
STATUTORY INSTRUMENTS

2019 No. 188

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

PART 3

Amendments to secondary legislation

The Waste Batteries and Accumulators Regulations 2009

- 14.**—(1) The Waste Batteries and Accumulators Regulations 2009 are amended as follows.
- (2) In regulation 2—
- (a) in paragraph (1)—
 - (i) in the definition of “appliance”, after “defined by” insert “Article 3(1)(a) of”;
 - (ii) in the definition of “disposal”, as it extends to Scotland, for “Article 3” substitute “Article 3(19)”;
 - (iii) in the definition of “producer”, omit the words from “(and distance communication” to the end;
 - (b) in the definition of “Waste Directive” (as inserted by regulation 7(2)(b)), at the end insert “as read in accordance with regulation 2A”.
 - (c) in paragraph (1A) (as inserted by regulation 6(2)(b)), at the end insert “, and as read in accordance with regulation 2A”.
- (3) After regulation 2 insert—

“Modifications to the Waste Framework Directive

2A.—(1) For the purposes of these Regulations, the Waste Framework Directive is to be read as follows.

(2) A reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion.

(3) Article 5 is to be read as if paragraph 2 were omitted.

(4) Article 6 is to be read as if—

(a) paragraphs 1 to 3 were omitted;

(b) in paragraph 4—

(i) in the first sentence, for the words from “Where criteria” to “paragraphs 1 and 2” there were substituted “Except where waste ceases to be waste in accordance

with Council Regulation (EU) No 333/2011, [Commission Regulation \(EU\) No 1179/2012](#) or [Commission Regulation \(EU\) No 715/2013](#)”;

(ii) the second sentence were omitted.

(5) Article 7 is to be read as if—

(a) in paragraph 1—

(i) the first and second sentences were omitted;

(ii) in the third sentence, for “shall be binding” there were substituted “shall, subject to paragraph 1A, be binding”;

(b) after paragraph 1, there were inserted—

“**1A.** Paragraph 1 is subject to—

(a) a determination by the Secretary of State under regulation 8(1) of the Hazardous Waste (England and Wales) Regulations 2005, or by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005, or by the Department of Agriculture, Environment and Rural Affairs under regulation 9(1) of the Hazardous Waste Regulations (Northern Ireland) 2005 that a specific batch of waste is to be treated as hazardous waste;

(b) a decision made by the Secretary of State under regulation 9(1) of the Hazardous Waste (England and Wales) Regulations 2005, or by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005, or by the Department of Agriculture, Environment and Rural Affairs under regulation 10(1) of the Hazardous Waste Regulations (Northern Ireland) 2005, that a specific batch of waste is to be treated as non-hazardous waste;

(c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (England and Wales) Regulations 2005, or regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005, or regulations 9(2) or 10(2) of the Hazardous Waste Regulations (Northern Ireland) 2005;

(d) regulations (if any) made by the Secretary of State under section 62A(1) of the Environmental Protection Act 1990, or by the Welsh Ministers under section 62A(2) of that Act (lists of waste displaying hazardous properties);

(e) a determination by the Scottish Ministers that a specific batch or type of waste—

(i) is to be treated as hazardous waste because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex 3;

(ii) is to be treated as non-hazardous waste because the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex 3.”;

(c) paragraphs 2, 3 and 5 were omitted;

(d) after paragraph 6 there were inserted—

“**6A.** In this Article, the “list of waste” means the list established by [Commission Decision 2000/532/EC](#).”;

(e) paragraph 7 were omitted.

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

(7) In paragraph (2)—

“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;

“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;

“local authority” means—

- (a) in England outside Greater London—
 - (i) a district council,
 - (ii) a county council, or
 - (iii) the Council of the Isles of Scilly;
- (b) in Greater London—
 - (i) the council of a London borough,
 - (ii) the Common Council of the City of London,
 - (iii) the Sub-Treasurer of the Inner Temple, or
 - (iv) the Under-Treasurer of the Middle Temple;
- (c) in Wales—
 - (i) a county council, or
 - (ii) a county borough council;
- (d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
- (e) in Northern Ireland, a district council established under section 1 of the Local Government Act (Northern Ireland) 1972.”

(4) In regulations 8(2) and 12(1), at the end insert “excluding any portable batteries and accumulators that have left the United Kingdom before being sold to end users”.

(5) In regulation 13, after paragraph (1) insert—

“(1A) For the purposes of paragraph (1), the total amount of portable batteries placed on the market for the first time in the United Kingdom does not include any portable batteries and accumulators that have left the United Kingdom before being sold to end users.”

(6) In regulation 16(5), at the end insert “excluding any portable batteries and accumulators that have left the United Kingdom before being sold to end users”.

(7) In regulation 23, after paragraph (1) insert—

“(1A) For the purposes of paragraph (1), the total amount of portable batteries placed on the market for the first time in the United Kingdom does not include any portable batteries and accumulators that have left the United Kingdom before being sold to end users.”.

(8) In regulation 56(4) (as inserted by regulation 6(3)(b)), at the end insert “, and as read in accordance with regulation 56A”.

(9) After regulation 56 insert—

“Modification of the Landfill Directive

56A.—(1) For the purposes of regulation 56(4), the Landfill Directive is to be read as follows.

(2) Article 2 is to be read as if—

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

“(a) ‘waste’ has the meaning given by Article 3(1) of the Waste Framework Directive, as read with Article 5 and 6 of that Directive;”;

(b) for point (c) there were substituted—

“(c) ‘hazardous waste’ has the meaning given by Article 3(2) of the Waste Framework Directive.”.

(3) Article 3(2) is to be read as if “Without prejudice to existing Community legislation,” were omitted.”.

(10) In regulation 70(3), in the definition of “collection rate”, at the end insert “excluding any portable batteries and accumulators that have left the United Kingdom before being sold to end-users”.

(11) Omit regulation 72(c) (and the “and” immediately preceding it).

(12) In regulation 81, after paragraph (1) insert—

“(1A) For the purposes of paragraph (1), the total amount of portable batteries placed on the market for the first time in the United Kingdom does not include any portable batteries and accumulators that have left the United Kingdom before being sold to end users.”.

(13) In Schedule 4, in paragraph 10(3)(a)(ii), for “EU legislation” substitute “retained EU law”.