
STATUTORY INSTRUMENTS

2019 No. 188

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

PART 3

Amendments to secondary legislation

The Packaging (Essential Requirements) Regulations 2015

20.—(1) The Packaging (Essential Requirements) Regulations 2015^{M1} are amended as follows.

(2) In regulation 2—

(a) in paragraph (1)—

- (i) omit the definitions of “the Directive” and “the Commission”;
- (ii) in the definition of “essential requirements”, omit “in Annex II of the Directive and which are”;
- (iii) in the definition of “packaging waste”, after “Directive” insert “, as read with Articles 5 and 6 of that Directive,”;
- (iv) in the definition of “responsible person”, for “European Union” substitute “ United Kingdom ”;
- (v) in the definition of “the Waste Directive, at the end insert “, and as read in accordance with regulation 2A ”;

(b) omit paragraph (2).

(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.

[^{F1}(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.”].
- (4) In regulation 3(4), omit the words from “referred to in” to the end.
- (5) In regulation 4—
 - [^{F2}(a) in paragraph (1), for “EU market” substitute “market of Great Britain”;
 - (b) for paragraphs (3) and (4), substitute—
 - “(3) Packaging complies with the essential requirements if it—
 - (a) satisfies a harmonised standard; or

(b) where there are no harmonised standards, satisfies a recognised quality standard.

(4) In paragraph (3)—

“harmonised standard” means a harmonising standard produced by the Comité Européen de Normalisation (CEN)^{M2}, which—

- (a) relates to packaging and packaging waste; and
- (b) is published in (and not withdrawn from) the Official Journal of the European Union;

“recognised quality standard” means a standard produced by a member State—

- (a) that relates to packaging and packaging waste; and
- (b) the reference number to which is published in (and not withdrawn from) the Official Journal of the European Union.”.

[^{F3}(6) In regulation 5(1), for “EU market” substitute “market of Great Britain”.]

(7) Omit regulation 12(2).

(8) In Schedule 1—

- (a) in the heading, omit “(Annex II to the Directive)”;
- (b) in paragraph 3(1), for “the European Union” substitute “retained EU law”.

(9) In Schedule 2, in paragraph 2—

- (a) for “European Union” in both places it occurs substitute “United Kingdom”;
- (b) in sub-paragraph (2), in the words after paragraph (b), for “EU” substitute “United Kingdom”.

(10) In Schedule 3, in paragraph 2(1), for “EU” substitute “United Kingdom”.

F1 Words in [reg. 20\(3\)](#) 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(13)(a)**

F2 [Reg. 20\(5\)\(a\)](#) 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(13)(b)**

F3 [Reg. 20\(6\)](#) 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(13)(c)**

Commencement Information

I1 Reg. 20 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. 2015/1640](#), amended by [S.I. 2018/942](#).

M2 [www.cenorm.be](#).

Changes to legislation:

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019, Section 20.