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STATUTORY INSTRUMENTS

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**2019 No. 620**

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

**PART 3**

Amendment of primary legislation

**Environmental Protection Act 1990**

5.—(1) The Environmental Protection Act 1990 is amended as follows.

(2) In section 57(8), as it extends to England and Wales, in the definition of “waste”, after “Waste Framework Directive” (as substituted by regulation 2(4)), insert “, as read with Articles 5 and 6 of that Directive,”.

(3) In section 75(1A) (as inserted by regulation 2(6)(a)), at the end insert “, and read in accordance with section 75A ”.

(4) After section 75 insert—

**“75A Modification of the Waste Framework Directive**

(1) For the purposes of this Part, the Waste Framework Directive is to be read in accordance with this section.

(2) A reference to one or more member States in a provision of the Waste Framework Directive 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, waste regulation authority or local authority which, immediately before [<sup>1</sup>IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England, Wales or Scotland.

(3) Article 2 is to be read as if—

(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”;

(iii) in point (d), as it extends to England and Wales, for the words from “Directive 2006/21/EC<sup>M1</sup>” to the end there were substituted “the Mining Waste Directive”;

(iv) for point (d), as it extends to Scotland, there were substituted—

“(d) extractive waste, which has the same meaning as in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010 (S.S.I. 2010/60)<sup>M2</sup>.”;

- (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
  - (c) paragraph 4 were omitted.
- [<sup>F2</sup>(4) 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 waste regulation authority for the purposes of this Article.”;
  - (c) paragraphs 2 and 3 were omitted.
- (5) 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 waste regulation authority 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 waste regulation authority”;
      - (bb) the second sentence were omitted;
    - (ii) in the second subparagraph—
      - (aa) for “Member States” there were substituted “The waste regulation authority”;
      - (bb) “by competent authorities” were omitted.
- (6) 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, Wales or Scotland (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.]

(7) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.

(8) In [<sup>F3</sup>this section]—

“appropriate authority” means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers;

(c) in relation to Scotland, the Scottish Ministers;

“local authority” means—

(a) in England outside Greater London—

(i) a district council,

(ii) a county council, or

(iii) the Council of the Isles of Scilly;

(b) in Greater London—

(i) the council of a London borough,

(ii) the Common Council of the City of London,

(iii) the Sub-Treasurer of the Inner Temple, or

(iv) the Under-Treasurer of the Middle Temple;

(c) in Wales—

(i) a county council, or

(ii) a county borough council;

(d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 <sup>M3</sup>.”.

**F1** Words in reg. 5(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(2)(a)**

**F2** Words in reg. 5(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(2)(b)**

**F3** Words in reg. 5(4) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **14(2)(c)**

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**Changes to legislation:** There are currently no known outstanding effects for the The Waste  
(Miscellaneous Amendments) (EU Exit) Regulations 2019, Section 5. (See end of Document for details)

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**Commencement Information**

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

**Marginal Citations**

- M1** OJ No L 102, 11.4.2006, p 15, as last amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).
- M2** [S.S.I. 2010/60](#).
- M3** [1994 c. 39](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019, Section 5.