

STATUTORY INSTRUMENTS

2019 No. 271

**EXITING THE EUROPEAN
UNION, NORTHERN IRELAND
ENVIRONMENTAL PROTECTION,
NORTHERN IRELAND**

**The Waste (Miscellaneous Amendments)
(Northern Ireland) (EU Exit) Regulations 2019**

<i>Sift requirements satisfied</i>	<i>29th January 2019</i>
<i>Made - - - -</i>	<i>7th February 2019</i>
<i>Laid before Parliament</i>	<i>18th February 2019</i>
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 ^{M1}.

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these regulations) have been satisfied.

Marginal Citations

M1 [2018 c.16](#)

PART 1

Introductory

Citation, commencement and extent

1. These Regulations may be cited as the Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 and come into force on [^{F1}IP completion day].

F1 Words in Regulations substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), **4(2)**

Commencement Information

I1 Reg. 1 in force at 31.12.2020 on IP completion day, see reg. 1 (as amended by [S.R. 2020/284](#), regs. 1(1), **4(2)**)

2. These Regulations extend to Northern Ireland only.

Commencement Information

I2 Reg. 2 in force at 31.12.2020 on IP completion day, see reg. 1 (as amended by [S.R. 2020/284](#), regs. 1(1), **4(2)**)

Part 2

Amendments to secondary legislation

The Hazardous Waste Regulations (Northern Ireland) 2005

3.—(1) The Hazardous Waste Regulations (Northern Ireland) 2005 ^{M2} are amended as follows.

[^{F2}(2) In regulation 2(1)—

(a) after the definition of “the 1997 Order” insert—

““appropriate authority” means the Department of Agriculture, Environment and Rural Affairs”; and

(b) after the definition of “industrial battery or accumulator” insert—

““Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Directive (EU) 2018/850, and read as if—

(a) in Article 2—

(i) in point (a), “waste”, “hazardous waste”, “non-hazardous waste” were omitted; and

(ii) after point (a), there were inserted—

(“aa) “waste” has the meaning given by regulation 3(1)(b) of the Hazardous Waste Regulations (Northern Ireland) 2005;

(bb) “hazardous waste” and “non-hazardous waste” have the meaning given by regulation 2(1) of the Hazardous Waste Regulations (Northern Ireland) 2005;”); and

(b) in Article 3(2), “Without prejudice to existing Community legislation,” were omitted.”;]

(3) In regulation 3(1)—

(a) in sub-paragraph (a), at the end insert “ , and as read in accordance with regulation 3A ”; and

(b) in sub-paragraph (b)(i), for “as read with Article 5(1)” substitute “ as read with Article 5 and 6 of that Directive ”.

(4) After regulation 3 insert—

“Modification of the Waste Directive

3A.—(1) For the purposes of these Regulations, the Waste Directive ^{M3} 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 or local authority which, immediately before [^{F1}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of Northern Ireland.

(3) In Article 2—

(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^{M4}” there were substituted “Regulation (EC) No 1069/2009^{M5}”; and

(iii) in point (d), for the words from “Directive 2006/21/EC^{M6}” to the end there were substituted “the Mining Waste Directive”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted; and

(c) paragraph 4 were omitted.

^{F3}(4)

[^{F4}(5) Article 5 is to be read as if—

(a) in paragraph 1, the words “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 for the purposes of this Article.”;

(c) paragraphs 2 and 3 were omitted.

(6) Article 6 is to read as if—

(a) in paragraph 1, the words “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 for the purposes of this Article.”;
- (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second subparagraph, for the words “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
 - (iii) the third and fourth sub-paragraphs 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 authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for the words “Member States” there were substituted “The appropriate authority”;
 - (bb) “by competent authorities” were omitted.
- (7) Article 7 is to 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 Northern Ireland.”;
 - (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) In Article 19—
 - (a) in paragraph 1, for “Community” there were substituted “ national ”; and
 - (b) in paragraph 2, for “a Member State” there were substituted “ Northern Ireland ”.
- (9) In Annex 3, in entry HP 9, in the second sentence, the words “in the Member States” were omitted.
- (10) In paragraph (2), “local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972 ”.^{M7}

“Meaning of “the Mining Waste Directive” and “the Industrial Emissions Directive”

3B.—(1) In regulation 3A(3)(a)(iii), “the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive Industries ^{M8}, read in accordance with paragraphs (2) and (3) of this regulation.

(2) In Article 2 of the Mining Waste Directive—

- (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#)^{M9} were a reference to that Article read in accordance with paragraph (7) of this regulation; and
 - (b) paragraphs 3 and 4 were omitted.
- (3) In Article 3(1) of the Mining Waste Directive, for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “ Article 3(1) of the Waste Directive, read in accordance with Articles 5 and 6 of that Directive ”.
- (4) In regulation 3A(4), “the Industrial Emissions Directive” means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) ^{M10}, read in accordance with paragraphs 5 and 6 of this regulation.
- (5) In Article 3 of the Industrial Emissions Directive—
- (a) in point 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 ^{M11} ”;
 - (b) in point 10(b), for “Member State in question” there were substituted “ United Kingdom ”;
 - (c) in point 23, for the words from “point 1” to the end there were substituted “ point 1 of the second paragraph 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 ^{M12} ”; and
 - (d) in point (37), for the words from “of the European” to the end there were substituted “ , read with Article 5 and 6 of that Directive ”.
- (6) In Annex 1—
- (a) in the words before point 1, the second paragraph were omitted;
 - (b) in point 5.3—
 - (i) in point (a), in the words before point (i), for “Council Directive [91/271/EEC](#) of 21 May 1991 concerning urban waste-water treatment ^{M13}” there were substituted “ the Urban Waste Water Treatment Regulations (Northern Ireland) 2007 ^{M14} ”; and
 - (ii) in point (b), in the words before point (i), for “Directive [91/271/EEC](#)” there were substituted “ the Urban Waste Water Treatment Regulations (Northern Ireland) 2007 ”;
 - (c) in point 5.4, for “in Article 2(g) of Council Directive [1999/31/EC](#) of 26 April 1999 on the landfill of waste ^{M15}” there were substituted “ the Landfill Directive ”;
 - (d) in point 6.9, for “Directive [2009/31/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2009/31/EC](#) in respect of Northern Ireland ^{M16} ”; and
 - (e) in point 6.11, for “Directive [91/271/EEC](#)” there were substituted “ the Urban Waste Water Treatment Regulations (Northern Ireland) 2007 ”.
- (7) For the purposes of paragraph (2)(a), Article 11(3)(j) of Directive [2000/60/EC](#) is to be read as if—
- (a) for “Member States” where it occurs there were substituted “ the appropriate authority ”;
 - (b) in the words after the final indent, “environmental objectives” in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those regulations.

(8) In paragraph (7)(b)—
 “the WFD Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017^{M17}.”.

[^{F5}(5) In regulation 9—

(a) in paragraph (2), for the words “Article 7(2) of the Waste Directive” substitute “paragraph (3)”; and

(b) after paragraph (2) insert—

“(3) For the purposes of paragraph (2), a specific waste may be determined to be hazardous—

(a) in relation to Wales by the Welsh Ministers under regulation 8 of the Hazardous Waste (Wales) Regulations 2005;

(b) in relation to England by the Secretary of State under regulation 8 of the Hazardous Waste (England and Wales) Regulations 2005;

(c) in relation to Scotland, by the Scottish Ministers, because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex III”.]

(6) In regulation 10—

(a) in paragraph (2), for “Article 7(3) of the Waste Directive” substitute “ paragraph (3) ”; and

(b) after paragraph (2) insert—

“(3) For the purposes of paragraph (2), a specific waste may be determined to be non-hazardous—

(a) in relation to Wales, by the Welsh Ministers under regulation 9 of the Hazardous Waste (Wales) Regulations 2005;

(b) in relation to England, by the Secretary of State under regulation 9 of the Hazardous Waste (England and Wales) Regulations 2005; and

(c) in relation to Scotland, by the Scottish Ministers because the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex 3.”.

F1	Words in Regulations substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(2)
F2	Reg. 3(2) substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(3)(a)
F3	Words in reg. 3(4) omitted (31.12.2020 immediately before IP completion day) by virtue of The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(3)(b)(i)
F4	Words in reg. 3(4) substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(3)(b)(ii)
F5	Reg. 3(5) substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(3)(c)

Commencement Information

I3 Reg. 3 in force at 31.12.2020 on IP completion day, see reg. 1 (as amended by [S.R. 2020/284](#), regs. 1(1), **4(2)**)

Marginal Citations

M2 [S.R.2005 No.300](#) as amended by [S.R.2011 No.127](#) and [S.R.2015 No.288](#)

M3 OJ No L312, 22.11.2008, p.3

M4 OJ No L273, 10.10.2002, p.1 repealed by OJ No. L300, 14.11.2009, p.1

- M5** OJ No L300, 14.11.2009, p.1, as last amended by OJ No L354, 28.12.2013, p.86
- M6** OJ No L102, 11.4.2006, p.15
- M7** [1972 c.9 \(NI\)](#); section 1 was amended by the Local Government (Boundaries) Act (Northern Ireland) [2008 c.7 \(N.I.\)](#) section 3(1) and [S.I. 1985/454](#)
- M8** OJ No L102, 11.04.2006, p.15, as last amended by Regulation (EC) 596/2009 (OJ No L188, 18.7.2009, p.14)
- M9** OJ No L327, 22.12.2000, p.1, as last amended by Commission Directive 2014/101/EU (OJ No L311, 31.10.2014, p.32).
- M10** OJ No L334, 17.12.2010, p.17, as corrected by a corrigendum (OJ No L158, 19.6.2012, p.25)
- M11** OJ No L13, 17.01.2014, p.1, as corrected by a corrigendum (OJ No. L72, 17.3.2016, p.69)
- M12** OJ No L343, 22.12.2009, p.74, as last amended by Commission Implementing Decision 2011/879/EU (OJ No L343, 23.12.2011, p.105)
- M13** OJ No L135, 30.5.1991, p.40, as last corrected by a corrigendum (OJ No L189, 17.7.2015, p.41)
- M14** [S.R.2007 No.187](#)
- M15** OJ No L182, 16.7.1999, p.1
- M16** See for example [S.I. 2010/1513](#), [S.I. 2010/2221](#), [S.I. 2011/1483](#), [S.I. 2011/2305](#), [S.I. 2012/461](#), [S.I. 2013/2616](#); [S.I. 2017/571](#)
- M17** [S.R.2017 No.81](#)

The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007

4.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007 ^{M18} are amended as follows.

(2) In regulation 2—

(a) at the appropriate alphabetical place insert—

(i) “ “appropriate authority” means the Department of Agriculture, Environment and Rural Affairs”; and

(ii) “ “local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;

(b) in the definition of “the Packaging Waste Directive”, at the end insert “ , and as read in accordance with regulation 2A ”; and

(c) in the definition of “the Waste Directive ^{M19}”, at the end insert “ , and as read in accordance with regulation 2B ”.

(3) After regulation 2, insert—

“Modifications to the Packaging Waste Directive

2A.—(1) For the purposes of these Regulations, the Packaging Waste Directive ^{M20} 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 conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority or local authority which, immediately before [^{F1}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

[^{F6}(3) Article 3 is to be read as if—

(a) in paragraph 2, for the words “Article 3 of [Directive 2008/98/EC](#)” there were substituted “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive;

- (b) in paragraph 2c, for the words “Directive 2008/98/EC” there were substituted “the Waste Directive”.]

^{F7}(4)

Modifications to the Waste Directive

2B.—(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 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 or local authority which, immediately before [^{F1}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

[^{F8}(3) Article 5 is to read as if—

- (a) in paragraph 1, the words “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 for the purposes of this Article.”;

- (c) paragraphs 2 and 3 were omitted.

(4) Article 6 is to be read as if—

- (a) in paragraph 1, the words “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 for the purposes of this Article.”;

- (c) in paragraph 2—

- (i) the first sub-paragraph were omitted;

- (ii) in the second subparagraph, for the words “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 sub-paragraph—

- (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 authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for the words “Member States” there were substituted “The appropriate authority”;
 - (bb) “by competent authorities” were omitted.”].
- [^{F9}(4) In regulation 24—
- (a) in paragraph (3)(b)—
 - (i) in paragraph (i)—
 - (aa) for the words “European Community” substitute “United Kingdom or a Member State”;
 - (bb) for the words from “Article 6(2) of” to the end, substitute “any recovery or recycling operations taking place in each such site take place under conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom”;
 - (ii) in paragraph (ii)—
 - (aa) for the words “European Community” substitute “United Kingdom or a Member State”;
 - (bb) for the words “of Article 6(2) of that Directive” substitute “applicable to the shipment of waste from the United Kingdom”;
 - (b) in paragraph (8) for the words “the European Community” substitute “a Member State”;
 - (c) in paragraph (9)—
 - (i) for the words “European Community” substitute “United Kingdom or a Member State”;
 - (ii) for the words “the requirements of Article 6(2) of the Packaging Waste Directive” substitute “conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom”.]

[^{F10}(5) For regulation 26(2) substitute—

“(2) Where the appropriate authority has granted an accreditation to an exporter, and is no longer satisfied that the requirements in regulation 24(3)(b) or (9), which applied to that grant of accreditation, are met in relation to the export of one or more specified recyclable materials for reprocessing at one or more reprocessing sites outside the United Kingdom, the appropriate authority shall cancel the accreditation of an exporter to the extent that it relates to any such export which does not meet those requirements.”.]

F1	Words in Regulations substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(2)
F6	Words in reg. 4(3) substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(4)(a)(i)
F7	Words in reg. 4(3) omitted (31.12.2020 immediately before IP completion day) by virtue of The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(4)(a)(ii)
F8	Words in reg. 4(3) substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284) , regs. 1(1), 4(4)(b)(i)

- F9** Reg. 4(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), **4(4)(c)**
- F10** Reg. 4(5) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), **4(4)(d)**

Commencement Information

- I4** Reg. 4 in force at 31.12.2020 on IP completion day, see reg. 1 (as amended by [S.R. 2020/284](#), regs. 1(1), **4(2)**)

Marginal Citations

- M18** [S.R.2007 No.198](#), as amended by [S.R. 2008 No.371](#), [S.R.2010 No.396](#) and [S.R.2016 No.95](#)
- M19** [OJ No L312](#), 22.11.2008, p.3
- M20** [OJ No L365](#), 31.12.1994, p.10

The Waste Regulations (Northern Ireland) 2011

- 5.—(1) The Waste Regulations (Northern Ireland) 2011 ^{M21} are amended as follows.
- (2) In Part 3, regulation 9(1)—
- at the appropriate alphabetical place insert—

““appropriate authority” means the Department of Agriculture, Environment and Rural Affairs;”;
 - for the definition “best available techniques” substitute “ has the same meaning as in the Waste Management Licensing Regulations (Northern Ireland) 2003 ^{M22}”;
 - after the definition “disposal” insert—

““EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;”;
 - after the definition of “household 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) ^{M23};

“Landfill Directive” means Council Directive [1999/31/EC](#) on the landfill of waste, as last amended by [^{F11}Directive (EU) 2018/850], read in accordance with regulation 9B; and

“local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;”;
 - after the definition of “material recovery” insert—

““Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries ^{M24}, read in accordance with regulation 9C;”;
 - in the definition of “Waste Framework Directive”, at the end insert “ and as read in accordance with regulation 9D ”.
- (3) After regulation 9, insert—

“Modification of the Industrial Emissions Directive

9A.—(1) For the purposes of these Regulations, the Industrial Emissions Directive is to be read as follows.

- (2) In Article 3—

- (a) 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 ^{M25} ”;
 - (b) in paragraph 10(b), for “Member State in question” there were substituted “ United Kingdom ”;
 - (c) 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 ^{M26} ”; and
 - (d) 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 ”.
- (3) In Annex 1—
- (a) in the words before point 1, the second paragraph were omitted;
 - (b) in point 5.3—
 - (i) 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 Regulations (Northern Ireland) 2007 ^{M27} ”; and
 - (ii) in point (b), in the words before point (i), for “Directive 91/271/EEC” there were substituted “ the Urban Waste Water Treatment Regulations (Northern Ireland) 2007 ”;
 - (c) in point 5.4, for “Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste” there were substituted “ the Landfill Directive ”;
 - (d) in point 6.9, for “Directive 2009/31/EC” there were substituted “ the EU-derived domestic legislation which transposed Directive 2009/31/EC ”; and
 - (e) in point 6.11, for “Directive 91/271/EEC” there were substituted “ the Urban Waste Water Treatment Regulations (Northern Ireland) 2007 ”.

Modification of the Landfill Directive

9B.—(1) For the purposes of these Regulations, the Landfill Directive is to be read as follows.

- [^{F12}(2) In Article 2—
- (a) in point (a)—
 - (i) “‘waste’, ‘hazardous waste’, ‘non-hazardous waste’” were omitted; and
 - (ii) for the words “Directive 2008/98/EC” there were substituted “the Waste Framework Directive”;
 - (b) after point (a) there were inserted—
 - “(aa) ‘waste’ has the meaning given by regulation 1(3) of the Waste Management Licensing Regulations (Northern Ireland) 2003;
 - (bb) ‘hazardous waste’ and ‘non-hazardous waste’ have the meaning given in regulation 2(1) of the Hazardous Waste Regulations (Northern Ireland) 2005;”;

- (3) In Article 3(2), “Without prejudice to existing Community legislation,” were omitted.

Modification of the Mining Waste Directive

9C.—(1) For the purposes of these Regulations, the Mining Waste Directive ^{M28} is to be read as follows.

(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 or local authority which, immediately before [^{F1}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

(3) In Article 2—

- (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 9E;
- (b) paragraphs 3 and 4 were omitted.

(4) In Article 3—

- (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](#)^{M29} or Directive [1999/45/EC](#)^{M30} ” 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 ^{M31} ”;
- (e) in point (18), for “Article 2(11) of Directive [96/61/EC](#)” there were substituted “Article 3(10) of the Industrial Emission 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) in point (27), for “which a Member State designates” there were substituted “designated ”; and
- (i) in point (29), for “competent authority” there were substituted “appropriate authority ”.

(5) In Article 5—

- (a) in paragraphs 2(a)(iii) and (b), “at Community level” were omitted;
- (b) in paragraph 3—
- (i) 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 ^{M32} in respect of Northern Ireland ”; and

- (ii) in the second subparagraph, for “competent authority” there were substituted “ appropriate authority ”;
 - (c) in paragraph 4, in the second sentence, for “competent authority” there were substituted “ appropriate authority ”;
 - (d) in paragraph 5, “or Community” were omitted;
 - (e) paragraph 6 were omitted.
- (6) In Article 6—
- (a) in paragraph 2, the words from “Without prejudice” to “92/104/EEC,” were omitted;
 - (b) in paragraph 3, in the third subparagraph, for “competent authority” in both places it occurs there were substituted “ appropriate authority ”.
- (7) In Article 7—
- (a) in paragraph 1—
 - (i) in the first subparagraph, in the first sentence, for “competent authority” there were substituted “ appropriate authority ”; and
 - (ii) in the second subparagraph, in the first sentence—
 - (aa) “or Community” were omitted; and
 - (bb) for “competent authority” there were substituted “ appropriate authority ”;
 - (b) in paragraph 2(e), the reference to Directive [85/337/EEC](#)^{M33} 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 Northern Ireland;
 - (c) in paragraph 3—
 - (i) in the words before point (a), for “competent authority” there were substituted “ appropriate authority ”; and
 - (ii) in point (b), for “Article 7 of Directive [75/442/EEC](#)” there were substituted “ Article 13 of the Waste Framework Directive ”;
 - (d) in paragraph 4—
 - (i) in the words before the first indent, for “competent authorities” there were substituted “ appropriate authority ”; and
 - (ii) the third indent were omitted; and
 - (e) in paragraph 5, “and Community” were omitted.
- (8) In Article 9 for “competent authorities” there were substituted “ appropriate authority ”.
- (9) In Article 10, paragraph 2 were omitted.
- (10) In Article 11—
- (a) in paragraph 2—
 - (i) in the words before point (a), for “competent authority” there were substituted “ appropriate authority ”; and
 - (ii) in point (a)—
 - (aa) the words “Community or” were omitted; and
 - (bb) for “Directives [76/464/EEC](#)^{M34}, [80/68/EEC](#)^{M35} and [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of Northern Ireland ”;

- (b) in paragraph 3—
 - (i) for “competent authority” in each place it occurs there were substituted “appropriate authority”; and
 - (ii) in the third subparagraph, for “competent authorities” there were substituted “appropriate authority”.
- (11) In Article 12—
 - (a) in paragraphs 2(b), 2(c) and 3, for “competent authority” there were substituted “appropriate authority”;
 - (b) in paragraph 4—
 - (i) for “competent authority” in both places it occurs there were substituted “appropriate authority”; and
 - (ii) “national or Community” were omitted; and
 - (c) in paragraph 5—
 - (i) for “competent authority” there were substituted “appropriate authority”; and
 - (ii) 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 Northern Ireland”.
- (12) In Article 13—
 - (a) in paragraph 1, in the words before point (a)—
 - (i) for “competent authority” there were substituted “appropriate authority”;
 - (ii) the word “Community” were omitted; and
 - (iii) for “Directive 2000/60/EC” there were substituted “the EU-derived domestic legislation which transposed Directive 2000/60/EC in respect of Northern Ireland”;
 - (b) in paragraph 3—
 - (i) 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 Northern Ireland”; and
 - (ii) for “competent authority” there were substituted “appropriate authority”;
 - (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 Northern Ireland”;
 - (d) in paragraph 5, in the second sentence—
 - (i) for “competent authority” there were substituted “appropriate authority”;
 - (ii) for “Community” there were substituted “retained EU law”; and
 - (iii) for “Directive 2000/60/EC” there were substituted “the EU-derived domestic legislation which transposed Directive 2000/60/EC in respect of Northern Ireland”; and
 - (e) in paragraph 6, in the second subparagraph, for “competent authority” there were substituted “appropriate authority”.
- (13) In Article 14(1) and (4), for “competent authority” there were substituted “appropriate authority”.
- (14) In Article 17, for “competent authority” in each place it occurs (including the heading), there were substituted “appropriate authority”.

- (15) In Article 24(4), in the second indent—
 - (a) “Community or” were omitted; and
 - (b) for “competent authority” there were substituted “ appropriate authority ”.
- (16) In Annex 3—
 - (a) in the second indent, for “under Directive 91/689/EEC^{M36}” there were substituted “ the Waste Framework Directive ”; and
 - (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

9D.—(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 providing a discretion on a member State or member States is to be read as a reference to the appropriate authority or local authority which, immediately before [^{F1}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

- (3) In Article 2—
 - (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^{M37} ”; and
 - (iii) in point (d), for “Directive 2006/21/EC” to the end there were substituted “ the Mining Waste Directive ”;
 - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted; and
 - (c) paragraph 4 were omitted.

(4) In Article 3, in point (20), for “Article 2(11) of Directive 96/61/EC” there were substituted “ Article 3(10) of the Industrial Emissions Directive ”.

- [^{F13}](5) Article 5 is to be read as if—
 - (a) in paragraph 1, the words “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 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, the words “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 for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second subparagraph, for the words “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 sub-paragraph—
 - (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 authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for the words “Member States” there were substituted “The appropriate authority”;
 - (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 Northern Ireland.”;
 - (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.]
- [^{F14}(8) In Article 16—
- (a) in paragraph 1, in the first sub-paragraph—
 - (i) the words from “, in cooperation with” to “advisable,” were omitted; and
 - (ii) “, taking into account best available techniques” were omitted; and
 - (b) in paragraph 2—

- (i) for “Community as a whole to become” there were substituted “United Kingdom as a whole to move towards the aim of becoming”; and
- (ii) the words “and to enable Member States to move towards that aim individually,” were omitted.]

(9) In Article 23(1) and (3), for “competent authority” there were substituted “ appropriate authority ”.

[^{F15}(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 authority through any electronic registry established for the reporting of such data or, if no such registry is in operation, in such form and manner the appropriate authority may specify.”;]

(11) In Annex 3, in entry HP9, in the second sentence, “in the Member States” were omitted.

(12) In Annex 4—

- (a) in paragraph 3, “at Community level” were omitted;
- (b) in paragraph 6, for “this Directive and Directive 96/61/EC” there were substituted “ Annex 3, Part 3 of the Hazardous Waste Regulations (Northern Ireland) 2005 ^{M38} ”;
- (c) in paragraph 7, for “96/61/EC”, there were substituted “ the Industrial Emissions Directive ”; and
- (d) in paragraph 10, the words “EMAS and” were omitted.

(13) In paragraph [^{F16}(12)(c)], the reference to the Industrial Emissions Directive is to be construed as a reference to the EU-derived domestic legislation which transposed that Directive in respect of Northern Ireland.

[^{F17}(14) 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

9E. For the purposes of regulation 9C(3)(a), Article 11(3)(j) of Directive 2000/60/EC of the European Parliament and of the Council is to be read as if—

(1) the reference to “Member States” were a reference to the appropriate authority or local authority which, immediately before [^{F1}IP completion day], was able to exercise the discretion described in the Article in respect of Northern Ireland; and

(2) in the words after the sixth indent, “environmental objectives” means—
“in relation to a river basin district in Northern Ireland, the objectives set under regulation 12, in accordance with regulation 13, of the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017 ^{M39}.”.

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| <p>F1 Words in Regulations substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), 4(2)</p> <p>F11 Words in reg. 5(2)(d) substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), 4(5)(a)</p> <p>F12 Words in reg. 5(3) substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), 4(5)(b)(i)</p> <p>F13 Words in reg. 5(3) substituted (31.12.2020 immediately before IP completion day) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), 4(5)(b)(ii)</p> <p>F14 Words in reg. 5(3) substituted (31.12.2020 immediately before IP completion day) by The Waste and Environmental Protection (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/1443), regs. 1(2), 3; 2020 c. 1, Sch. 5 para. 1(1)</p> |
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- F15** Words in [reg. 5\(3\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), [4\(5\)\(b\)\(iii\)](#)
- F16** Word in [reg. 5\(3\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), [4\(5\)\(b\)\(iv\)](#)
- F17** Words in [reg. 5\(3\)](#) inserted (31.12.2020 immediately before IP completion day) by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), [4\(5\)\(b\)\(v\)](#)

Commencement Information

- I5** Reg. 5 in force at 31.12.2020 on IP completion day, see [reg. 1](#) (as amended by [S.R. 2020/284](#), regs. [1\(1\)](#), [4\(2\)](#))

Marginal Citations

- M21** [S.R.2011 No.127](#)
- M22** [S.R.2003 No.493](#)
- M23** OJ No L334, 17.12.2010, p.17, as corrected by a corrigendum (OJ No L158, 19.6.2012, p.25)
- M24** OJ No L102, 11.4.2006, p.15
- M25** OJ No L13, 17.1.2014, p.1, as corrected by a corrigendum (OJ No L72, 17.3.2016, p.69)
- M26** OJ No L343, 22.12.2009, P.74
- M27** [S.R.2007 No.187](#)
- M28** OJ No L102, 11.04.2006, p.15
- M29** OJ No L196, 16.8.1967, p.1 (Special Edition Series I Volume 1967 p.211), repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L353, 31.12.2008, p.1)
- M30** OJ No L200, 30.7.1999, p.1, repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L353, 31.12.2008, p.1)
- M31** OJ No L353, 31.12.2008, p.1
- M32** OJ No L327, 22.12.2000, p.1, as last amended by Commission Directive 2014//101/EU (OJ No L311, 31.10.2014, p.32)
- M33** OJ No L175, 5.7.1985, p.40, repealed by Directive 2011/92/EU of the European Parliament and of the Council (OJ No L26, 28.1.2012, p.1)
- M34** OJ No L129, 18.5.1976, p.23, repealed by Directive 2006/11/EC of the European Parliament and of the Council (OJ No L64, 4.3.2006, p.52)
- M35** OJ No L20, 26.1.1980, p.43, repealed by Directive 2000/60/EC of the European Parliament and of the Council (OJ No L327, 22.12.2000, p.1)
- M36** OJ No L377, 31.12.1991, p.20, repealed by Directive 2008/98/EC of the European Parliament and of the Council (OJ No L312, 22.11.2008, p.3)
- M37** OJ No L300, 14.11.2009, p.1, as last amended by OJ No L354, 28.12.2013, p.86
- M38** [S.R.2005 No.300](#); Part 3 has been amended by [S.R.2006 No.280](#)
- M39** [S.R.2017 No.81](#)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8 of the European Union (Withdrawal) Act 2018 (c.16) in order to make amendments to subordinate legislation to the waste regime. They address failures of retained EU law to allow effective operation and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019.