
STATUTORY INSTRUMENTS

2019 No. 188

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

PART 3

Amendments to secondary legislation

The Waste (England and Wales) Regulations 2011

16.—(1) The Waste (England and Wales) Regulations 2011 ^{M1} are amended as follows.

(2) In regulation 3(1)—

(a) after the definition of “controlled waste” insert—

““EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;”;

(b) after the definition of “hazardous waste” insert—

““Industrial Emissions Directive” means Directive [2010/75/EC](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention control), read in accordance with regulation 3A;

““Landfill Directive” means Council Directive [1999/31/EC](#) on the landfill of waste, as last amended by [^{F1}Directive (EU) 2018/850], read in accordance with regulation 3B;

“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;

“Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with regulation 3C;”;

- (c) in the definition of “Waste Framework Directive”, at the end insert “ and as read in accordance with regulation 3D ”.
- (3) After regulation 3, insert—

“Modification of the Industrial Emissions Directive

3A. For the purposes of these Regulations, the Industrial Emissions Directive is to be read as if—

- (a) in Article 3—
- (i) in paragraph 1(a), for the words from “Article 1” to the end there were substituted “ Article 4(78) of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation ”;
 - (ii) in paragraph 10(b), for “Member State in question” there were substituted “ United Kingdom ”;
 - (iii) in paragraph 23, for the words from “point 1” to the end there were substituted “ point 1 of the second subparagraph of Article 2 of Council Directive [2009/158/EC](#) on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs ”;
 - (iv) in paragraph 37, for the words from “Directive [2008/98/EC](#)” to the end there were substituted “ the Waste Framework Directive, read with Articles 5 and 6 of that Directive ”;
- (b) in Annex 1—
- (i) in the words before point 1, the second paragraph were omitted;
 - (ii) in point 5.3—
 - (aa) in point (a), in the words before point (i), for “Council Directive [91/271/EEC](#) of 21 May 1991 concerning urban waste-water treatment” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;
 - (bb) in point (b), in the words before point (i), for “Directive [91/271/EEC](#)” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;
 - (ii) in point 5.4, the reference to Council Directive [1999/31/EC](#) of 26 April 1999 on the landfill of waste were a reference to the Landfill Directive;
 - (iii) in point 6.9, for “Directive [2009/31/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2009/31/EC](#) ”;
 - (iv) in point 6.11, for “Directive [91/271/EEC](#)” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”.

Modification of the Landfill Directive

3B.—(1) For the purposes of these Regulations, the Landfill Directive is to be read in accordance with this regulation.

(2) Article 2 is to be read as if—

- [^{F2}(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;”];
 - (b) for point (c) there were substituted—
 - “(c) ‘hazardous waste’ has the meaning given in Article 3(2) of the Waste Framework Directive.”.
- [^{F3}(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.”.]

Modification of the Mining Waste Directive

3C.—(1) For the purposes of these Regulations, the Mining Waste Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States in a provision imposing an obligation or providing a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate body or local authority which, immediately before [^{F4}IP completion day], was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in England or Wales.

(3) A reference to “competent authority” or “competent authorities” is to be read as a reference to the appropriate body.

- (4) Article 2 is to be read as if—
 - (a) in paragraph 2(c), the reference to Article 11(3)(j) of [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy were a reference to that Article read in accordance with regulation 3E;
 - (b) paragraphs 3 and 4 were omitted.
- (5) Article 3 is to be read as if—
 - (a) in point (1), for “Article 1(a) of [Directive 75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive ”;
 - (b) in point (2), for “Article 1(4) of Council [Directive 91/689/EEC](#) of 12 December 1991 on hazardous waste” there were substituted “ Article 3(2) of the Waste Framework Directive ”;
 - (c) in point (4), for the words from “the national law” to the end there were substituted “ national law ”;

- (d) in point (17), for “Directive [67/548/EEC](#) or Directive [1999/45/EC](#)” there were substituted “Regulation [\(EC\) No 1272/2008](#) of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures”;
 - (e) in point (18), for “Article 2(11) of Directive [96/61/EC](#)” there were substituted “Article 3(10) of the Industrial Emissions Directive”;
 - (f) in point (24), for the words from “the national law” to “takes place” there were substituted “national law”;
 - (g) in point (26), for the words from “the national” to “operates,” there were substituted “national law”;
 - (h) point (27) were omitted.
- (6) Article 5 is to be read as if—
- (a) in paragraphs 2(a)(iii) and (b) “at Community level” were omitted;
 - (b) in paragraph 3, in the first subparagraph, in point (g), for “Directive [2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) of the European Parliament and of the Council in respect of England and Wales”;
 - (c) in paragraph 5, “or Community” were omitted;
 - (d) paragraph 6 were omitted.
- (7) Article 6(2) is to be read as if the words from “Without” to “92/104/EEC,” were omitted.
- (8) Article 7 is to be read as if—
- (a) in paragraph 1, in the second subparagraph, in the first sentence, “or Community” were omitted;
 - (b) in paragraph 2(e), the reference to Directive [85/337/EEC](#) were a reference to the EU-derived domestic legislation which transposed Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment in respect of England and Wales;
 - (c) in paragraph 3(b), for “Article 7 of Directive [75/442/EEC](#)” there were substituted “Article 13 of the Waste Framework Directive”;
 - (d) in paragraph 4, the third indent were omitted;
 - (e) in paragraph 5, for “and Community” were omitted.
- (9) Article 10 is to be read as if paragraph 2 were omitted.
- (10) Article 11(2)(a) is to be read as if—
- (a) “Community or” were omitted;
 - (b) for “Directives [76/464/EEC](#), [80/68/EEC](#) and [2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales”.
- (11) Article 12 is to be read as if—
- (a) in paragraph 4, “national or Community” were omitted;
 - (b) in paragraph 5, for the words from “Community” to “2000/60/EC” there were substituted “retained EU law, in particular the EU-derived domestic legislation which transposed Directive 2000/60/EC in respect of England and Wales”.
- (12) Article 13 is to be read as if—
- (a) in paragraph 1, in the words before point (a)—
 - (i) “Community” were omitted;

- (ii) for “Directive [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”;
 - (b) in paragraph 3, for “Directives [76/464/EEC](#), [80/68/EEC](#) or [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”;
 - (c) in paragraph 4, for “Directives [76/464/EEC](#), [80/68/EEC](#) and [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”;
 - (d) in paragraph 5, in the second sentence—
 - (i) for “Community” there were substituted “ retained EU law ”;
 - (ii) for “Directive [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”.
- (13) Article 24(4) is to be read as if, in the second indent Community or” were omitted.
- (14) Annex 3 is to be read as if—
- (a) in the second indent, for “under 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 [\(EC\) No 1272/2008](#) of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ”.

Modification of the Waste Framework Directive

3D.—(1) For the purposes of these Regulations, the Waste Framework Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States in a provision imposing an obligation or providing a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate body or local authority which, immediately before [^{F5}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in England or Wales.

- (3) Article 2 is to be read as if—
- (a) in paragraph 2—
 - (i) in the words before point (a), for “other Community legislation” there were substituted “ retained EU law ”;
 - (ii) in points (b) and (c), for “Regulation [\(EC\) No 1774/2002](#)” there were substituted “ Regulation [\(EC\) No 1069/2009](#) ”;
 - (iii) in point (d), for the words from “Directive [2006/21/EC](#)” to the end, there was substituted “ the Mining Waste Directive ”;
 - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
 - (c) paragraph 4 were omitted.
- (4) Article 3 is to be read as if, in point (2), for “Article 2(11) of Directive [96/61/EC](#)” there were substituted “ Article 3(10) of the Industrial Emissions Directive ”.

[^{F6}(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.]
- (8) Article 16 is to be read as if—
 - (a) in paragraph 1, in the first subparagraph—
 - (i) the words from “, in cooperation with” to “advisable,” were omitted;
 - (ii) “, taking into account best available techniques” were omitted;
 - (b) in paragraph 2—
 - [^{F7}(i) for “Community as a whole to become” there were substituted “ United Kingdom as a whole to move towards becoming ”;]
 - (ii) for the words from “and to enable” to “individually” were omitted.
- (9) Article 23(1) and (3) is to be read as if for “competent authority” there were substituted “ appropriate body ”.
- [^{F8}(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.”.]
- (11) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- (12) Annex 4 is to be read as if—
 - (a) in paragraph 3, “at Community level” were omitted;
 - (b) in paragraph 6, for “this Directive and Directive [96/61/EC](#)” there were substituted “ the Environmental Permitting (England and Wales) Regulations 2016 ^{M2} ”;
 - (c) in paragraph 7, for “Directive [96/61/EC](#)”, there were substituted “ the Environmental Permitting (England and Wales) Regulations 2016 ”;
 - (d) in paragraph 10, “EMAS and” were omitted.
- [^{F9}(13) Annex 4a is to be read as if, in point 6, “including through Union funds” were omitted.]

Modification of Directive [2000/60/EC](#) of the European Parliament and of the Council

3E.—(1) For the purposes of regulation 3C(4)(a), Article 11(3)(j) of Directive [2000/60/EC](#) of the European Parliament and of the Council is to be read as if—

- (a) the reference to “Member States” were a reference to the appropriate authority or appropriate body;
- (b) in the words after the sixth indent, “environmental objectives”—
 - (i) in relation to the Northumbria River Basin District, means the objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;

- (ii) in relation to the Solway Tweed River Basin District, has the same meaning as in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
 - (iii) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations.
- (2) In paragraph (1)(b), “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.”.
- (4) In regulation 18(b), omit the words from “, ignoring” to the end.
- (5) In regulation 20—
- (a) in paragraph (1)(a), for “Council Directive [1999/31/EC](#) on the landfill of waste [^{F10}as last amended by Directive (EU) 2018/850]” substitute “ the Landfill Directive ”;
 - (b) in paragraph (2), in the words before sub-paragraph (a), for the words from “Directive [2006/21/EC](#)” to “industries” substitute “ Mining Waste Directive ”;
 - (c) in paragraph (3)—
 - (i) in the definition of “landfill”, for “Directive [1999/31/EC](#) [^{F11}as last amended by Directive (EU) 2018/850]” substitute “ the Landfill Directive ”;
 - (ii) in the definition of “mining waste facility” for “Directive [2006/21/EC](#)” substitute “ the Mining Waste Directive ”.
- (6) In Schedule 1—
- [^{F12}(za) in Part 1, in paragraph 4—
- (i) in sub-paragraph (1), omit “, taking into account best available techniques”;
 - (ii) in sub-paragraph (2)—
 - (aa) for “European Union as a whole to become” substitute “ United Kingdom as a whole to move towards becoming ”;
 - (bb) omit “and to enable the United Kingdom to move towards that aim”;
- ^{F13}(a)
- (b) in Part 3, in paragraph 12(b), omit the words from “, taking into account” to the end.

F1	Words in reg. 16(2)(b) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540) , regs. 1(3), 11(10)(a)
F2	Words in reg. 16(3) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540) , regs. 1(3), 11(10)(b)(i)
F3	Words in reg. 16(3) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540) , regs. 1(3), 11(10)(b)(ii)
F4	Words in reg. 16(3) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540) , regs. 1(3), 11(10)(c)
F5	Words in reg. 16(3) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540) , regs. 1(3), 11(10)(d)(i)
F6	Words in reg. 16(3) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540) , regs. 1(3), 11(10)(d)(ii)

- F7** Words in reg. 16(3) inserted (31.12.2020 immediately before IP completion day) by The Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1078), regs. 1, **4(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 16(3) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(10)(d)(iii)**
- F9** Words in reg. 16(3) inserted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(10)(d)(iv)**
- F10** Words in reg. 16(5)(a) inserted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(10)(e)**
- F11** Words in reg. 16(5)(c)(i) inserted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(10)(e)**
- F12** Reg. 16(6)(za) inserted (31.12.2020 immediately before IP completion day) by The Environment and Rural Affairs (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1078), regs. 1, **4(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F13** Reg. 16(6)(a) omitted (31.12.2020 immediately before IP completion day) by virtue of The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(10)(f)**

Commencement Information

- I1** Reg. 16 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)(b)

Marginal Citations

- M1** S.I. 2011/988; relevant amending instruments are S.I. 2016/728, 691 (W.189), 2018/575, 721 (W.140).
- M2** S.I. 2016/1154, to which there are amendments not relevant to these Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019, Section 16.