
WELSH STATUTORY INSTRUMENTS

2020 No. 1339

The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2020

Amendment of the Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019

2.—(1) The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019(1) are amended as follows.

(2) In regulation 6—

(a) for paragraph (2) substitute—

“(2) In section 9(3) at the end insert “, and read as if—

(a) in Article 2—

(i) in point (a) the reference to the definition of ‘waste’ were omitted;

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

“(aa) ‘Waste’ has the meaning given in Article 3(1) of [Directive 2008/98/EC](#) (“the Waste Framework Directive”), as read with Articles 5 and 6 of that Directive.”;

(b) in Article 3—

(i) in paragraph (2) for “Without prejudice to existing Community legislation the” there were substituted “The”;

(ii) for paragraph (3) there were substituted—

“3. The management of extractive waste, within the meaning given in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016, 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 those Regulations.””

(b) omit paragraph (3);

(c) in paragraph (4)—

(i) in sub-paragraph (a), omit “(as amended by regulation 3(3))”;

(ii) in sub-paragraph (b)—

(aa) in the inserted subsection (3), for “exit day” substitute “IP completion day (within the meaning given to that expression in the European Union (Withdrawal Agreement) Act 2020)”;

(bb) for the inserted subsections (5) to (7) substitute—

“(5) Article 5 is to be read as if—

(a) in paragraph 1, for “Member States shall take appropriate measures to ensure that a”, there were substituted “A”;

- (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 Welsh Ministers or the Natural Resources Body for Wales 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 for “Member States shall take appropriate measures to ensure that waste”, there were substituted “Waste”;
 - (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 (within the meaning given to that expression in the European Union (Withdrawal) Act 2018) 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 Welsh Ministers or the Natural Resources Body for Wales for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second sub-paragraph, 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 sub-paragraphs 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 Natural Resources Body for Wales”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for “Member States” there were substituted “The Natural Resources Body for Wales”;
 - (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 Wales.”;
- (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.”
- (3) In regulation 7—
- (a) for paragraph (2) substitute —
- “(2) In regulation 2(1)—
- (a) in the definition of “waste facility (*“cyfleuster gwastraff”*)”, omit “(as substituted by regulation 4(2))”;
- (b) after the definition of “waste facility” insert—
- ““the Waste Framework Directive” (*“y Gyfarwyddeb Fframwaith Gwastraff”*) means [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste, as last amended by Directive (EU) 2018/851 and read in accordance with paragraphs (3) to (9).”
- (b) omit paragraph (3);
- (c) in paragraph (4)—
- (i) for “After paragraph (2)” substitute “After regulation 2(2)”;
- (ii) in the inserted paragraph (3), for “exit day” substitute “IP completion day (within the meaning given to that expression in the European Union (Withdrawal Agreement) Act 2020)”;
- (iii) for the inserted paragraphs (5) to (7) substitute—
- “(5) Article 5 is to be read as if—
- (a) in paragraph 1, for “Member States shall take appropriate measures to ensure that a”, there were substituted “A”;
- (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 Welsh Ministers or the Natural Resources Body for Wales 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, for “Member States shall take appropriate measures to ensure that waste” there were substituted “Waste”;
 - (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 (within the meaning given to that expression in the European Union (Withdrawal) Act 2018) 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 Welsh Ministers or the Natural Resources Body for Wales for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second sub-paragraph, 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 sub-paragraphs 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 Natural Resources Body for Wales”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for “Member States” there were substituted “The Natural Resources Body for Wales”;
 - (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 Wales.”;
 - (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.”
 - (d) in paragraph (6) omit “(as amended by regulation 4(3))”;

- (e) for paragraph 7 substitute—
 - “(7) After regulation 7(10) insert—
 - “(11) For the purposes of regulation 7(10) [Directive 1999/31/EC](#) is to be read as if—
 - (a) in Article 2—
 - (i) in point (a), the reference to the definition of ‘waste’ were omitted;
 - (ii) after point (a) there were inserted—
 - “(aa) ‘Waste’ has the meaning given in Article 3(1) of [Directive 2008/98/EC](#) (“the Waste Framework Directive”), as read with Articles 5 and 6 of that Directive.”
 - (b) in Article 3—
 - (i) in paragraph (2) for “Without prejudice to existing Community legislation the” there were substituted “The”;
 - (ii) for paragraph (3) there were substituted—
 - (3) The management of extractive waste, within the meaning given in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016, 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 those Regulations.”
- (4) In regulation 8—
 - (a) in paragraph (3)—
 - (i) in the inserted regulation 2A—
 - (aa) in paragraph (2), for “exit day” substitute “IP completion day (within the meaning given to that expression in the European Union (Withdrawal Agreement) Act 2020)”;
 - (bb) omit paragraph (4);
 - (cc) for paragraphs (5) to (7) substitute—
 - “(5) Article 5 is to be read as if—
 - (a) in paragraph 1, for “Member States shall take appropriate measures to ensure that a” there were substituted “A”;
 - (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 Welsh Ministers or the Natural Resources Body for Wales 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, for “Member States shall take appropriate measures to ensure that waste” there were substituted “Waste”;
 - (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 (within the meaning given to that expression in the European Union (Withdrawal) Act 2018) 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 Welsh Ministers or the Natural Resources Body for Wales for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second sub-paragraph 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 sub-paragraphs 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 Natural Resources Body for Wales”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for “Member States” there were substituted “The Natural Resources Body for Wales”;
 - (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 Wales.”;
 - (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 wastewhich is to be considered as hazardous waste or non-hazardous waste.”;

- (c) paragraphs 2, 3, 6 and 7 were omitted.”;
- (ii) in the inserted regulation 2B—
 - (aa) in the heading omit “and Industrial Emissions Directive”;
 - (bb) omit paragraphs (4), (5) and (6);
- (b) in paragraph 4(b), for the inserted definition of “Landfill Directive”, substitute—

“the Landfill Directive” (“y Gyfarwyddeb Dirlenwi”) 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)—
 - (aa) the reference to the definition of ‘waste’ were omitted; and
 - (bb) for “[Directive 2008/98/EC](#)” there were substituted “the Waste Framework Directive”;
 - (ii) after point (a) there were inserted—

“(aa) ‘waste’ has the meaning given by regulation 2(1)(b) of the Hazardous Waste (Wales) Regulations 2005”;
 - (b) in Article 3—
 - (i) in paragraph 2, for “Without prejudice to existing Community legislation the” there were substituted “The”;
 - (ii) for paragraph 3 there were substituted—

“**3.** The management of extractive waste, within the meaning given in regulation 2(1) of the Environmental Permitting Regulations, 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 those Regulations.”
- (c) in paragraph (7) omit “(as amended by regulation 5(2) and 5(3)).
- (5) In regulation 9—
 - (a) in paragraph (2), omit “(“y Gyfarwyddeb Fframwaith Gwastraff”) (as substituted by regulation 6)”;
 - (b) in paragraph (3)—
 - (i) for “After paragraph (2)” substitute “after regulation 2(2)”;
 - (ii) in the inserted paragraph (3), for “exit day” substitute “IP completion day (within the meaning given to that expression in the European Union (Withdrawal Agreement) Act 2020)”;
 - (iii) for the inserted paragraphs (5) to (7), substitute—

“(5) Article 5 is to be read as if—

 - (a) in paragraph 1, for “Member States shall take appropriate measures to ensure that a” there were substituted “A”;
 - (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 Welsh Ministers or the Natural Resources Body for Wales 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, for “Member States shall take appropriate measures to ensure that waste” there were substituted “Waste”;
 - (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 (within the meaning given to that expression in the European Union (Withdrawal) Act 2018 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 Welsh Ministers or the Natural resources Body for Wales for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second sub-paragraph, 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 sub-paragraphs 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 Natural Resources Body for Wales”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for “Member States” there were substituted “The Natural Resources Body for Wales”;
 - (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 Wales.”;

- (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.”