

Government Response: The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2020

Technical Scrutiny point 1:

The drafting of the modifications to Article 6 (end of waste status) of Directive 2008/98/EC (the Waste Framework Directive) is appropriate, for the reasons set out below.

Currently, there are two methods by which a decision as to whether a substance or object has ceased to be waste for the purposes of the Waste Framework Directive, is made. In the first, a decision is made in accordance with detailed end of waste criteria set out in EU legislation, in relation to particular types of waste, for example, scrap metal. Such legislation will become retained EU law after IP completion day and is reflected in the inserted paragraph 1A(a) in Article 6.

Where detailed criteria are not set out in EU legislation for particular waste streams, member States have discretion under the Waste Framework Directive, within certain constraints, to issue guidance containing detailed criteria for determining end of waste status. It is that guidance, which can contain detailed criteria, to which inserted paragraph 1A(b) refers.

The substitution in the second sub-paragraph of paragraph 2 of Article 6, of the words “Any detailed criteria set out in guidance as referred to in paragraph 1A” has the effect of requiring guidance developed under inserted paragraph 1A(b), to conform to the requirements set out in the second sub-paragraph of paragraph 2 of Article 6.

Technical scrutiny point 2:

Agree. This is a drafting error and will be rectified at the earliest practicable opportunity.

Merit Scrutiny point 4:

Noted.

Merit Scrutiny point 5:

A corrected Explanatory Memorandum will be laid.