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STATUTORY INSTRUMENTS

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**2019 No. 282**

**EXITING THE EUROPEAN  
UNION, NORTHERN IRELAND  
ENVIRONMENTAL PROTECTION,  
NORTHERN IRELAND**

The Waste (Miscellaneous Amendments)  
(Northern Ireland) (EU Exit) Regulations 2019

<i>Sift requirements satisfied</i>	<i>29th January 2019</i>
<i>Made - - - -</i>	<i>7th February 2019</i>
<i>Laid before Parliament</i>	<i>18th February 2019</i>
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these regulations) have been satisfied.

**PART 1**

Introductory

**Citation, commencement and extent**

1. These Regulations may be cited as the Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 and come into force on exit day.
2. These Regulations extend to Northern Ireland only.

## Part 2

### Amendments to secondary legislation

#### **The Hazardous Waste Regulations (Northern Ireland) 2005**

- 3.—(1) The Hazardous Waste Regulations (Northern Ireland) 2005<sup>(2)</sup> are amended as follows.
- (2) In regulation 2(1)—
- (a) after the definition of “the 1997 Order” insert—
- ““appropriate authority” means the Department of Agriculture, Environment and Rural Affairs”; and
- (b) after the definition of “industrial battery or accumulator” insert—
- ““Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Council [Directive 2011/97/EU](#)<sup>(3)</sup>
- (i) in Article 2—
- (aa) for the definition in point (a) there were substituted—
- ““waste” has the meaning given by regulation 3(1)(b) of the Hazardous Waste Regulations (Northern Ireland) 2005”; and
- (bb) for the definition in point (c) there were substituted—
- ““hazardous waste” has the meaning given by regulation 6 of the Hazardous Waste Regulations (Northern Ireland) 2005”; and
- (ii) in Article 3(2), “Without prejudice to existing Community legislation,” were omitted.
- (3) In regulation 3(1)—
- (a) in sub-paragraph (a), at the end insert “, and as read in accordance with regulation 3A”; and
- (b) in sub-paragraph (b)(i), for “as read with Article 5(1)” substitute “as read with Article 5 and 6 of that Directive”.
- (4) After regulation 3 insert—

#### **“Modification of the Waste Directive**

**3A.**—(1) For the purposes of these Regulations, the Waste Directive<sup>(4)</sup> is to be read as follows.

(2) 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 or local authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in respect of Northern Ireland.

(3) In Article 2—

(a) in paragraph 2—

(i) in the words before point (a), for “other Community legislation” there were substituted “retained EU law”;

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(2) [S.R.2005 No.300](#) as amended by [S.R.2011 No.127](#) and [S.R.2015 No.288](#)

(3) [OJ No L328, 10.12.2011, p.49](#)

(4) [OJ No L312, 22.11.2008, p.3](#)

- (ii) in points (b) and (c), for “Regulation (EC) No 1774/2002(5)” there were substituted “Regulation (EC) No 1069/2009(6)”; and
- (iii) in point (d), for the words from “Directive 2006/21/EC(7)” to the end there were substituted “the Mining Waste Directive”;
- (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted; and
- (c) paragraph 4 were omitted.
- (4) In Article 3(20), for “Article 2(11) of Directive 96/61/EC(8)” there were substituted “Article 3(10) of the Industrial Emissions Directive”.
- (5) In Article 5, paragraph 2 were omitted.
- (6) In Article 6—
  - (a) paragraphs 1 to 3 were omitted;
  - (b) in paragraph 4—
    - (i) in the first sentence, for the words from “Where criteria” to “paragraphs 1 and 2” there were substituted “Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011(9), Commission Regulation (EU) No 1179/2012(10) or Commission Regulation (EU) No 715/2013(11) applies”;
    - and
    - (ii) the second sentence were omitted.
- (7) In Article 7—
  - (a) in paragraph 1—
    - (i) the first and second sentences were omitted; and
    - (ii) in the third sentence, for “shall be binding” there were substituted “shall, subject to paragraph 1A, be binding”;
  - (b) after paragraph 1, there were inserted—
    - “1A. Paragraph 1 is subject to—
      - (a) a determination by the Department under regulation 9(1) of the Hazardous Waste Regulations (Northern Ireland) 2005 that a specific waste is to be treated as hazardous waste;
      - (b) a decision made by the Department under regulation 10(1) of the Hazardous Waste Regulations (Northern Ireland) 2005 that a specific waste is to be treated as non-hazardous waste;
      - (c) the treating of a specific waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 9(2) or 10(2) of the Hazardous Waste Regulations (Northern Ireland) 2005 ; and
      - (d) regulations, if any, made by the Department under Article 30 of the Waste and Contaminated Land (Northern Ireland) Order 1997(12).”;

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(5) OJ No L273, 10.10.2002, p.1 repealed by OJ No. L300, 14.11.2009, p.1

(6) OJ No L300, 14.11.2009, p.1, as last amended by OJ No L354, 28.12.2013, p.86

(7) OJ No L102, 11.4.2006, p.15

(8) OJ No L257, 10.10.1996, p.26, repealed by Directive 2008/1/EC of the European Parliament and of the Council (OJ No L24, 29.1.2008, p.8

(9) OJ No L94, 8.4.2011, p.2

(10) OJ No L337, 11.12.2012, p.31

(11) OJ No L201, 26.7.2013, p.14

(12) S.I. 1997/2778

(c) paragraphs 2, 3 and 5 were omitted;

(d) after paragraph 6 there were inserted—

“**6A.** In this Article, the “list of wastes” means the list established by Commission [Decision 2000/532/EC](#)(**13**)

(e) paragraph 7 were omitted.

(8) In Article 19—

(a) in paragraph 1, for “Community” there were substituted “national”; and

(b) in paragraph 2, for “a Member State” there were substituted “Northern Ireland”.

(9) In Annex 3, in entry HP 9, in the second sentence, the words “in the Member States” were omitted.

(10) In paragraph (2), “local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972(**14**)

**“Meaning of “the Mining Waste Directive” and “the Industrial Emissions Directive”**

**2B.**—(1) In regulation 3A(3)(a)(iii), “the Mining Waste Directive” means [Directive 2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive Industries(**15**), read in accordance with paragraphs (2) and (3) of this regulation.

(2) In Article 2 of the Mining Waste Directive—

(a) in paragraph 2(c), the reference to Article 11(3)(j) of [Directive 2000/60/EC](#)(**16**) were a reference to that Article read in accordance with paragraph (7) of this regulation; and

(b) paragraphs 3 and 4 were omitted.

(3) In Article 3(1) of the Mining Waste Directive, for “Article 1(a) of [Directive 75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Directive, read in accordance with Articles 5 and 6 of that Directive”.

(4) In regulation 3A(4), “the Industrial Emissions Directive” means [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (**17**), read in accordance with paragraphs 5 and 6 of this regulation.

(5) In Article 3 of the Industrial Emissions Directive—

(a) in point 1(a), for the words from “Article 1” to the end there were substituted “Article 4(78) of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation(**18**)”;

(b) in point 10(b), for “Member State in question” there were substituted “United Kingdom”;

(c) in point 23, for the words from “point 1” to the end there were substituted “point 1 of the second paragraph of Article 2 of Council [Directive 2009/158/EC](#) on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs(**19**)”; and

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(13) OJ No L226, 6.9.2000, p.3

(14) [1972 c.9 \(NI\)](#); section 1 was amended by the Local Government (Boundaries) Act (Northern Ireland) [2008 c.7 \(N.I.\)](#) section 3(1) and [S.I. 1985/454](#)

(15) OJ No L102, 11.04.2006, p.15, as last amended by Regulation ([EC](#)) [596/2009](#) (OJ No L188, 18.7.2009, p.14)

(16) OJ No L327, 22.12.2000, p.1, as last amended by Commission [Directive 2014/101/EU](#) (OJ No L311, 31.10.2014, p.32).

(17) OJ No L334, 17.12.2010, p.17, as corrected by a corrigendum (OJ No L158, 19.6.2012, p.25)

(18) OJ No L13, 17.01.2014, p.1, as corrected by a corrigendum (OJ No. L72, 17.3.2016, p.69)

(19) OJ No L343, 22.12.2009, p.74, as last amended by Commission Implementing [Decision 2011/879/EU](#) (OJ No L343, 23.12.2011, p.105)

- (d) in point (37), for the words from “of the European” to the end there were substituted “, read with Article 5 and 6 of that Directive”.
- (6) In Annex 1—
- (a) in the words before point 1, the second paragraph were omitted;
- (b) in point 5.3—
- (i) in point (a), in the words before point (i), for “Council [Directive 91/271/EEC](#) of 21 May 1991 concerning urban waste-water treatment<sup>(20)</sup>” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007<sup>(21)</sup>”; and
- (ii) in point (b), in the words before point (i), for “[Directive 91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007”;
- (c) in point 5.4, for “in Article 2(g) of Council [Directive 1999/31/EC](#) of 26 April 1999 on the landfill of waste<sup>(22)</sup>” there were substituted “the Landfill Directive”;
- (d) in point 6.9, for “[Directive 2009/31/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2009/31/EC](#) in respect of Northern Ireland<sup>(23)</sup>”; and
- (e) in point 6.11, for “[Directive 91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007”.
- (7) For the purposes of paragraph (2)(a), Article 11(3)(j) of [Directive 2000/60/EC](#) is to be read as if—
- (a) for “Member States” where it occurs there were substituted “the appropriate authority”;
- (b) in the words after the final indent, “environmental objectives” in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those regulations.
- (8) In paragraph (7)(b)—
- “the WFD Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017<sup>(24)</sup>”.
- (5) In regulation 9—
- (a) in paragraph (2), for “Article 7(2) of the Waste Directive” substitute “paragraph (3)”;
- (b) after paragraph (2) insert—
- “(3) For the purposes of paragraph (2), a specific waste may be determined to be hazardous—
- (a) in relation to Wales—
- (i) if listed in regulations made under section 62A(2) of the Environmental Protection Act 1990<sup>(25)</sup>; or
- (ii) by the Welsh Ministers under regulation 8 of the Hazardous Waste (Wales) Regulations 2005<sup>(26)</sup>;

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(20) OJ No L135, 30.5.1991, p.40, as last corrected by a corrigendum (OJ No L189, 17.7.2015, p.41)

(21) [S.R.2007 No.187](#)

(22) OJ No L182, 16.7.1999, p.1

(23) See for example [S.I. 2010/1513](#), [S.I. 2010/2221](#), [S.I. 2011/1483](#), [S.I. 2011/2305](#), [S.I. 2012/461](#), [S.I. 2013/2616](#); [S.I. 2017/571](#)

(24) [S.R.2017 No.81](#)

(25) [S.I.1990 c.43](#); section 62A was inserted subject to transitional provisions specified in [S.I. 2005/894](#) Schedule 12 by the Hazardous Waste (England and Wales) Regulations 2005

(26) [S.I. 2005/1806 \(W138\)](#); relevant amending instruments are [S.I. 2011/971 \(W141\)](#) and [2015/1417 \(W. 141\)](#)

- (b) in relation to England—
    - (i) if listed in regulations under section 62A(1) of the Environmental Protection Act 1990; or
    - (ii) by the Secretary of State under regulation 8 of the Hazardous Waste (England and Wales) Regulations 2005<sup>(27)</sup>; and
  - (c) in relation to Scotland, by the Scottish Ministers, because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex 3.”.
- (6) In regulation 10—
- (a) in paragraph (2), for “Article 7(3) of the Waste Directive” substitute “paragraph (3)”; and
  - (b) after paragraph (2) insert—
    - “(3) For the purposes of paragraph (2), a specific waste may be determined to be non-hazardous—
    - (a) in relation to Wales, by the Welsh Ministers under regulation 9 of the Hazardous Waste (Wales) Regulations 2005;
    - (b) in relation to England, by the Secretary of State under regulation 9 of the Hazardous Waste (England and Wales) Regulations 2005; and
    - (c) in relation to Scotland, by the Scottish Ministers because the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex 3.”.

#### **The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007**

4.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007<sup>(28)</sup> are amended as follows.

- (2) In regulation 2—
  - (a) at the appropriate alphabetical place insert—
    - (i) ““appropriate authority” means the Department of Agriculture, Environment and Rural Affairs”; and
    - (ii) ““local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;
  - (b) in the definition of “the Packaging Waste Directive”, at the end insert “, and as read in accordance with regulation 2A”; and
  - (c) in the definition of “the Waste Directive<sup>(29)</sup>”, at the end insert “, and as read in accordance with regulation 2B”.
- (3) After regulation 2, insert—

#### **“Modifications to the Packaging Waste Directive**

2A.—(1) For the purposes of these Regulations, the Packaging Waste Directive<sup>(30)</sup> is to be read in accordance with this regulation.

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<sup>(27)</sup> S.I. 2005/894

<sup>(28)</sup> S.R.2007 No.198, as amended by S.R. 2008 No.371, S.R.2010 No.396 and S.R.2016 No.95

<sup>(29)</sup> OJ No L312, 22.11.2008, p.3

<sup>(30)</sup> OJ No L365, 31.12.1994, p.10

(2) 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 or local authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in Northern Ireland.

(3) In Article 3—

- (a) in paragraph 1, the fourth subparagraph were omitted;
- (b) in paragraph 2, for “[Directive 75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”; and
- (c) in paragraph 10, for “Annex II.A to [Directive 75/442/EEC](#)” there were substituted “Annex 1 of the Waste Directive”.

(4) In Article 6, in paragraph 2—

- (a) for “Community” in the first place it occurs there were substituted “United Kingdom”;
- (b) for the words from “Council Regulations” to “1547/1999” there were substituted “Council Regulation [\(EC\) No 1420/1999\(31\)](#), Regulation [\(EC\) No 1013/2006](#) of the European Parliament and of the Council<sup>(32)</sup>, and [Commission Regulation \(EC\) No 1418/2007\(33\)](#)”; and
- (c) for “Community legislation” there were substituted “retained EU law”.

### **Modifications to the Waste Directive**

**2B.**—(1) For the purposes of these Regulations, the Waste Directive is to be read in accordance with this regulation.

(2) 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 or local authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in Northern Ireland.

(3) In Article 5, paragraph 2 were omitted.

(4) In Article 6—

- (a) paragraphs 1 to 3 were omitted; and
- (b) in paragraph 4—
  - (i) in the first sentence, for the words from “Where criteria” to “paragraphs 1 and 2” there were substituted “Except where waste ceases to be waste in accordance with [Council Regulation \(EU\) No 333/2011](#), [Commission Regulation \(EU\) No 1179/2012](#) or [Commission Regulation \(EU\) No 715/2013](#)”; and
  - (ii) the second sentence were omitted.”.

(4) In regulation 24, for “European Community” in each place it occurs, substitute “United Kingdom”.

(5) In regulation 26(2), for “European Community” substitute “United Kingdom”.

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(31) OJ No L166, 1.7.1999, p.6, as last amended by [Commission Regulation \(EC\) No 105/2005](#) (OJ No L20, 22.1.2005, p.9) and as last corrected by a corrigendum (OJ No L21, 26.1.2000, p.41)

(32) OJ No L190, 12.7.2006, p.1, as last amended by [Commission Regulation \(EU\) 2015/2002](#) (OJ No L294, 11.11.2015, p.1) and as last corrected by a corrigendum (OJ No L277, 22.10.2015, p.61)

(33) OJ No L316, 4.12.2007, p.6, as last amended by [Commission Regulation \(EU\) No 733/2014](#) (OJ No L197, 4.7.2014, p.10)

## The Waste Regulations (Northern Ireland) 2011

5.—(1) The Waste Regulations (Northern Ireland) 2011<sup>(34)</sup> are amended as follows.

(2) In Part 3, regulation 9(1)—

(a) at the appropriate alphabetical place insert—

““appropriate authority” means the Department of Agriculture, Environment and Rural Affairs;”;

(b) for the definition “best available techniques” substitute “has the same meaning as in the Waste Management Licensing Regulations (Northern Ireland) 2003<sup>(35)</sup>”;

(c) after the definition “disposal” insert—

““EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;”;

(d) after the definition of “household waste” insert—

““Industrial Emissions Directive” means [Directive 2010/75/EC](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention control)<sup>(36)</sup>;

“Landfill Directive” means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Council [Directive 2011/97/EU](#), read in accordance with regulation 9B; and

“local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;”;

(e) after the definition of “material recovery” insert—

““Mining Waste Directive” means [Directive 2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries<sup>(37)</sup>, read in accordance with regulation 9C;”;

(f) in the definition of “Waste Framework Directive”, at the end insert “and as read in accordance with regulation 9D”.

(3) After regulation 9, insert—

### “Modification of the Industrial Emissions Directive

9A.—(1) For the purposes of these Regulations, the Industrial Emissions Directive is to be read as follows.

(2) In Article 3—

(a) in paragraph 1(a), for the words from “Article 1” to the end there were substituted “Article 4(78) of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation<sup>(38)</sup>”;

(b) in paragraph 10(b), for “Member State in question” there were substituted “United Kingdom”;

(c) in paragraph 23, for the words from “point 1” to the end there were substituted “point 1 of the second subparagraph of Article 2 of Council [Directive 2009/158/EC](#)

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<sup>(34)</sup> [S.R.2011 No.127](#)

<sup>(35)</sup> [S.R.2003 No.493](#)

<sup>(36)</sup> OJ No L334, 17.12.2010, p.17, as corrected by a corrigendum (OJ No L158, 19.6.2012, p.25)

<sup>(37)</sup> OJ No L102, 11.4.2006, p.15

<sup>(38)</sup> OJ No L13, 17.1.2014, p.1, as corrected by a corrigendum (OJ No L72, 17.3.2016, p.69)



on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs<sup>(39)</sup>; and

- (d) in paragraph 37, for the words from “[Directive 2008/98/EC](#)” to the end there were substituted “the Waste Framework Directive, read with Articles 5 and 6 of that Directive”.

(3) In Annex 1—

- (a) in the words before point 1, the second paragraph were omitted;

(b) in point 5.3—

- (i) in point (a), in the words before point (i), for “Council [Directive 91/271/EEC](#) of 21 May 1991 concerning urban waste-water treatment” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007<sup>(40)</sup>”; and

- (ii) in point (b), in the words before point (i), for “[Directive 91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007”;

- (c) in point 5.4, for “Council [Directive 1999/31/EC](#) of 26 April 1999 on the landfill of waste” there were substituted “the Landfill Directive”;

- (d) in point 6.9, for “[Directive 2009/31/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2009/31/EC](#)”; and

- (e) in point 6.11, for “[Directive 91/271/EEC](#)” there were substituted “the Urban Waste Water Treatment Regulations (Northern Ireland) 2007”.

### **Modification of the Landfill Directive**

**9B.**—(1) For the purposes of these Regulations, the Landfill Directive is to be read as follows.

(2) In Article 2—

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

“(a) “waste” means anything that—

- (i) is waste within the meaning of Article 3(1) of the Waste Framework Directive<sup>(41)</sup>, as read with Article 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;” and

- (b) for point (c) there were substituted—

“(c) “hazardous waste” has the meaning given in Article 3(2) of the Waste Framework Directive.”.

(3) In Article 3(2), “Without prejudice to existing Community legislation,” were omitted.

### **Modification of the Mining Waste Directive**

**9C.**—(1) For the purposes of these Regulations, the Mining Waste Directive<sup>(42)</sup> is to be read as follows.

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<sup>(39)</sup> OJ No L343, 22.12.2009, P.74

<sup>(40)</sup> [S.R.2007 No.187](#)

<sup>(41)</sup> OJ No L312, 22.11.2008, P.3

<sup>(42)</sup> OJ No L102, 11.04.2006, p.15

(2) A reference to one or more member States in a provision imposing an obligation or providing a discretion on a member State or member States is to be read as a reference to the appropriate authority or local authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in Northern Ireland.

(3) In Article 2—

(a) in paragraph 2(c), the reference to Article 11(3)(j) of [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy were a reference to that Article read in accordance with regulation 9E;

(b) paragraphs 3 and 4 were omitted.

(4) In Article 3—

(a) in point (1), for “Article 1(a) of [Directive 75/442/EEC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”;

(b) in point (2), for “Article 1(4) of Council [Directive 91/689/EEC](#) of 12 December 1991 on hazardous waste” there were substituted “Article 3(2) of the Waste Framework Directive”;

(c) in point (4), for the words from “the national law” to the end there were substituted “national law”;

(d) in point (17), for “[Directive 67/548/EEC](#)(43) or [Directive 1999/45/EC](#)(44) ” there were substituted “Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures(45)”;

(e) in point (18), for “Article 2(11) of [Directive 96/61/EC](#)” there were substituted “Article 3(10) of the Industrial Emission Directive”;

(f) in point (24), for the words from “the national law” to “takes place” there were substituted “national law”;

(g) in point (26), for the words from “the national” to “operates,” there were substituted “national law”;

(h) in point (27), for “which a Member State designates” there were substituted “designated”; and

(i) in point (29), for “competent authority” there were substituted “appropriate authority”.

(5) In Article 5—

(a) in paragraphs 2(a)(iii) and (b), “at Community level” were omitted;

(b) in paragraph 3—

(i) in the first subparagraph, in point (g), for “[Directive 2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) of the European Parliament and of the Council(46) in respect of Northern Ireland”; and

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(43) OJ No L196, 16.8.1967, p.1 (Special Edition Series I Volume 1967 p.211), repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L353, 31.12.2008, p.1)

(44) OJ No L200, 30.7.1999, p.1, repealed by Regulation (EC) No 1272/2008 of the European Parliament and of the Council (OJ No L353, 31.12.2008, p.1)

(45) OJ No L353, 31.12.2008, p.1

(46) OJ No L327, 22.12.2000, p.1, as last amended by Commission Directive 2014/101/EU (OJ No L311, 31.10.2014, p.32)

- (ii) in the second subparagraph, for “competent authority” there were substituted “appropriate authority”;
  - (c) in paragraph 4, in the second sentence, for “competent authority” there were substituted “appropriate authority”;
  - (d) in paragraph 5, “or Community” were omitted;
  - (e) paragraph 6 were omitted.
- (6) In Article 6—
- (a) in paragraph 2, the words from “Without prejudice” to “92/104/EEC,” were omitted;
  - (b) in paragraph 3, in the third subparagraph, for “competent authority” in both places it occurs there were substituted “appropriate authority”.
- (7) In Article 7—
- (a) in paragraph 1—
    - (i) in the first subparagraph, in the first sentence, for “competent authority” there were substituted “appropriate authority”; and
    - (ii) in the second subparagraph, in the first sentence—
      - (aa) “or Community” were omitted; and
      - (bb) for “competent authority” there were substituted “appropriate authority”;
  - (b) in paragraph 2(e), the reference to [Directive 85/337/EEC](#)(47) were a reference to the EU-derived domestic legislation which transposed [Directive 2011/92/EU](#) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment in respect of Northern Ireland;
  - (c) in paragraph 3—
    - (i) in the words before point (a), for “competent authority” there were substituted “appropriate authority”; and
    - (ii) in point (b), for “Article 7 of [Directive 75/442/EEC](#)” there were substituted “Article 13 of the Waste Framework Directive”;
  - (d) in paragraph 4—
    - (i) in the words before the first indent, for “competent authorities” there were substituted “appropriate authority”; and
    - (ii) the third indent were omitted; and
  - (e) in paragraph 5, “and Community” were omitted.
- (8) In Article 9 for “competent authorities” there were substituted “appropriate authority”.
- (9) In Article 10, paragraph 2 were omitted.
- (10) In Article 11—
- (a) in paragraph 2—
    - (i) in the words before point (a), for “competent authority” there were substituted “appropriate authority”; and
    - (ii) in point (a)—
      - (aa) the words “Community or” were omitted; and

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(47) OJ No L175, 5.7.1985, p.40, repealed by [Directive 2011/92/EU](#) of the European Parliament and of the Council (OJ No L26, 28.1.2012, p.1)

- (bb) for “Directives [76/464/EEC](#)(48), [80/68/EEC](#)(49) and [2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of Northern Ireland”;
- (b) in paragraph 3—
- (i) for “competent authority” in each place it occurs there were substituted “appropriate authority”; and
  - (ii) in the third subparagraph, for “competent authorities” there were substituted “appropriate authority”.
- (11) In Article 12—
- (a) in paragraphs 2(b), 2(c) and 3, for “competent authority” there were substituted “appropriate authority”;
  - (b) in paragraph 4—
    - (i) for “competent authority” in both places it occurs there were substituted “appropriate authority”; and
    - (ii) “national or Community” were omitted; and
  - (c) in paragraph 5—
    - (i) for “competent authority” there were substituted “appropriate authority”; and
    - (ii) for the words from “Community” to “2000/60/EC” there were substituted “retained EU law, in particular the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of Northern Ireland”.
- (12) In Article 13—
- (a) in paragraph 1, in the words before point (a)—
    - (i) for “competent authority” there were substituted “appropriate authority”;
    - (ii) the word “Community” were omitted; and
    - (iii) for “[Directive 2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of Northern Ireland”;
  - (b) in paragraph 3—
    - (i) for “Directives [76/464/EEC](#), [80/68/EEC](#) or [2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of Northern Ireland”; and
    - (ii) for “competent authority” there were substituted “appropriate authority”;
  - (c) in paragraph 4, for “Directives [76/464/EEC](#), [80/68/EEC](#) and [2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of Northern Ireland”;
  - (d) in paragraph 5, in the second sentence—
    - (i) for “competent authority” there were substituted “appropriate authority”;
    - (ii) for “Community” there were substituted “retained EU law”; and

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(48) OJ No L129, 18.5.1976, p.23, repealed by [Directive 2006/11/EC](#) of the European Parliament and of the Council (OJ No L64, 4.3.2006, p.52)

(49) OJ No L20, 26.1.1980, p.43, repealed by [Directive 2000/60/EC](#) of the European Parliament and of the Council (OJ No L327, 22.12.2000, p.1)

- (iii) for “[Directive 2000/60/EC](#)” there were substituted “the EU-derived domestic legislation which transposed [Directive 2000/60/EC](#) in respect of Northern Ireland”; and
- (e) in paragraph 6, in the second subparagraph, for “competent authority” there were substituted “appropriate authority”.
- (13) In Article 14(1) and (4), for “competent authority” there were substituted “appropriate authority”.
- (14) In Article 17, for “competent authority” in each place it occurs (including the heading), there were substituted “appropriate authority”.
- (15) In Article 24(4), in the second indent—
  - (a) “Community or” were omitted; and
  - (b) for “competent authority” there were substituted “appropriate authority”.
- (16) In Annex 3—
  - (a) in the second indent, for “under [Directive 91/689/EEC\(50\)](#)” there were substituted “the Waste Framework Directive”; and
  - (b) in the third indent, for “Directives [67/548/EEC](#) or [1999/45/EC](#)” there were substituted “Regulation [\(EC\) No 1272/2008](#) of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures”.

#### **Modification of the Waste Framework Directive**

**9D.**—(1) For the purposes of these Regulations, the Waste Framework Directive is to be read as follows.

(2) A reference to one or more member States in a provision imposing an obligation or providing a discretion on a member State or member States is to be read as a reference to the appropriate authority or local authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in Northern Ireland.

- (3) In Article 2—
  - (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\(51\)](#)”; and
    - (iii) in point (d), for “[Directive 2006/21/EC](#)” to the end there were substituted “the Mining Waste Directive”;
  - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted; and
  - (c) paragraph 4 were omitted.
- (4) In Article 3, in point (20), for “Article 2(11) of [Directive 96/61/EC](#)” there were substituted “Article 3(10) of the Industrial Emissions Directive”.
- (5) In Article 5, paragraph 2 were omitted.
- (6) In Article 6—

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(50) OJ No L377, 31.12.1991, p.20, repealed by [Directive 2008/98/EC](#) of the European Parliament and of the Council (OJ No L312, 22.11.2008, p.3)

(51) OJ No L300, 14.11.2009, p.1, as last amended by OJ No L354, 28.12.2013, p.86

- (a) paragraphs 1 to 3 were omitted; and
- (b) in paragraph 4—
  - (i) in the first sentence, for the words from “Where criteria” to “paragraphs 1 and 2” there were substituted “Except where [Council Regulation \(EU\) No 333/2011\(52\)](#), [Commission Regulation \(EU\) No 1179/2012\(53\)](#) or [Commission Regulation \(EU\) No 715/2013\(54\)](#) applies”; and
  - (ii) the second sentence were omitted.
- (7) In Article 7—
  - (a) in paragraph 1—
    - (i) the first and second sentences were omitted; and
    - (ii) in the third sentence, for “shall be binding” there were substituted “shall, subject to paragraph 1A, be binding”;
  - (b) after paragraph 1, there were inserted—
    - “**1A.** Paragraph 1 is subject to—
      - (a) a determination by the Department under regulation 9(1) of the Hazardous Waste Regulations (Northern Ireland) 2005(55) that a specific waste is to be treated as hazardous waste;
      - (b) a decision made by the Department under regulation 10(1) of the Hazardous Waste Regulations (Northern Ireland) 2005(56) that a specific waste is to be treated as non-hazardous waste;
      - (c) the treating of a specific waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 9(2) or 10(2) of the Hazardous Waste Regulations (Northern Ireland) 2005 ; and
      - (d) regulations, if any, made by the Department under Article 30 of the Waste and Contaminated Land (Northern Ireland) Order 1997(57).”;
  - (c) paragraphs 2, 3 and 5 were omitted;
  - (d) after paragraph 6 there were inserted—
    - “**6A.** In this Article, the “list of wastes” means the list established by Commission [Decision 2000/532/EC.](#)”; and
  - (e) paragraph 7 were omitted.
- (7) In Article 16—
  - (a) in paragraph 1, in the first subparagraph—
    - (i) the words from “,in cooperation with” to “advisable,” were omitted; and
    - (ii) “, taking into account best available techniques” were omitted; and
  - (b) in paragraph 2—
    - (i) for “Community” there were substituted “United Kingdom”; and
    - (ii) for the words from “and to enable” to “individually” were omitted.

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(52) OJ No L94, 8.4.2011, p.2

(53) OJ No L337, 11.12.2012, p.31

(54) OJ No L201, 26.7.2013, p.14

(55) [S.R.2005 No.300](#); regulation 9 has been amended by [S.R.2011 No.127](#)

(56) [S.R.2005 No.300](#); regulation 10 has been amended by [S.R.2011 No.127](#)

(57) [S.I. 1997/2778](#)

(8) In Article 23(1) and (3), for “competent authority” there were substituted “appropriate authority”.

(9) In Article 35(1), for “competent authorities” there were substituted “the appropriate authority”.

(10) In Annex 3, in entry HP9, in the second sentence, “in the Member States” were omitted.

(11) In Annex 4—

(a) in paragraph 3, “at Community level” were omitted;

(b) in paragraph 6, for “this Directive and [Directive 96/61/EC](#)” there were substituted “Annex 3, Part 3 of the Hazardous Waste Regulations (Northern Ireland) 2005([58](#))”;

(c) in paragraph 7, for “96/61/EC”, there were substituted “the Industrial Emissions Directive”; and

(d) in paragraph 10, the words “EMAS and” were omitted.

(12) In paragraph (11)(c), the reference to the Industrial Emissions Directive is to be construed as a reference to the EU-derived domestic legislation which transposed that Directive in respect of Northern Ireland.

#### **Modification of [Directive 2000/60/EC](#) of the European Parliament and of the Council**

**9E.** For the purposes of regulation 9C(3)(a), Article 11(3)(j) of [Directive 2000/60/EC](#) of the European Parliament and of the Council is to be read as if—

(1) the reference to “Member States” were a reference to the appropriate authority or local authority which, immediately before exit day, was able to exercise the discretion described in the Article in respect of Northern Ireland; and

(2) in the words after the sixth indent, “environmental objectives” means—

“in relation to a river basin district in Northern Ireland, the objectives set under regulation 12, in accordance with regulation 13, of the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2017([59](#));”.

*Thérèse Coffey*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

7th February 2019

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(58) [S.R.2005 No.300](#); Part 3 has been amended by [S.R.2006 No.280](#)

(59) [S.R.2017 No.81](#)

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8 of the European Union (Withdrawal) Act 2018 (c.16) in order to make amendments to subordinate legislation to the waste regime. They address failures of retained EU law to allow effective operation and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.