
STATUTORY INSTRUMENTS

2019 No. 39

The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019

The Environmental Permitting (England and Wales) Regulations 2016

2.—(1) The Environmental Permitting (England and Wales) Regulations 2016^{M1} are amended as follows.

(2) In regulation 2(1)—

(a) after the definition of “enforcement undertaking” insert—

““environmental objectives”—

- (a) 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^{M2};
- (b) in relation to the Solway Tweed River Basin District, means the objectives as defined in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004^{M3};
- (c) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations;”;

(b) after the definition of “establishment” insert—

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

(c) in the definition of “local authority”, after “ “local authority”” insert “ , except in Schedule 1A, ”;

(d) in the definition of “waste”, in paragraphs (a)(i) and (b)(i), after “Directive” insert “ , as read with Articles 5 and 6 of that Directive ”;

(e) after the definition of “WEEE” insert—

““the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017^{M4};”.

(3) In regulation 3—

(a) in the definition of “the Asbestos Directive”, at the end insert “ , as read in accordance with paragraph 1 of Schedule 1A ”;

(b) in the definition of “the Basic Safety Standards Directive”, at the end insert “ , as read in accordance with paragraph 2 of Schedule 1A ”;

(c) in the definition of “the Batteries Directive”, at the end insert “ , as read in accordance with paragraph 3 of Schedule 1A ”;

(d) in the definition of “the End-of-Life Vehicles Directive”, at the end insert “ , as read in accordance with paragraph 4 of Schedule 1A ”;

- (e) in the definition of “the Energy Efficiency Directive”, at the end insert “ , as read in accordance with paragraph 5 of Schedule 1A ”;
 - (f) omit the definition of “the Groundwater Directive”;
 - (g) in the definition of “the Industrial Emissions Directive”, at the end insert “ , as read in accordance with paragraph 6 of Schedule 1A ”;
 - (h) in the definition of “the Landfill Directive”, at the end insert “ , and in accordance with paragraph 7 of Schedule 1A ”;
 - (i) in the definition of “the Medium Combustion Plant Directive”, at the end insert “ , as read in accordance with paragraph 8 of Schedule 1A ”;
 - (j) in the definition of “the Mining Waste Directive”, at the end insert “ , as read in accordance with paragraph 9 of Schedule 1A ”;
 - (k) in the definition of “PVR I”, at the end insert “ , as read in accordance with paragraph 10 of Schedule 1A ”;
 - (l) in the definition of “PVR II”, at the end insert “ , as read in accordance with paragraph 11 of Schedule 1A ”;
 - (m) in the definition of “the Waste Framework Directive”, at the end insert “ , and as read in accordance with paragraph 12 of Schedule 1A ”;
 - (n) in the definition of “the Water Framework Directive”, at the end insert “ , as read in accordance with paragraph 13 of Schedule 1A ”;
 - (o) in the definition of “the WEEE Directive”, at the end insert “ , as read in accordance with paragraph 14 of Schedule 1A ”.
- (4) In regulation 6(1), after “Regulations,” insert “ except in Schedule 1A, ”.
- (5) In regulations 20(5)(b)(i) and (8)(a) and 61(3)(a), for “of the United Kingdom under the EU treaties” substitute “ under retained EU law ”.
- (6) In regulation 64—
- (a) in paragraph (1), for “pursuant to Article 26(1) of the Industrial Emissions Directive” substitute “ from a member State ”;
 - (b) in paragraph (2), omit the words from “For” to “Directive,”;
 - (c) after paragraph (2) insert—
 - “(3) In paragraph (1), “member State” has the meaning given in paragraph 10(4) of Schedule 5.”.
- (7) In Schedule 1, in Part 2—
- (a) in Chapter 5—
 - (i) in Section 5.4, in Part A(1)—
 - (aa) in paragraph (a), in the words before sub-paragraph (i), for “Council Directive [91/271/EEC](#) concerning urban waste-water treatment ^{M5}” substitute “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ^{M6} ”;
 - (bb) in paragraph (b), in the words before sub-paragraph (i), for “Council Directive [91/271/EEC](#)” substitute “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;
 - (ii) in Section 5.7, for “Directive [91/271/EEC](#)” substitute “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;

- (b) in Chapter 6, in Section 6.10, for the words from “Directive [2009/31/EC](#)^{M7}” to the end substitute “ Chapter 3 of Part 1 of the Energy Act 2008 ^{M8} and other EU-derived domestic legislation which transposed Directive [2009/31/EC](#) on the geological storage of carbon dioxide in relation to England and Wales ^{M9} ”.
- (8) After Schedule 1, insert new Schedule 1A which is set out in the Schedule to these Regulations.
- (9) In Schedule 3—
- (a) in Part 1, in Chapter 2, in Section 2, in paragraph 16(4), for the definition of “end-of-life vehicle” substitute—
- ““end-of-life vehicle” means a motor vehicle which is waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive.”;
- (b) in Part 3—
- (i) in paragraph 1, omit the definition of “small quantity of substance”;
- (ii) in paragraph 2(1), after paragraph (b) insert—
- “limited to the amount strictly necessary for that purpose”;
- (c) in Part 4—
- (i) in paragraph 1—
- (aa) in sub-paragraph (5), in the definition of “protected species”, for sub-paragraph (a) substitute—
- “(a) a species of a kind listed in Annex 1 to Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds ^{M10} or Annex 4 to Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora ^{M11}.”;
- (bb) after sub-paragraph (6) insert—
- “(7) In sub-paragraph (5), in sub-paragraph (a) of the definition of “protected species”, a reference to a species listed in an Annex to Directive [2009/147/EC](#) or Council Directive [92/43/EEC](#) is to be construed as including a reference to any other species protected under the Conservation of Habitats and Species Regulations 2017 ^{M12}.”;
- (d) in paragraph 4(2)(e), for the words from “measures” to the end substitute “ environmental objectives in relation to a river basin district ”.
- (10) In Schedule 5, in Part 1—
- (a) in paragraph 10—
- (i) in the heading, omit “other”;
- (ii) in sub-paragraph (1)(a) and (b), for “another” substitute “ a ”;
- (iii) in sub-paragraph (2)—
- (aa) in paragraph (a), omit the words from “to serve” to the end;
- (bb) in paragraph (b), omit the final “and”;
- (cc) in paragraph (c), at the end insert “ , and ”;
- (dd) after paragraph (c) insert—
- “(d) comply with sub-paragraph (2A).”;
- (iv) after sub-paragraph (2), insert—
- “(2A) The appropriate authority must—

- (a) consult the authorities of that member State, and
 - (b) allow such reasonable period as may have been agreed with those authorities for them to ensure that the authorities and the public concerned in that member State are given an opportunity to forward their representations on the relevant information supplied.”;
 - (v) in sub-paragraph (3)—
 - (aa) in paragraph (a), for “bilateral consultations have” substitute “consultation described in sub-paragraph (2A)(a) has”;
 - (bb) after paragraph (a) insert—
 - “(aa) notified it that the period described in sub-paragraph (2A)(b) has ended, and”;
 - (vi) in sub-paragraph (4)—
 - (aa) omit the definition of “relevant Article”;
 - (bb) in the definition of “relevant information”, in paragraph (b), for “required under Article 16” substitute “described in Article 7(2)”;
 - (b) in paragraph 17—
 - (i) in sub-paragraph (1), for “sub-paragraph (2)” substitute “sub-paragraphs (2) and (2A)”;
 - (ii) after sub-paragraph (2) insert—
 - “(2A) Where paragraph 10 applies to an application or regulator-initiated variation relating to an installation described in paragraph 10(5), the regulator must—
 - (a) notify the authorities of the member State consulted in accordance with paragraph 10(2A)(a) of the determination or decision, and
 - (b) provide those authorities with the information described in Article 24(2) of the Industrial Emission Directive.”.
- (11) In Schedule 7—
- (a) omit paragraph 2;
 - (b) in paragraph 5—
 - ^{F1}(i)
 - (ii) in sub-paragraph (h), omit “(excluding the penultimate sub-paragraph of Article 15(4))”;
 - (iii) in sub-paragraph (m), omit “(excluding the last sub-paragraph of Article 22(2))”;
 - (c) omit sub-paragraph (n).
- (12) In Schedule 8—
- (a) after paragraph 4(3) insert—
 - “(4) In sub-paragraph (3), a reference to a numbered Article of Directive 2011/92/EU ^{M13} is to be construed as a reference to the EU-derived domestic legislation which transposed that Article in respect of England and Wales ^{M14}.”;
 - (b) omit paragraph 5(1)(d).
- (13) In Schedule 9, in Part 1, in paragraph 3(1)(b) for “implementing Article 13 of the Waste Framework Directive” substitute “ensuring the objectives of Article 13 of the Waste Framework Directive are met”.

- (14) In Schedule 10—
 - (a) in paragraph 2(2)—
 - (i) in the words before sub-paragraph (a), omit “the Landfill Directive and”;
 - (ii) omit sub-paragraphs (b) and (c);
 - (b) in paragraph 5(3), omit “on the member State”;
 - (c) omit paragraph 6.
- (15) In Schedule 11—
 - (a) in paragraph 2—
 - (i) in sub-paragraph (1), in the definition of “waste”, after “Directive” insert “, as read with Articles 5 and 6 of that Directive ”;
 - (ii) omit sub-paragraph (2);
 - (b) omit paragraph 3(2).
- (16) In Schedule 12, omit paragraphs 2 and 3(2).
- (17) In Schedule 13—
 - (a) omit paragraph 2;
 - (b) in paragraph 4—
 - (i) ^{F2}in] sub-paragraph (1)—
 - ^{F3}(aa)
 - (bb) for paragraph (m) substitute—
“(m) Article 51.”;
 - (c) omit sub-paragraph (2).
- (18) In Schedule 14—
 - (a) omit paragraph 2;
 - (b) in paragraph 3—
 - ^{F4}(i)
 - (ii) in sub-paragraph (g), omit “(except article 59(4))”.
- (19) In Schedule 15—
 - (a) omit paragraph 2(2);
 - (b) in paragraph 3—
 - (i) in sub-paragraph (b), omit the words from “, except the second” to the end;
 - (ii) in sub-paragraph (e), omit “except 33(2)”.
- (20) In Schedule 16, omit paragraphs 2 and 3(2).
- (21) In Schedule 17, omit paragraph 2.
- (22) In Schedule 18, in Parts 1 and 2, omit paragraph 2(2).
- (23) In Schedule 20, omit paragraph 2(2).
- (24) In Schedule 22—
 - (a) in paragraph 6, in the words before sub-paragraph (a), for the words from “purposes” to “Groundwater Directive” substitute “ purpose of the duties in regulation 3 of the WFD Regulations ”;
 - (b) in paragraph 8—

- (i) in the words before paragraph (a), for “Article 4 of the Water Framework Directive” substitute “relation to a river basin district”;
 - (ii) in paragraph (d), for the words from “Directive 2009/31/EC” to the end, substitute “Chapter 3 of Part 1 of the Energy Act 2008 and other EU-derived domestic legislation which transposed Directive 2009/31/EC on the geological storage of carbon dioxide in relation to England and Wales”.
- (25) In Schedule 24, in paragraph 6—
- (a) in sub-paragraph (1)(b), for “Article 14(1) of the Energy Efficiency Directive” substitute “regulation 4(2)(a) of the Energy Efficiency (Encouragement, Assessment and Information) Regulations 2014 ^{M15}”;
 - (b) in sub-paragraph (6)(a), for the words from “Directive 2009/31/EC” to the end, substitute “Chapter 3 of Part 1 of the Energy Act 2008 and other EU-derived domestic legislation which transposed Directive 2009/31/EC on the geological storage of carbon dioxide in relation to England and Wales”.
- (26) In Schedule 25, in Part 2, in paragraph 6(2)(b), for the words from “measures” to the end, substitute “environmental objectives in relation to a river basin district”.
- (27) In Schedule 25A—
- (a) in Part 1, omit paragraph 2(4);
 - (b) in Part 2, in paragraph 5—
 - (i) omit the definition of “Ambient Air Quality Directive”;
 - (ii) after ““operating hours”,” insert “ and ”;
 - (iii) omit “and “zone””.

Textual Amendments

- F1** Reg. 2(11)(b)(i) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Environment \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2019 \(S.I. 2019/559\)](#), regs. 1(2), **3(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in reg. 2(17)(b)(i) substituted (31.12.2020 immediately before IP completion day) by [The Environment \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2019 \(S.I. 2019/559\)](#), regs. 1(2), **3(2)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Reg. 2(17)(b)(i)(aa) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Environment \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2019 \(S.I. 2019/559\)](#), regs. 1(2), **3(2)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Reg. 2(18)(b)(i) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Environment \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2019 \(S.I. 2019/559\)](#), regs. 1(2), **3(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

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

Marginal Citations

- M1** [S.I. 2016/1154](#), amended by [S.I. 2017/1012](#), 2018/110, 428, 575, 721 (W 140).
- M2** [S.I. 2003/3245](#), amended by [S.I. 2016/139](#) and 2017/407.
- M3** [S.I. 2004/99](#), amended by [S.I. 2016/139](#).
- M4** [S.I. 2017/407](#).
- M5** OJ No L 135, 30.5.1991, p 40, as last corrected by a corrigendum (OJ No L 189, 17.7.2015, p 41).

- M6** [S.I. 1994/2841](#), amended by [S.I. 2003/1788](#), 2005/2035, 2010/675, 2011/556, 2013/755 (W 90) and 2016/1154.
- M7** OJ No L 140, 5.6.2009, p 114, as last amended by Decision (EU) 2018/853 of the European Parliament and of the Council (OJ No L 150, 14.6.2018, p 155).
- M8** [2008 c. 32](#). Chapter 3 was amended by paragraph 5(3) of Part 1 of Schedule 4 to the [Marine and Coastal Access Act 2009 \(c.23\)](#), by section 107 of the [Energy Act 2011 \(c.16\)](#), by paragraphs 41 and 53 to 62 of Part 1 of Schedule 1, and paragraph 13 of Schedule 2 to the [Energy Act 2016 \(c.20\)](#) and by [S.I. 2011/2453](#), 2015/664, 2017/524.
- M9** See for example [S.I. 2010/1513](#), 2221, 2011/1483, 2305, 2453, 2012/461.
- M10** OJ No L 20, 26.1.2010, p 7, as amended by Council Directive 2013/17/EU (OJ No L 158, 10.6.2013, p 193).
- M11** OJ No L 206, 22.7.1992, p 7, as last amended by Council Directive 2013/17/EU (OJ No L 158, 10.6.2013, p 193).
- M12** [S.I. 2017/1012](#).
- M13** OJ No L 26, 28.1.2012, p 1, as amended by Directive 2014/52/EU of the European Parliament and of the Council (OJ No L 124, 25.4.2014, p 1).
- M14** See for example [S.I. 2012/698](#), 2014/557, 615, 2015/398, 446, 660, 810, 1937 (W 291), 2017/280 (W 74), 407, 565 (W 134), 567 (W 136), 571, 572, 580, 582, 583, 585, 588, 592, 593, 1070, 2018/695, 798, 834.
- M15** [S.I. 2014/1403](#).

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019, Section 2.