

WELSH STATUTORY INSTRUMENTS

2005 No. 1806

The Hazardous Waste (Wales) Regulations 2005

PART 2

HAZARDOUS AND NON-HAZARDOUS WASTE

Hazardous waste

6. Subject to regulation 9, a waste is a hazardous waste if it is—
- (a) listed as a hazardous waste in the List of Wastes ^{M1};
 - ^{F1}(b)
 - (c) a specific batch of waste which is determined pursuant to regulation 8 to be a hazardous waste,

and the term “hazardous” and cognate expressions are to be construed accordingly.

Textual Amendments

- F1** Reg. 6(b) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**

Marginal Citations

- M1** Wastes listed as hazardous in the List of Wastes are considered hazardous pursuant to the first indent of Article 1.4 of the Hazardous Waste Directive.

Non-hazardous waste

7. The following are non-hazardous waste—
- (a) a waste which is not a hazardous waste pursuant to regulation 6; or
 - (b) a specific batch of waste which is determined pursuant to regulation 9 to be a non-hazardous waste,

and the expression “non-hazardous” and cognate expressions are to be construed accordingly.

Specific waste to be treated as hazardous

8.—(1) The Assembly, having regard to [^{F2}Annex III] and the limit values of concentration in the List of Wastes, may determine, in exceptional cases, that a specific batch of waste in Wales which—

- (a) is not listed in the List of Wastes;
- ^{F3}(b)
- (c) though of a type listed as a hazardous waste in the List of Wastes, is treated as non-hazardous pursuant to regulation 9(2),

displays one or more of the hazardous properties, and accordingly that it is to be treated for all purposes as hazardous waste.

(2) A specific batch of waste produced in England, Scotland or Northern Ireland and not listed as hazardous in the List of Wastes and which is for the time being determined ^{F4}... to be hazardous pursuant to [^{F5}paragraph (3)], is to be treated for all purposes as hazardous waste in Wales.

[^{F6}(3) For the purposes of paragraph (2), a specific batch of waste is determined to be hazardous—

- (a) in relation to England if—
 - (i) of a type listed in regulations made under section 62A(2) of the 1990 Act;
 - (ii) it is the subject of a determination by the Secretary of State under regulation 8 of the Hazardous Waste (England and Wales) Regulations 2005;
- (b) in relation to Northern Ireland, it is the subject of a determination by the Department of Agriculture, Environment and Rural Affairs under regulation 9 of the Hazardous Waste Regulations (Northern Ireland) 2005;
- (c) in relation to Scotland, it is the subject of a determination by the Scottish Ministers, because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex III.]

Textual Amendments

F2 Words in reg. 8(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 6**

F3 Reg. 8(1)(b) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**

F4 Words in reg. 8(2) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F5 Words in reg. 8(2) substituted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F6 Reg. 8(3) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Specific waste to be treated as non-hazardous

9.—(1) The Assembly may decide, in exceptional cases, on the basis of documentary evidence provided by the holder, and having regard to [^{F7}Annex III] and the limit values of concentration in the List of Wastes, that a specific batch of waste in Wales which—

- (a) is listed as hazardous waste in the List of Wastes;
- ^{F8}(b)
- (c) through of a type not listed as a hazardous waste in the List of Wastes, is treated as hazardous pursuant to regulation 8(2),

does not display any of the properties listed in Annex III ^{F9}...and accordingly that it is to be treated for all purposes as non-hazardous in Wales.

[^{F10}(1A) The power at paragraph (1) to decide that waste be treated as non-hazardous does not apply to waste which has been diluted or mixed with the aim of lowering the initial concentrations of hazardous substances to a level below the thresholds for defining waste as hazardous.]

(2) A specific batch of waste produced in England, Scotland or Northern Ireland and listed as a hazardous waste in the List of Wastes and which is for the time being determined ^{F11}... to be non-

hazardous pursuant to [F12]paragraph (3)], is, subject to any determination made under regulation 8, to be treated for all purposes as non-hazardous in Wales.

[F13](3) For the purposes of paragraph (2), a specific batch of waste is determined to be non-hazardous if it is the subject of a decision—

- (a) in relation to England, by the Secretary of State under regulation 9 of the Hazardous Waste (England and Wales) Regulations 2005;
- (b) in relation to Northern Ireland, by the Department of Agriculture, Environment and Rural Affairs under regulation 10 of the Hazardous Waste Regulations (Northern Ireland) 2005;
- (c) in relation to Scotland, by the Scottish Ministers that the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex III.]

Textual Amendments

- F7** Words in reg. 9(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(a)(i)**
- F8** Reg. 9(1)(b) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**
- F9** Words in reg. 9(1) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(a)(ii)**
- F10** Reg. 9(1A) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(b)**
- F11** Words in reg. 9(2) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in reg. 9(2) substituted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(a)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F13** Reg. 9(3) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Provisions common to regulations 8 and 9

10.—(1) The Assembly may revoke a determination made under regulation 8 or 9.

(2) The Assembly must, before making a determination under regulation 8 or 9 or revoking such a determination, except where it considers it inappropriate to do so on account of the nature of any emergency or grave danger, consult—

- (a) the requisite bodies;
- (b) the holder of the specific batch of waste; and
- (c) any other person appearing to it—
 - (i) to have an interest in the specific waste; or
 - (ii) to be otherwise directly affected by the determination.

(3) The Assembly must give notice of any determination made under regulation 8 or 9 or revocation made under regulation 8 or 9 to—

- (a) the requisite bodies;
- (b) the holder of the batch of waste concerned; and
- (c) any person it has consulted pursuant to paragraph (2)(c).

(4) The notice must give reasons for the determination or revocation, as the case may be.

Requisite bodies

11. For the purposes of this Part, the “requisite bodies” are—

- (a) the Agency;
- [^{F14}(aa) the NRBW;]
- (b) SEPA;
- (c) The Secretary of State;
- (d) the Scottish Executive;
- (e) the Northern Ireland Department of the Environment ^{M2};
- (f) the Health and Safety Executive; and
- (g) any organisation appearing to the Assembly to be representative of persons likely to be affected by the relevant determination, or revocation of a determination, as the case may be.

Textual Amendments

F14 Reg. 11(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 29](#) (with Sch. 7)

Marginal Citations

M2 The Northern Ireland Department of the Environment includes its executive agency the Environmental Heritage Service.

Changes to legislation:

There are currently no known outstanding effects for the The Hazardous Waste (Wales) Regulations 2005, PART 2 .