

STATUTORY INSTRUMENTS

2019 No. 188

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

PART 3

Amendments to secondary legislation

The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012

18.—(1) The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 ^{M1} are amended as follows.

(2) In regulation 2—

(a) Omit the definition of “CE marking”;

(b) after the definition of “conformity assessment” insert—

““designated standard” has the meaning given in regulation 2A;”;

^{F1}(c)

(d) omit the definition of “harmonised standard”;

^{F2}(e)

^{F3}(f)

(g) for the definition of “technical documentation” substitute—

““technical documentation” means the documentation referred to in paragraph 2 of Part 4 of Schedule 1;”

(h) after the definition of “technical documentation” insert—

““UK marking” means a marking by which a manufacturer indicates that a product complies with the applicable requirements set out in these Regulations and which takes the form published in accordance with Article 30(1) of RAMS;”.

(3) After regulation 2, insert—

“Interpretation: designated standard

2A.—(1) In these Regulations a “designated standard” means a technical specification which is—

(a) adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory; and

(b) designated and published by the Secretary of State in accordance with paragraphs (3) to (5).

(2) In this regulation, a “technical specification” means a document that prescribes technical requirements to be fulfilled by a product, process, service or system and which lays down one or more of the following—

- (a) the characteristics required of a product, including—
 - (i) levels of quality, performance, interoperability, environmental protection, health, safety or dimensions, and
 - (ii) the requirements applicable to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures; and
- (b) production methods and processes relating to the product, where these have an effect on the characteristics of the product.

(3) Before designating the reference to a technical specification adopted by the British Standards Institution, the Secretary of State must have regard to whether the technical specification is consistent with technical specifications adopted by the other recognised standardisation bodies.

(4) The Secretary of State must publish a reference to a designated technical specification in a manner which the Secretary of State considers appropriate to draw the standard to the attention of any person who may have an interest in the standard.

(5) The Secretary of State may withdraw the designation of a technical specification, and as soon as reasonably practicable after doing so must publish notice of that withdrawal in a manner which the Secretary of State considers appropriate to draw that withdrawal to the attention of any person who may have an interest in it.

(6) In paragraph (2), a reference to a “product” is a reference to any materials, components and EEE to which these Regulations apply.

(7) In this regulation, a “recognised standardisation body” means any one of the following organisations—

- (a) the European Committee for Standardisation (CEN);
- (b) the European Committee for Electrotechnical Standardisation (Cenelec);
- (c) the European Telecommunications Standards Institute (ETSI);
- (d) the British Standards Institution (BSI).

Modifications to the Directive

2B.—(1) For the purposes of these Regulations, except regulation 34A, the Directive is to be read in accordance with this regulation.

(2) A term which is used in the Directive and which is defined in Part 1 of these Regulations is to be read as having the meaning given by Part 1.

(3) Article 3 is to be read as if points (1), (2), (5), (11), (12), (21), (22), (24) and (27) were omitted.

(4) Article 4 is to be read as if—

- (a) in paragraph 1, for “Member States” there was substituted “ the Secretary of State ”;
- (b) in paragraph 2, the second sentence were omitted.

(5) Annex 3 is to be read as if, in entry 41 of the table, in the second column, for the words “classes SH:1” to the end, substitute “category NRSh’ of Article 4(1), point 3 of Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile ^{M2}”.

- (6) Annex 4 is to be read as if—
- “(a) in points 21 and 30, “EU” were omitted;
 - (b) in point 33, for the words from “Directive 93/42/EEC” to “defibrillators” there were substituted “mobile medical devices (other than portable emergency defibrillators) that are classified as belonging to Class IIa or IIb for the purposes of the Medical Devices Regulations 2002^{M3}.”
- (4) In regulation 8—
- (a) for the words “existing EU legislation or legislation giving effect to EU legislation”, substitute “retained EU law”;
 - (b) in sub-paragraph (c), for the words “EU waste management legislation”, substitute “retained EU law on waste management”.
- (5) In regulation 9—
- (a) in paragraph (1), for “CE” substitute “UK”;
 - (b) in paragraph (2), for “harmonised standards” substitute “a designated standard”.
- (6) In regulation 10(2)(c)—
- (a) omit “EU”;
 - (b) for “CE” substitute “UK”.
- (7) In regulation 12—
- (a) in paragraph (1), in the words after sub-paragraph (b), for the words from “Module A” to the end, substitute “Part 4 of Schedule 1”;
 - (b) in paragraph (2), for “EU legislation or legislation giving effect to EU legislation” substitute “retained EU law”.
- (8) In regulation 13—
- (a) in the heading—
 - (i) omit “EU”;
 - (ii) for “CE” substitute “UK”;
 - (b) in sub-paragraph (a), for “an EU” substitute “a”;
 - (c) in sub-paragraph (b), for “CE” substitute “UK”.
- (9) In regulation 14—
- (a) omit “EU” in each place it occurs;
 - (b) in paragraph (2), for “Annex VI to the Directive” substitute “Schedule 1A”;
 - (c) omit paragraph (4);
 - (d) in paragraph (5)—
 - (i) for “An” substitute “A”;
 - (ii) after “English”, insert “or any other language agreed by the market surveillance authority”.
- (10) In regulation 15, omit “EU” in both places it occurs (including the heading).
- (11) In regulation 16, for “CE” in each place it occurs (including the heading) substitute “UK”.
- (12) In regulation 17(2)(b)—
- (a) for “harmonised standards” substitute “designated standards”;
 - (b) omit “EU”.

- (13) In regulation 18(3), for “EU legislation or legislation giving effect to EU legislation” substitute “retained EU law”.
- (14) In regulation 20(b), omit the words from “and the competent” to “available”.
- (15) In regulation 22—
- (a) in paragraph (1), for “EU” substitute “United Kingdom”;
 - (b) in paragraph (2)(a), omit “EU”.
- (16) In regulation 23(b)(ii), for “CE” in both places it occurs substitute “UK”.
- (17) In regulation 24(3), for “EU legislation or legislation giving effect to EU legislation” substitute “retained EU law”.
- (18) In regulation 26(2)(b), omit the words from “and the competent” to “available”.
- (19) In regulation 27(1)(a), omit “EU”.
- (20) In regulation 29(1)—
- (a) in sub-paragraph (a), for “CE” substitute “UK”;
 - (b) in sub-paragraph (b), for the words from “Member State” to the end substitute “United Kingdom”.
- (21) In regulation 30(2)(b), omit the words from “and the competent” to “available”.
- (22) In regulation 34, for “CE” in each place it occurs (including the heading) substitute “UK”.
- (23) After regulation 34, insert—

“Obligations which are met by complying with obligations in the Directive

34A.—(1) This regulation makes provision for obligations on manufacturers, importers and distributors in these Regulations for placing, or making available, EEE on the market to be met by complying with obligations in the Directive for placing, or making available, EEE on the market.

- (2) In this regulation—
- (a) any reference to an Article or an Annex is a reference to an Article or an Annex of the Directive;
 - (b) “CE marking” has the meaning given to it in Article 3(15);
 - (c) “harmonised standard” has the meaning given to it in Article 3(13).
- (3) Paragraph (4) applies where, before placing EEE on the market, the manufacturer—
- (a) ensures the EEE has been designed and manufactured in accordance with the requirements set out in Articles 4 and 7;
 - (b) ensures that the conformity assessment procedure that applies to the EEE in accordance with Article 7(b) has been carried out;
 - (c) affixes a CE marking, in accordance with Article 7(c), 15(1) and (2);
 - (d) draws up an EU declaration of conformity, in accordance with Article 13; and
 - (e) ensures that the EU declaration of conformity is prepared in or translated into English.
- (4) Where this paragraph applies—
- (a) the requirements of regulations 12(1), 13 and 14(1), (2), (5) and (6) are satisfied in respect of that EEE;
 - (b) regulations 12(1), 13, 14(1), (2), (5) and (6) apply to that EEE subject to the modifications in paragraph (9).

- (5) Paragraph (6) applies where, before placing EEE on the market, the importer ensures that—
- (a) the conformity assessment procedure that applies to that EEE in accordance with Article 7(b) has been carried out;
 - (b) the manufacturer has drawn up the technical documentation referred to in Article 7(b); and
 - (c) the EEE bears the CE marking and inscriptions referred to in Article 13.
- (6) Where this paragraph applies—
- (a) the requirements of regulation 23(b) are satisfied in respect of that EEE;
 - (b) regulation 23(b) applies to that EEE subject to the modifications in paragraph (9).
- (7) Paragraph (8) applies where, before making EEE available on the market, a distributor ensures that the EEE bears the CE marking and inscriptions referred to Article 13.
- (8) Where this paragraph applies—
- (a) the requirements of regulation 29(1)(a) are satisfied in respect of that EEE;
 - (b) regulation 29(1)(a) applies to that EEE subject to the modifications in paragraph (9).
- (9) The modifications referred to in paragraphs (4)(b), (6)(b) and (8)(b) are that—
- (a) any reference to “declaration of conformity” is to be read as a reference to the EU declaration of conformity;
 - (b) any reference to “UK marking” is to be read as a reference to the CE marking;
 - (c) any reference to “designated standard” is to be read as a reference to a harmonised standard;
 - (d) any reference to an “internal control procedure” is to be read as a reference to Module A of Annex 2 to Decision [768/2008/EC](#) of the European Parliament and of the Council on a common framework for the marketing of products ^{M4} as it has effect in EU law, as amended from time to time;
 - (e) any reference to “technical documentation” is a reference to the technical documentation referred to in Article 7(b).”.
- (24) In regulation 37—
- (a) in paragraph (1)(b), omit “EU”;
 - (b) in paragraphs (5) and (6), for “CE” in each place it occurs substitute “ UK ”.
- (25) In Schedule 1—
- (a) in the shoulder reference, at the end insert “ and regulation 12(1) ”;
 - (b) in Part 2, in paragraph 12, for “member States” substitute “ the United Kingdom ”;
 - (c) after Part 3, insert—

“PART 4

Internal Production Control Procedure

25. The internal production control procedure is a conformity assessment procedure whereby a manufacturer must ensure EEE is manufactured in compliance with the technical documentation and with the applicable requirements of these Regulations.

26. The technical documentation must—

- (a) make it possible to assess the EEE's conformity with the applicable requirements of these Regulations, and must include an adequate analysis and assessment of the risks;
- (b) specify the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the EEE;
- (c) contain, where applicable, at least the following elements—
 - (i) a general description of the EEE;
 - (ii) conceptual design and manufacturing drawings and schemes of components, sub-assemblies;
 - (iii) descriptions and explanations necessary for the understanding of those drawings and schemes, and the operation of the EEE;
 - (iv) a list of the designated standards applied in full or in part (where applicable specifying the parts which have been applied);
 - (v) where designated standards have not been applied, descriptions of the solutions adopted to meet the essential requirements, including a list of other relevant technical specifications applied;
 - ^{F4}(vi)
 - (vii) results of design calculations made, examinations carried out and
 - (viii) test reports.”.

(26) After Schedule 1, insert—

“SCHEDULE 1A

Regulation 14(2)

Declaration of conformity

1. Declaration of conformity (unique identification of the EEE):
2. Name and address of the manufacturer or, where applicable, authorised representative:
3. This declaration of conformity is issued under the sole responsibility of the manufacturer (or installer):
4. Object of the declaration (identification of EEE allowing traceability: it may include a photograph, where appropriate):
5. The object of the declaration described above is in conformity with relevant statutory requirements:
6. Where applicable, references to the relevant designated standards used or references to the technical specifications in relation to which conformity is declared:
7. Additional information:
Signed for and on behalf of:
place and date of issue:
name, function) (signature:”.

(27) In Schedule 2, omit paragraph 2(4)(a)(ii).

- F1** Reg. 18(2)(c) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Hazardous Substances and Packaging \(Legislative Functions and Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1647), regs. 1(2), **16(2)**
- F2** Reg. 18(2)(e) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Hazardous Substances and Packaging \(Legislative Functions and Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1647), regs. 1(2), **16(2)**
- F3** Reg. 18(2)(f) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Hazardous Substances and Packaging \(Legislative Functions and Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1647), regs. 1(2), **16(2)**
- F4** Words in reg. 18(25)(c) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Environment and Rural Affairs \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/1078), regs. 1, **4(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I1** Reg. 18 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. 2012/3032](#), amended by [S.I. 2018/942](#); there are other amending instruments but none is relevant.
- M2** OJ No L, 252, 16.9.2016, p. 53.
- M3** S.I. 2002/618, amended by [S.I. 2003/1697](#) and 2007/400: there are other amending instruments but none is relevant.
- M4** OJ No L 218, 13.8.2008, p.82.

Changes to legislation:

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019, Section 18.