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STATUTORY INSTRUMENTS

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**2020 No. 1540**

**The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020**

**PART 4**

Amendment of subordinate legislation

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

**10.**—(1) In the Schedule to the Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019<sup>(1)</sup>, the inserted Schedule 1A to the Environmental Permitting (England and Wales) Regulations 2016<sup>(2)</sup> is amended as follows.

(2) In paragraph 4—

(a) in sub-paragraph (2)(b), for “exit day” substitute “IP completion day”;

(b) in sub-paragraph (5), for paragraph (a) substitute—

“(a) in paragraph 1, for “[Directive 2008/98/EC](#) of the European Parliament and of the Council” there were substituted “the Waste Framework Directive”;

(3) In paragraph 6(3)(f) and (g), for “exit day” substitute “IP completion day”;

(4) In paragraph 7—

(a) in sub-paragraph (2)(d), for “exit day” substitute “IP completion day”;

(b) for sub-paragraph (4) substitute—

“(4) Article 2 is to be read as if—

(a) for point (a) there were substituted—

“(a) the definitions of ‘municipal waste’, ‘waste producer’, ‘waste holder’, ‘waste management’, ‘separate collection’, ‘preparing for re-use’ and ‘recycling’ in the Waste Framework Directive apply, with references to ‘waste’ in those definitions being interpreted in accordance with the definition of ‘waste’ in Part 1 of the Environmental Permitting (England and Wales) Regulations 2016;”;

(b) points (l), (p) and (r) were omitted.”;

(c) for sub-paragraph (5) substitute—

“(5) Article 3 is to be read as if—

(a) in paragraph 2, in the words before the first indent, “Without prejudice to existing Community legislation,” were omitted;

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<sup>(1)</sup> S.I. 2019/39, amended by [S.I. 2019/559](#) and [2019/1078](#).

<sup>(2)</sup> [S.I. 2016/1154](#); relevant amending instruments are [S.I. 2018/575](#), [2018/721](#) and [2020/904](#). In regulation 2(1), the definition of “waste” is prospectively amended from IP completion day by [S.I. 2019/39](#).

- (b) for paragraph 3 there were substituted—
- “3. The management of extractive waste is excluded from the scope of this Directive where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to the Environmental Permitting (England and Wales) Regulations 2016.”;
- (d) in sub-paragraph (6), at the end insert—
- “(d) in point (f)—
- (i) after “waste”, in the first place it occurs, there were inserted “paper, metal, plastic and glass”;
- (ii) the words from “pursuant” to “Article 22 of that Directive” were omitted;
- (ii) for “Article 4 of that Directive” there were substituted “Article 4 of the Waste Framework Directive”;
- (e) for sub-paragraph (7) substitute—
- “(7) In Article 6, point (a) is to be read as if—
- (a) in the first paragraph, in the second sentence, for “may” there were substituted “does”;
- (b) in the second paragraph, for the words from “of Directive 2008/98/EC” to the end, there were substituted “set out in Part 1 of Schedule 1 to the Waste (England and Wales) Regulations 2011(3), or any objectives in retained EU law relating to the increase of preparing for re-use and recycling”.”;
- (f) omit sub-paragraphs (15)(d) and (16)(d);
- (g) for sub-paragraph (17)(a) substitute—
- “(a) in Section 2, in the table, in the first column, for “14.00 h CET” in both places it occurs there were substituted “1 p.m.”.”.
- (5) In paragraph 9(2)(c), for “exit day” substitute “IP completion day”.
- (6) In paragraph 12—
- (a) for sub-paragraph (2) substitute—
- “(2) When interpreting the Waste Framework Directive for the purposes of these Regulations—
- (a) an expression used in the Directive that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) “permit” means an environmental permit;
- (c) 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, appropriate agency or local authority which, immediately before IP completion day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion so far as it related to England or Wales;
- (d) the competent authority is the regulator.”;
- (b) for sub-paragraphs (6), (7) and (8) substitute—
- “(6) 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.
- (7) 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.
- (8) 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 England or in Wales (as the case may be).”;
- (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.”;
- (c) after sub-paragraph (9) insert—
- “(9A) Article 35(1) is to be read as if, for the second paragraph, there were substituted—
- “They shall make that data available to the regulator through any electronic registry established for the reporting of such data or, if no such registry is in operation, in such form and manner as the regulator may specify.”.”;
- (d) at the end insert—
- “(11) Annex 4a is to be read as if, in point 6, “, including through Union funds” were omitted.
- (12) In sub-paragraph (2)(c), “local authority” has the meaning given in paragraph 4(7).”.
- (7) In paragraph 14(2), for “exit day” substitute “IP completion day”.