
STATUTORY INSTRUMENTS

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 Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019

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

(2) In regulation 5(4), in the inserted section 75A of the Environmental Protection Act 1990⁽²⁾—

(a) in subsection (2), for “exit day” substitute “IP completion day”;

(b) for subsections (4) to (6) substitute—

“(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

(1) S.I. 2019/620, amended by S.I. 2019/1078.

(2) 1990 c. 43. Section 75A was inserted by S.I. 2019/620, and amended by S.I. 2020/904.

- (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.”;
- (c) in subsection (8), for “subsection (2)” substitute “this section”.
- (3) In regulation 6(4)(b)—
 - (a) in the inserted subsection (3) of section 37 of the Waste and Emissions Trading Act 2003(3), for “exit day” substitute “IP completion day”;
 - (b) in the inserted subsection (4) of that section, in paragraph (a)(i), at the end of the substituted text insert “or, in relation to Northern Ireland, EU legislation which has effect by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement”;
 - (c) for the inserted subsections (5), (6) and (7) of that section substitute—

“(5) Article 5 is to be read as if—

(3) 2003 c. 33. Section 37 was amended by [S.I. 2011/988](#) (as it extends to England and Wales), [S.S.I. 2011/226](#) (as it extends to Scotland), [S.I. 2019/620](#) and [S.I. 2020/904](#).

- (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.
- (6) 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.
- (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 England, Wales, Scotland or Northern Ireland (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.”.
- (4) In regulation 8—
- (a) in paragraph (2)—
 - (i) before sub-paragraph (a) insert—

“(za) for the heading, substitute “Scope and interpretation”.”;
 - (ii) in sub-paragraph (b), in the inserted paragraph 1A, for “United Kingdom”, in both places that it occurs, substitute “Great Britain”;
 - (iii) after sub-paragraph (b) insert—

“(c) after paragraph 2 insert—

“**3.** In this Regulation, “appliance” means any electrical or electronic equipment, as defined by Article 3(1)(a) of [Directive 2012/19/EU](#) of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), which is fully or partly powered by batteries or accumulators or is capable of being so.”.”;
 - (b) for paragraph (5) substitute—

“(5) In Annex 1, in point (1), for “Article 11 of [Directive 2006/66/EC](#)” substitute “regulation 7 of the Batteries and Accumulators (Placing on the Market) Regulations 2008(4)”.”;
 - (c) omit paragraph (6).
- (5) In regulation 9—
- (a) in paragraph (3), in the inserted Article 2A—
 - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
 - (iii) for paragraphs 5, 6 and 7 substitute—

“**5.** 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 competent authority 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, “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 competent 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 competent authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for “Member States” there were substituted “The competent authority”;
 - (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 England, Wales, Scotland or Northern Ireland (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.”;
- (iv) in paragraph 9, for “paragraph 2” substitute “this Article”;
- (b) in paragraph (3), in the inserted Article 2B, for paragraph 8 substitute—
 - “**8.** In paragraph 6(c), “the Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Directive (EU) 2018/850, and read as if, in Article 2—
 - (a) in point (a) “waste,” were omitted; and
 - (b) after point (a) there were inserted—
 - “(aa) “waste” means anything that—
 - (i) is waste within the meaning of Article 3(1) of [Directive 2008/98/EC](#), as read with Articles 5 and 6 of that Directive, and
 - (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”.
 - (c) in paragraph (5), in the inserted Article 6A, for “exit day” in each place that it occurs, substitute “IP completion day”.
- (6) In regulation 10—
 - (a) in paragraph (2)(b), in the inserted point (4C), for “[Directive 2013/56/EU](#)” substitute “Directive (EU) 2018/849”;
 - (b) in paragraph (2)(c), in the inserted text—
 - (i) in paragraph 2, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (ii) for paragraphs 3, 4 and 5 substitute—
 - “**3.** 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 competent authority for the purposes of this Article.”;
 - (c) paragraphs 2 and 3 were omitted.
 - 4.** 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 competent 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 competent authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for “Member States” there were substituted “The competent authority”;
 - (bb) “by competent authorities” were omitted.
- 5.** In this Article—
- “appropriate agency” means—
- (a) in relation to England, the Environment Agency;
 - (b) in relation to Wales, the Natural Resources Body for Wales;
 - (c) in relation to Scotland, the Scottish Environment Protection Agency;
- “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.”;
- (c) in paragraph (6), in the inserted text—
 - (i) in point 8—
 - (aa) omit “in the United Kingdom”;

- (bb) for “within the United Kingdom” substitute “within Great Britain”;
 - (ii) in point 9(a), for “as it had effect immediately before 4th July 2018” substitute “as last amended by Directive (EU) 2018/849”;
 - (iii) in point 9(c), for “the United Kingdom”, in both places that it occurs, substitute “Great Britain”.
- (7) In regulation 11—
- (a) in paragraph (3), in the inserted Article 2A—
 - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
 - (iii) for paragraphs 3, 4 and 5 substitute—
 - “3. 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 competent authority for the purposes of this Article.”;
 - (c) paragraphs 2 and 3 were omitted.
4. 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 competent 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 competent authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for “Member States” there were substituted “The competent authority”;
 - (bb) “by competent authorities” were omitted.
5. 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, Scotland or Northern Ireland (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.”;
 - (iv) in paragraph 7, for “paragraph 2” substitute “this Article”.
- (b) in paragraph (5), in the inserted Article 5A, for “exit day”, in each place that it occurs, substitute “IP completion day”.
- (8) In regulation 12—
- (a) in paragraph (3), in the inserted Article 2A—
 - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
 - (iii) for paragraphs 5, 6 and 7 substitute—

“5. 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 competent authority 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, “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 competent 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 competent authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second subparagraph—
 - (aa) for “Member States” there were substituted “The competent authority”;
 - (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 England, Wales, Scotland or Northern Ireland (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.”;
- (b) in paragraph (3), in the inserted Article 2B, for paragraph 8 substitute—

“8. In paragraph 6(c), “the Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Directive (EU) 2018/850, and read as if, in Article 2—

 - (a) in point (a) “waste,” were omitted; and
 - (b) after point (a) there were inserted—
 - “(aa) “waste” means anything that—
 - (i) is waste within the meaning of Article 3(1) of [Directive 2008/98/EC](#), as read with Articles 5 and 6 of that Directive, and
 - (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”.
- (c) in paragraph (5), in the inserted Article 6A, for “exit day” in each place that it occurs, substitute “IP completion day”;
- (d) in paragraph (8)(b)—
 - (i) for “Commission Directive (EU) 2017/2096” substitute “Commission Delegated Directive (EU) 2020/363”;
 - (ii) for “as it had effect immediately before 4th July 2018” substitute “as last amended by Directive (EU) 2018/849”.
- (9) Omit regulation 13.
- (10) In regulation 14(2), in the inserted Article A1—
 - (a) in paragraph 1 for “Directive (EU) 2015/720” substitute “Directive (EU) 2018/852”;
 - (b) for paragraph 3 substitute—

“3. Article 3 is to be read as if, in paragraph 2, for “Article 3 of [Directive 2008/98/EC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.
 - (c) in paragraph 4—
 - (i) for “3(b)” substitute “3”;
 - (ii) for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (d) for paragraphs 5, 6 and 7 substitute—

“5. 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.
6. 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.
7. In this Article—
- “appropriate agency” means—
- (a) in relation to England, the Environment Agency;
 - (b) in regulation to Wales, the Natural Resources Body for Wales;
 - (c) in relation to Scotland, the Scottish Environment Protection Agency;
- “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.”.

(11) In regulation 15—

(a) in paragraph (2), in the inserted Article A1—

(i) in paragraph 2, for “Council [Directive 2011/97/EU](#)” substitute “Directive (EU) 2018/850”;

(ii) in paragraph 3, for “exit day” substitute “IP completion day”;

(iii) in paragraph 5, for points (a) and (b) substitute—

“(a) in point (a)—

(i) “‘waste’,” were omitted; and

(ii) for “[Directive 2008/98/EC](#)” there were substituted “the Waste Framework Directive”;

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

“(aa) “waste” means anything that—

(i) is waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive, and

(ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”;

(iv) after paragraph 5 insert—

“**5A.** Article 3 is to be read as if—

(a) in paragraph 2, “Without prejudice to existing Community legislation” were omitted;

(b) for paragraph 3 there were substituted—

“**3.** The management of extractive waste is excluded from the scope of this Directive—

(a) in relation to England and Wales, 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 (“the 2016 Regulations”);

(b) in relation to Northern Ireland, where it falls within the scope of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015(**5**) (“the 2015 Regulations”).

In this paragraph, “extractive waste”—

(a) in relation to England and Wales, has the meaning given in regulation 2(1) of the 2016 Regulations;

(b) in relation to Northern Ireland, has the meaning given in regulation 2(2) of the 2015 Regulations.”;

(v) in 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;
- (iii) for “Article 4 of that Directive” there were substituted “Article 4 of the Waste Framework Directive”;
- (vi) after paragraph 6, insert—
 - “**6A.** Article 6(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, or any objectives in retained EU law relating to the increase of preparing for re-use and recycling”.
- (vii) omit paragraphs 10(b), 11(d) and 12(a)(i);
- (b) in paragraph (2), in the inserted Article A2—
 - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
 - (iii) for paragraphs 4, 5 and 6, substitute—
 - “**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 appropriate agency 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 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.
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 Northern Ireland (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) for paragraph (7)(d)(v) substitute—
- “(v) in section 2.2.1, in the first paragraph—
 - (aa) for “Article 2(b) of the Landfill Directive” substitute “Article 3(2b) of the Waste Framework Directive”;
 - (bb) for “the European waste list” substitute “Commission [Decision 2000/532/EC](#)”;
- (12) In regulation 16—
- (a) in paragraph (2), in the inserted Article 1A—

- (i) in paragraph 1, for “Directive (EU) 2015/720” substitute “Directive (EU) 2018/852(6)”;
- (ii) for paragraph 2 substitute—
 - “2. Article 3 is to be read as if, in paragraph 2, for “Article 3 of [Directive 2008/98/EC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.”;
- (iii) in paragraph 4—
 - (aa) for “2(b)” substitute “2”;
 - (bb) for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
- (iv) for paragraphs 5, 6 and 7 substitute—
 - “5. 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.
 - 6. 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.
7. In this Article—
- “appropriate agency” means—
- (a) in relation to England, the Environment Agency;
 - (b) in regulation to Wales, the Natural Resources Body for Wales;
 - (c) in relation to Scotland, the Scottish Environment Protection Agency;
- “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.”;
- (b) in paragraph (6)(c), in the inserted paragraph 2, for “exit day” substitute “IP completion day”.
- (13) In regulation 17—
- (a) in paragraph (2)(b), for the inserted paragraph 3(a) substitute—
 - “(a) in so far as it extends to England and Wales—
 - (i) “financial guarantee” means the financial guarantee referred to in Article 14 of [Directive 2006/21/EC](#), as it applies by virtue of paragraph 7(j) of Schedule 20 to the Environmental Permitting (England and Wales) Regulations 2016 (“the 2016 Regulations”);
 - (ii) “rehabilitation” has the meaning given in Article 3(20) of [Directive 2006/21/EC](#), and for the purposes of that definition “waste facility” has the meaning given in paragraph (iv);
 - (iii) “treatment” has the meaning given in Article 3(8) of [Directive 2006/21/EC](#), and for the purposes of that definition “waste” has the meaning given in paragraph (b) of the definition of “waste” in regulation 2(1) of the 2016 Regulations;
 - (iv) “waste facility” has the meaning given to “mining waste facility” in paragraph 2(1) of Schedule 20 to the 2016 Regulations;”;
 - (b) omit paragraph (3).
- (14) In regulation 18(2)—
- (a) in the inserted Article A2, in paragraph 2, for “exit day” substitute “IP completion day”;

- (b) in the inserted Article A3—
 - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
 - (iii) for paragraph 3, 4 and 5 substitute—
 - “3. 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.
 - 4. 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.
- 5. 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, Scotland or Northern Ireland (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.”.
- (15) In regulation 19(3)—
 - (a) in the inserted Article 1A, in paragraph 2, for “exit day” substitute “IP completion day”;
 - (b) in the inserted Article 1B—
 - (i) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (ii) in paragraph 2, for “exit day” substitute “IP completion day”;
 - (iii) for paragraphs 3, 4 and 5 substitute—

“**3.** 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.
- 4. 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.

5. 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, Scotland or Northern Ireland (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.”;
 - (iv) in paragraph 7, for “paragraph 2” substitute “this Article”.
- (16) In regulation 20(2), in the inserted Article A1—

- (a) in paragraph 3, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
- (b) in paragraph 4, for “exit day” substitute “IP completion day”;
- (c) for paragraphs 5, 6 and 7 substitute—

“5. 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.

6. 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.

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 England, Wales, Scotland or Northern Ireland (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.”;

(d) in paragraph 9, for “paragraph 4” substitute “this Article”.

(17) In regulation 21(3), in the inserted Article 1A—

(a) in paragraph 1, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;

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

(c) after paragraph 2 insert—

“**2A.** Article 3 is to be read as if points 2b, 2c, 15a and 17a were omitted.”;

(d) for paragraphs 3 to 6 substitute—

“**3.** 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.

4. 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.
- 5. 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, Scotland or Northern Ireland (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.
- 6. Article 11(2) is to be read as if—
 - (a) in the words before point (a), for “European” there were substituted “United Kingdom”;
 - (b) points (c) to (e) were omitted.”;
- (e) in paragraph 8, for “paragraph 2” substitute “this Article”.