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STATUTORY INSTRUMENTS

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**2020 No. 1352**

**EXITING THE EUROPEAN UNION  
ENVIRONMENTAL PROTECTION**

**The Air Quality (Amendment) (Northern Ireland  
Protocol) (EU Exit) (No. 2) Regulations 2020**

*Made - - - - 25th November 2020*

*Laid before Parliament 26th November 2020*

*Coming into force in accordance with regulation 1*

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

**Citation and commencement**

1. These Regulations may be cited as the Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) (No. 2) Regulations 2020 and they come into force immediately before IP completion day.

**Amendment of the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018**

2.—(1) The Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018<sup>(2)</sup> are amended as follows.

(2) In regulation 20(2), in the new Article 2 to be inserted by that paragraph—

(a) in paragraph 1, after the words “the United Kingdom” insert “but not in so far as they relate to an activity that comes within the scope of a NI Protocol obligation”;

(b) in paragraph 2, after the definition of “best available techniques,” insert—

““NI Protocol obligation” means any obligation created or arising under Article 9 of, and Annex 4 to, the Northern Ireland Protocol as regards [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions, whether or not it is an obligation to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

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(1) [2018 c. 16](#); section 8C was inserted by section 21 of the European Union (Withdrawal Agreement) Act 2020 ([c. 1](#)); paragraph 21 of Schedule 7 was amended by paragraph 53(2) of Schedule 5 to the 2020 Act.

(2) [S.I. 2018/1407](#).

“Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.

(3) In regulation 22—

(a) for paragraph (3)(b), substitute—

“(b) in the third paragraph, from the words from “is addressed to” to the end substitute “does not apply to any activity that comes within the scope of a NI Protocol obligation.”;

(b) in paragraph (4), in the new Article 3 to be inserted by that paragraph, after the definition of “competent authority”, insert—

““NI Protocol obligation” means any obligation created or arising under Article 9 of, and Annex 4 to, the Northern Ireland Protocol as regards [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions, whether or not it is an obligation to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

“Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.

(4) After regulation 24, insert—

**“Decision (EU) 2019/2010 establishing the best available techniques (BAT) conclusions, under [Directive 2010/75/EU](#) of the European Parliament and of the Council, for waste incineration**

**24A.**—(1) Decision (EU) 2019/2010 establishing the best available techniques (BAT) conclusions, under [Directive 2010/75/EU](#)(3) of the European Parliament and of the Council, for waste incineration(4) is amended as follows.

(2) For Article 2 substitute—

“Article 2

Application and Interpretation

1. The BAT conclusions referred to in Article 1 apply in the United Kingdom but not in so far as they relate to an activity that comes within the scope of a NI Protocol obligation.

2. In this Decision—

“BAT conclusions” has the meaning given in Article 2 of [Decision 2012/134/EU](#) establishing the best available techniques (BAT) conclusions under [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions for the manufacture of glass(5) (“[Decision 2012/134/EU](#)”);

“best available techniques” has the meaning given in Article 2 of [Decision 2012/134/EU](#);

“NI Protocol obligation” means any obligation created or arising under Article 9 of, and Annex 4 to, the Northern Ireland Protocol as regards [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions, whether or not it is an obligation to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

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(3) EUDN 2010/75.

(4) EUDN 2019/2010.

(5) EUDN 2012/134, to which there are prospective amendments made by [S.I. 2018/1407](#).

“Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

3. For the purpose of this Decision a reference to a provision of a Directive is to be read as a reference to that provision in so far as it has been transposed into the law of any part of the United Kingdom.”.”

### **Amendment of the Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019**

3.—(1) The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019(6) are amended as follows.

(2) For regulation 5, substitute—

“5. For regulation 3(2) of the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012(7), substitute—

“(2) These Regulations apply to relevant products that—

- (a) are to be used in any part of the United Kingdom, and
- (b) in Northern Ireland are to be used in a country or territory in the customs territory of the European Union.”.”

25th November 2020

*Rebecca Pow*  
Parliamentary Under Secretary of State  
Department of Environment Food and Rural  
Affairs

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(6) [S.I. 2019/74](#).

(7) [S.I. 2012/1715](#), to which there are amendments not relevant to these Regulations.

**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 conferred by section 8C of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c.16). The Regulations make amendments to legislation in the field of air quality to make amendments necessary to recognise the Northern Ireland Protocol as part of the EU Withdrawal Agreement.

These Regulations are made in substantially the same form as the Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) Regulations 2020, which were revoked shortly after they were made by the Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) (Revocation) Regulations 2020 (the accompanying explanatory memorandum to that instrument explains the reason for that revocation).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. An Explanatory Memorandum is available alongside the instrument on the UK legislation website, [www.legislation.gov.uk](http://www.legislation.gov.uk).