“Article 1A**

1. For the purposes of Article 1(2) and (3), the Mining Waste Directive is to be read with the modifications in paragraphs 2 and 3.

2. 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 (24), the words from “in accordance” to “takes place,” were omitted;
- (d) point (27) were omitted.

3. Annex 3 is to be read as if—

- (a) in the second indent, for “Directive 91/689/EEC” there were substituted “the Waste Framework Directive”;
- (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”.

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(a) S.S.I. 2010/60, to which there are amendments not relevant to these Regulations.

(b) S.R. 2015 No. 85, to which there are amendments not relevant to these Regulations.

## Article 1B

1. For the purposes of Article 1A, “the Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by Directive (EU) 2018/851, and read with the modifications in paragraphs 2 to 4.

2. 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.

3. 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.

4. 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

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

(4) Omit Article 2.

(5) In Part A of the Annex, in the first paragraph—

(a) for “waste facilities covered by Article 7 of Directive 2006/21/EC” substitute “mining waste facilities”;

(b) for “Article 17 of that Directive” substitute “the inspection provisions”.

(6) In Part B of the Annex, in the first paragraph, for “waste facilities covered by Article 7 of Directive 2006/21/EC” substitute “mining waste facilities”.

(7) In Part C of the Annex—

(a) in paragraph 1, in the first sub-paragraph—

(i) in point (a)—

(aa) for “the entire territory of the Member State” substitute “each part of the United Kingdom”;

(bb) for “waste facilities covered by Article 7 of Directive 2006/21/EC” substitute “mining waste facilities”;

(ii) in point (e)—

(aa) omit “national or Union”;

(bb) for “facilities covered by Article 7 of Directive 2006/21/EC” substitute “mining waste facilities”;

(iii) in point (h), for “Article 17 of Directive 2006/21/EC” substitute “the inspection provisions”;

(b) in paragraph 2.1—

(i) in point (c), for “waste facility under Article 7 of Directive 2006/21/EC” substitute “mining waste facility”;

(ii) in point (d)(iv), for “waste facilities covered by Article 7 of Directive 2006/21/EC” substitute “mining waste facilities”;

(iii) in point (d)(viii)—

(aa) omit “national or Union”;

(bb) for “the waste facilities covered by Article 7 of Directive 2006/21/EC” substitute “mining waste facilities”;

(c) in paragraph 2.2, in point (d), omit “Union”;

(d) in paragraph 2.3—

(i) in point (a), omit “according to Article 11(3) or Article 12(6) of Directive 2006/21/EC”

(ii) in point (b), omit “Union”;

- (e) in paragraph 3.1, in point (f), for “Directive 2003/4/EC of the European Parliament and of the Council” substitute “the Environmental Information Regulations 2004(a) or the Environmental Information (Scotland) Regulations 2004(b)”.
- (8) In Part D of the Annex—
- (a) in paragraph 1—
    - (i) in point (f), for “referred to in Article 5(3)(f) of Directive 2006/21/EC” substitute “contained in the waste management plan for the waste facility”;
    - (ii) in point (h), for “set out in Directive 2006/21/EC” substitute “under the relevant mining waste legislation”;
  - (b) in paragraph 2—
    - (i) in point (l), for “referred to in Article 5(3)(f) of Directive 2006/21/EC” substitute “contained in the waste management plan for the waste facility”;
    - (ii) in point (o), for “set out in Directive 2006/21/EC” substitute “under the relevant mining waste legislation”;
  - (c) in paragraph 3—
    - (i) in the heading, omit “in accordance with Article 12(3) of Directive 2006/21/EC”;
    - (ii) in point (b), for “referred to in Article 5(3)(f) of Directive 2006/21/EC” substitute “contained in the waste management plan for the waste facility”;
    - (iii) in point (g), for “set out in Directive 2006/21/EC” substitute “under the relevant mining waste legislation”;
  - (d) in paragraph 4—
    - (i) in point (d), for “referred to in Article 5(3)(f) of Directive 2006/21/EC” substitute “contained in the waste management plan for the waste facility”;
    - (ii) in point (e), omit “referred to in Article 5(3)(f) of Directive 2006/21/EC”;
    - (iii) in point (j), for “set out in Directive 2006/21/EC” substitute “under the relevant mining waste legislation”.

## Revocations

18. The instruments listed in the Schedule are revoked.

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Environment, Food and Rural Affairs

## SCHEDULE

Regulation 18

### Revocations

1. Commission Implementing Regulation (EU) 2017/699 establishing a common methodology for the calculation of the weight of electrical and electronic equipment (EEE) placed on the market of each Member State and a common methodology for the calculation of the quantity of waste electrical and electronic equipment (WEEE) generated by weight in each Member State.

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(a) S.I. 2004/3391.

(b) S.S.I. 2004/520, amended by S.S.I. 2013/127.

2. Commission Implementing Decision (EU) 2018/896 laying down the methodology for the calculation of the annual consumption of lightweight plastic carrier bags and amending Decision 2005/270/EC.

3. Commission Decision (EU) 2018/1702 establishing the EU Ecolabel criteria for lubricants.

4. Commission Implementing Regulation (EU) 2019/290 establishing the format for registration and reporting of producers of electrical and electronic equipment to the register.

5. Commission Decision (EU) 2019/418 amending Decisions (EU) 2017/1214, (EU) 2017/1215, (EU) 2017/1216, (EU) 2017/1217, (EU) 2017/1218 and (EU) 2017/1219.

6. Commission Implementing Decision (EU) 2019/665 amending 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.

7. Commission Implementing Decision (EU) 2019/1004 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC on the European Parliament and of the Council and repealing Commission Implementing Decision C(2012) 2384.

8. Commission Decision (EU) 2019/1134 amending Decision 2009/300/EC and Decision (EU) 2015/2099, as regards the period of validity of the ecological criteria for the award of the EU Ecolabel to certain products, and of the related assessment and verification requirements.

9. Commission Delegated Decision (EU) 2019/1597 supplementing Directive 2008/98/EC of the European Parliament and of the Council as regards a common methodology and minimum quantity requirements for the uniform measurement of levels of food waste.

10. Commission Implementing Decision (EU) 2019/1885 laying down rules for the calculation, verification and reporting of data on landfill of municipal waste in accordance with Council Directive 1999/31/EC and repealing Commission Decision 2000/738/EC.

11. Commission Implementing Decision (EU) 2019/2000 laying down a format for reporting of data on food waste and for submission of the quality check report in accordance with Directive 2008/98/EC of the European Parliament and of the Council.

12. Commission Implementing Decision (EU) 2019/2193 laying down rules for the calculation, verification and reporting of data and establishing data formats for the purposes of Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE).

13. Commission Decision (EU) 2020/503 amending Decision 2014/312/EU in order to extend the derogation of zinc oxide to allow its use as a preservative stabilizer to cover 'in-can preservation' and preservation of 'tinting pastes'.

14. Commission Decision (EU) 2020/519 on the sectoral reference document on best environmental management practices, sector environmental performance indicators and benchmarks of excellence for the waste management sector under Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

## **EXPLANATORY NOTE**

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

These Regulations are made in exercise of powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) ("the 2018 Act") in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (d), (f) and (g)) arising from the withdrawal of the United Kingdom from the European Union, and under section 8C(1) of the 2018 Act to make provision to implement the Protocol on Ireland/Northern Ireland in the EU Withdrawal Agreement.

Part 2 provides for a legislative function of the European Commission under Directive 2008/98/EC of the European Parliament and of the Council on waste to be exercisable instead by public authorities in the United Kingdom.

Part 3 amends primary legislation and Part 4 amends subordinate legislation, including previous instruments made under section 8(1) of the 2018 Act. The amendments relate principally to waste and environmental permitting, and in a few cases to other aspects of the environment.

Part 5 amends or revokes retained EU tertiary legislation relating to resources and waste.

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

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