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STATUTORY INSTRUMENTS

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**2019 No. 188**

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

**PART 3**

Amendments to secondary legislation

**The Controlled Waste (England and Wales) Regulations 2012**

17.—(1) The Controlled Waste (England and Wales) Regulations 2012 are amended as follows.

(2) In regulation 2—

(a) after the definition of “the Act”, insert—

““appropriate agency” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;

“appropriate authority” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;”;

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

““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, as read in accordance with regulation 2B;”;

- (c) in the definition of “Waste Directive” (as inserted by regulation 7(2)(b)), at the end insert “as read in accordance with regulation 2A”.
- (3) After regulation 2, insert—

**“Modification of the Waste Directive**

**2A.**—(1) For the purposes of these Regulations, the Waste Directive is to be read in accordance with this regulation.

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

(3) Article 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 were substituted “the Mining Waste Directive”;
- (iv) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
- (v) paragraph 4 were omitted.

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

(5) Article 6 is to be read as if—

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

(6) Article 7 is to be read as if—

- (a) in paragraph 1—
  - (i) the first and second sentences were omitted;
  - (ii) in the third sentence, for “shall be binding” there were substituted “shall, subject to paragraph 1A, be binding”;
- (b) after paragraph 1, there were inserted—
  - “**1A.** Paragraph 1 is subject to—
    - (a) a determination by the Secretary of State under regulation 8(1) of the Hazardous Waste (England and Wales) Regulations 2005, or by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005, that a specific batch of waste is to be treated as hazardous waste;

- (b) a decision made by the Secretary of State under regulation 9(1) of the Hazardous Waste (England and Wales) Regulations 2005, or by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005, that a specific batch of waste is to be treated as non-hazardous waste;
  - (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (England and Wales) Regulations 2005, regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;
  - (d) regulations (if any) made by the Secretary of State under section 62A(1) of the Act or by the Welsh Ministers under section 62A(2) of that Act (lists of waste displaying hazardous properties).”;
- (c) paragraphs 2, 3 and 5 were omitted;
- (d) after paragraph 6, there were inserted—
- “**6A.** In this Article, the “list of waste” means the list established by Commission [Decision 2000/532/EC](#).”;
- (e) paragraph 7 were omitted.
- (7) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.

#### **Modification of the Mining Waste Directive**

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

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

(3) Article 2 is to be read as if—

- (a) in paragraph 2(c), the reference to Article 11(3)(j) of [Directive 2000/60/EC](#) were a reference to that Article read in accordance with regulation 2C;
- (b) paragraphs 3 and 4 were omitted.

(4) Article 3(1) is to be read as if, for “Article 1(a) of [Directive 75/442/EC](#)” there were substituted “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive”.

#### **Modifications to the Water Framework Directive**

**2C.**—(1) For the purposes of regulation 2B(3)(a), 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 is to be read as if—

- (a) the reference to “Member States” were a reference to the appropriate authority or appropriate agency;
- (b) in the words after the final indent, “environmental objectives”—
  - (i) in relation to the Northumbria River Basin District, means the environmental 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.”.