

**2019 No. (W. )**

**EXITING THE EUROPEAN  
UNION, WALES**

**ENVIRONMENTAL PROTECTION,  
WALES**

**WASTE, WALES**

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

**EXPLANATORY NOTE**

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

These Regulations (except Part 2) are made in exercise of the powers in paragraph 1(1) of Schedule 2 to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies in retained EU law arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of waste. Part 3 amends primary legislation and Part 4 amends subordinate legislation.

Part 2 of these Regulations is made in exercise of the powers in section 2(2) of the European Communities Act 1972 (c. 68), and update references to Directive 2008/98/EC of the European Parliament and of the Council on waste (OJ No L 312, 22.11.2008, p 3) and Directive 1999/31/EC on the landfill of waste (OJ No L 182, 16.07.1999, p1).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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*Sift requirements satisfied* \*\*\*

*Made* \*\*\*

*Laid before the National Assembly for Wales*  
\*\*\*

*Coming into force* \*\*\*

The Welsh Ministers make these Regulations in exercise of the powers conferred by—

- (a) in relation to Part 1, the powers mentioned in paragraphs (b) and (c);
- (b) in relation to Part 2, section 2(2) of the European Communities Act 1972<sup>(1)</sup>;
- (c) in relation to the remainder of the Regulations, paragraph 1(1) of Schedule 2 to the European Union (Withdrawal) Act 2018<sup>(2)</sup>.

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(1) 1972 c. 68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c. 7), the Schedule, Part 1. It is prospectively repealed by the European Union (Withdrawal) Act 2018 (c. 16), section 1 from exit day (see section 20 of that Act).

(1) 2018 c.16.

The Welsh Ministers are designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972 in relation to—

- (a) measures relating to the prevention, reduction and elimination of pollution caused by waste and the management of packaging and packaging waste<sup>(2)</sup>;
- (b) the prevention, reduction and management of waste<sup>(3)</sup>.

The requirements of paragraph 4(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate National Assembly for Wales scrutiny procedure for these Regulations) have been satisfied.

## PART 1

### Introductory

#### **Title and commencement**

2.—(1) The title of these Regulations is the Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019.

- (2) They come into force as follows—
  - (a) as regards this Part and Part 2, 21 days after the day on which they are made;
  - (b) as regards the remainder, on exit day.

## PART 2

### Amendments to out of date references

#### **The Waste (Wales) Measure 2010**

3.—(1) The Waste (Wales) Measure 2010<sup>(4)</sup> is amended as follows.

- (2) In section 9(3), at the end insert “, as last amended by Council Directive 2011/97/EU<sup>(5)</sup>”.

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- (1) By virtue of section 59(2) of the Government of Wales Act 2006, the Welsh Ministers may exercise the power conferred by section 2(2) of the European Communities Act 1972 in relation to any matter, or for any purpose, if they have been designated in relation to that matter or for that purpose.
  - (2) S.I. 2005/850, to which there is an amendment not relevant to these Regulations. By virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006, S.I. 2005/850 has effect as if made under section 59(1) of that Act.
  - (3) S.I.2010/1552.
  - (4) 2010 nawm 8, to which there are amendments not relevant to these Regulations.
  - (5) OJ No L 328, 10.12.2011, p 49.

(3) In section 17(2), at the end insert “, as last amended by Council Regulation (EU) 2017/997(1)”.

#### **The Landfill Allowance Scheme (Wales) Regulations 2005**

4.—(1) The Landfill Allowance Scheme (Wales) Regulations 2004(2) are amended as follows.

(2) In regulation 2(1), in the definition of “waste facility” (“*cyfleuster gwastraff*”), for “as last amended by Commission Directive (EU) 2015/1127” substitute “as last amended by Council Regulation (EU) 2017/997.

(3) In regulation 7(10), at the end insert “as last amended by Council Regulation 2011/97/EU.

#### **The Hazardous Waste (Wales) Regulations 2005**

5.—(1) The Hazardous Waste (Wales) Regulations 2005(3) are amended as follows.

(2) In regulation 47(5B), after “waste,” insert “as last amended by Council Directive 2011/97/EU”.

(3) In regulation 48(6B), after “waste,” insert “as last amended by Council Directive 2011/97/EU”.

#### **The Recycling, Preparation for Re-use and Compositing Targets (Monitoring and Penalties) (Wales) Regulations 2011**

6. In regulation 2(1) of the Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011(4) in the definition of “the Waste Framework Directive” (“*y Gyfarwydddeb Fframwaith Gwastraff*”) for “as last amended by Commission Directive (EU) 2015/1127” substitute “as last amended by Council Regulation (EU) 2017/997”.

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(1) OJ No L 150, 14.6.2017, p 1.  
(2) S.I. 2004/1490 (W. 155), as amended by S.I. 2011/971 (W. 141); there are other amending instruments but none is relevant to these Regulations.  
(3) S.I. 2005/1806 (W. 138), as amended by S.I. 2011/971 (W. 141) and S.I. 2018/721 (W. 140); there are other amending instruments but none is relevant to these Regulations.  
(4) S.I. 2011/1014 (W. 152), amended by S.I. 2016/691 (W. 189); there are other amending instruments but none is relevant to these Regulations.

## PART 3

### Amendment of primary legislation

#### The Waste (Wales) Measure 2010

7.—(1) The Waste (Wales) Measure 2010(1) is amended as follows.

(2) In section 9(3) (as amended by regulation 3(2)), at the end insert—

“, and read as if—

(a) in Article 2—

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

“(a) ‘waste’ has the meaning given by Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive;”;

(ii) for point (c) there were substituted—

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

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

(3) In section 9A(3)—

(a) in the definition of “waste incineration plant” (*“peiriant llosgi gwastraff”*), for “Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast)” substitute “Industrial Emissions Directive”;

(b) in the definition of “waste co-incineration plant” (*“peiriant cydlosgi gwastraff”*) for “that Directive” substitute “the Industrial Emissions Directive”;

(c) after subsection (3) insert—

“(4) In this section, “Industrial Emissions Directive” means “Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions(2), and read as if in Article 3—

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(1) 2010 nawm 8. Section 9A was inserted by the Environment (Wales) Act 2016, s 67.

(2) OJ No L 334, 17.12.2010, p 17, as corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

(a) in point (37), for “Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste” there were substituted “the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”;

(b) in point (38), for “Directive 2008/98/EC” there were substituted “the Waste Framework Directive.

(5) In reading the Industrial Emissions Directive in accordance with subsection (4), references in that Directive to the “Waste Framework Directive” (as inserted by subsection (4)) have the meaning given by section 17(2) of this measure.”.

(4) In section 17—

(a) in subsection (2) (as amended by regulation 3(3)), at the end insert “; and read in accordance with subsections (3) to (8)”;

(b) after subsection (2) insert—

“(3) 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 Welsh Ministers, the Natural Resources Body for Wales 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 Wales.

(4) Article 2 is to be read as if—

(a) in paragraph 2—

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

(ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;

(iii) in point (d), for the words from “Directive 2006/21/EC” to the end there were substituted “the Mining Waste Directive (see section 17A)”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;

(c) paragraph 4 were omitted.

(5) Article 5 is to be read as if paragraph 2 were omitted.

- (6) Article 6 is to be read as if—
- (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, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013”;
    - (ii) the second sentence were omitted.

- (7) Article 7 is to be read as if—
- (a) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (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 Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005<sup>(1)</sup> that a specific batch of waste is to be treated as hazardous waste;
- (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005<sup>(2)</sup> that a specific batch of waste is to be treated as non-hazardous waste;
- (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005<sup>(3)</sup>;
- (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental

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(1) Regulation 8(1) has been amended by S.I. 2011/971 (W.141) and S.I. 2015/1417 (W.141).

(2) Regulation 9(1) has been amended by S.I. 2011/971 (W.141) and S.I. 2015/1417 (W.141).

(3) Regulations 8(2) and 9(2) has been amended by S.I. 2015/1417 (W.141)

Protection Act 1990 (lists of waste displaying hazardous properties)(1).”;

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

(d) after paragraph 6 there were inserted—

“6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

(e) paragraph 7 were omitted.

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

(5) After section 17 insert—

### “Meaning of the “Mining Waste Directive”

**17A.**—(1) In reading Article 2 of the Waste Framework Directive in accordance with section 17(4), “the Mining Waste Directive” (as inserted by paragraph (a)(iii) of section 17(4)) means Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries(2), read in accordance with subsections (2) to (5).

(2) Article 2 is to be read as if—

(a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive 2000/60/EC(3) were a reference to that Article read in accordance with subsection (4);

(b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, 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”.

(4) For the purposes of subsection (2)(a), Article 11(3)(j) of Directive 2000/60/EC is to be read as if—

(a) the first reference to “Member States” were a reference to the Welsh Ministers or the Natural Resources Body for Wales;

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(1) 1990 c.43. Section 62A was inserted by S.I. 2005/894, and amended by S.I. 2011/988, 2015/1360, 2018/721 (W.140) and 2018/942.

(2) OJ No L 102, 11.4.2006, p 15, as amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 118, 18.7.2009, p 14).

(3) OJ No L 327, 22.12.2000, p 1, as last amended by Commission Directive 2014/101/EU (OJ No L 311, 31.10.2014, p 32).



(b) at the end there were inserted—

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017(1) has the same meaning as in those Regulations..

(5) In reading the Mining Waste Directive in accordance with subsection (3), the reference in that Directive, to the “Waste Framework Directive” (as inserted by subsection (3)) has the meaning given by section 17(2) of this measure.”.

## PART 4

### Amendment of subordinate legislation

#### **The Landfill Allowances Scheme (Wales) Regulations 2004**

8.—(1) The Landfill Allowances Scheme (Wales) Regulations 2004(2) are amended as follows.

(2) In regulation 2(1)(3), in the definition of “waste facility” (“*cyfleuster gwastraff*”) (as substituted by regulation 4(2)), for “Directive 2008/98/EC of the European Parliament and of the Council on waste as last amended by Council Regulation (EU) 2017/997”, substitute “the Waste Framework Directive”.

(3) After the definition of “waste facility” (“*cyfleuster gwastraff*”) insert—

“the Waste Framework Directive” (“*y Gyfarwydddeb Fframwaith Gwastraff*”) means Directive 2008/98/EC of the European Parliament and of the Council on waste(4) as last amended by Council Regulation (EU) 2017/997(5), and read in accordance with paragraphs (3) to (9).

(4) After paragraph (2) insert—

“(3) 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 Welsh Ministers, the Natural Resources Body for Wales or local authority which, immediately

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- (1) S.I. 2017/407, to which there are amendments not relevant to these Regulations.  
(2) S.I. 2004/1490 (W.155).  
(3) The definition of Waste Facility has been amended by SI.2011/971 (W.141) and S.I. 2016/691 (W.189). There are other amendments but none is relevant.  
(4) OJ No L 312, 22.11.08, p 3.  
(5) OJ No L 150, 14.6.2017, p 1.

before exit day, was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in respect of Wales.

(4) Article 2 is to be read as if—

(a) in paragraph 2—

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

(ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;

(iii) in point (d), for the words from “Directive 2006/21/EC” to the end there were substituted “the Mining Waste Directive (see regulation 2A)”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;

(c) paragraph 4 were omitted.

(5) Article 5 is to be read as if paragraph 2 were omitted.

(6) Article 6 is to be read as if—

(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, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013”;

(ii) the second sentence were omitted.

(7) Article 7 is to be read as if—

(a) in paragraph 1—

(i) the first and second sentences were omitted;

(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 Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as hazardous waste;
  - (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as non-hazardous waste;
  - (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;
  - (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of waste displaying hazardous properties).”;
- (c) paragraphs 2, 3 and 5 were omitted;
- (d) after paragraph 6 there were inserted—
- “6A.** In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;
- (e) paragraph 7 were omitted.
- (8) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- (9) In paragraph (3) “local authority” means a county council or a county borough council.”.
- (5) After regulation 2, insert—

**“Meaning of “the Mining Waste Directive” in regulation 2**

**2A.**—(1) In regulation 2(4)(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, read in accordance with paragraphs (2) to (4).

(2) Article 2 is to be read as if—

- (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive 2000/60/EC were a reference to that Article read in accordance with paragraph (4) of this regulation;
- (b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, for “Article 1(a) of Directive 75/442/EC” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.

(4) For the purposes of paragraph (2)(a), Article 11(3)(j) of Directive 2000/60/EC is to be read as if—

(a) the first reference to “Member States” were a reference to the Welsh Ministers or the Natural Resources Body for Wales;

(b) at the end, there were inserted—

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 has the same meaning as in those Regulations.””

(6) In regulation 7(10) (as amended by regulation 4(3)), at the end, insert “read in accordance with paragraph (11).

(7) After paragraph (10) insert—

“(11) For the purposes of regulation 7(10), the Directive is to be read as if—

(a) in Article 2—

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

“(a) ‘waste’ has the meaning given by Article 3(1) of the Waste Framework Directive, as read with Article 5 and 6 of that Directive;”;

(ii) for point (c) there were substituted—

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

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

### **The Hazardous Waste (Wales) Regulations 2005**

**9.**—(1) The Hazardous Waste (Wales) Regulations 2005(1) are amended as follows.

(2) In regulation 2(1)—

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(1) S.I. 2005/1806 (W.138).

- (a) in sub-paragraph (a), at the end insert “, and read in accordance with regulation 2A”;
  - (b) in sub-paragraph (b)(i), at the end insert “, as read with Articles 5 and 6 of that Directive”.
- (3) After regulation 2 insert—

#### **“Meaning of the Waste Directive**

**2A.**—(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 respect of Wales.

(3) Article 2 is to be read as if—

(a) in paragraph 2—

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

(ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;

(iii) in point (d), for the words from “Directive 2006/21/EC” to the end there substituted “the Mining Waste Directive”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;

(c) paragraph 4 were omitted.

(4) Article 3(20) is to be read as if for “Article 2(11) of Directive 96/61/EC” there were substituted “Article 3(10) of the Industrial Emissions Directive”.

(5) Article 5 is to be read as if paragraph 2 were omitted.

(6) Article 6 is to be read as if—

(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, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013”;

(ii) the second sentence were omitted.

(7) Article 7 is to be read as if—

(a) in paragraph 1—

(i) the first and second sentences were omitted;

(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 Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as hazardous waste;

(b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as non-hazardous waste;

(c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;

(d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of waste displaying hazardous properties).”;

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

(d) after paragraph 6 there were inserted—

“6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

(e) paragraph 7 were omitted.

(8) Article 19 is to be read as if—

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

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

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

(10) In paragraph (2) “local authority” means a county council or a county borough council.

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

**2B.**—(1) In regulation 2A(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, read in accordance with paragraphs (2) and (3).

(2) Article 2 is to be read as if—

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

(b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, for “Article 1(a) of Directive 75/442/EEC” there were substituted “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive”.

(4) In regulation 2A(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)(1), read in accordance with paragraphs (5) and (6).

(5) Article 3 is to be read as if—

(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(2)”;

(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

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(1) OJ No L 334 , 17.12.2010, p 17, as corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

(2) OJ L 13, 17.1.2014, p 1, as corrected by a corrigendum (OJ No L 072, 17.3.2016, p 69).

“point 1 of the second subparagraph 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<sup>(1)</sup>”;

(d) in point (37), for “Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste” there were substituted “the Waste Directive, as read with Articles 5 and 6 of that Directive”.

(6) Annex 1 is to be read as if—

(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 (England and Wales) Regulations 1994<sup>(2)</sup>”;

(ii) in point (b), in the words before point (i), for “Directive 91/271/EEC” there were substituted “the Urban Waste Water Treatment (England and Wales) Regulations 1994”;

(c) in point 5.4, the reference to Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste were a reference to 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 Wales”;

(e) in point 6.11, for “Directive 91/271/EEC” there were substituted “the Urban Waste Water Treatment (England and Wales) Regulations 1994”.

(7) For the purposes of paragraph (2)(a), Article 11(3)(j) of Directive 2000/60/EC is to be read as if—

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(1) OJ No L 343, 22.12.2009, p 74, as last amended by Commission Implementing Decision 2011/879/EU (OJ No L 343, 23.12.2011, p 105).

(2) S.I. 1994/2841.



(a) the first reference to “Member States” were a reference to the appropriate authority;

(b) at the end, there were inserted—

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, has the same meaning as in those Regulations”.

(4) In regulation 5(1)—

(a) in the relevant place insert—

“appropriate authority” (“awdurdod priodol”) means the Welsh Ministers, NRBW or the Agency;”;

(b) after the definition of “hazardous waste” (“gwastraff peryglus”) insert—

“the Landfill Directive” (“y Gyfarwyddeb Dirlenwi”) means Council Directive 1999/31/EC on the landfill of waste<sup>(1)</sup>, as last amended by Council Directive 2011/97/EU<sup>(2)</sup>, and read as if—

(a) in Article 2—

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

“(a) ‘waste’ has the meaning given by regulation 2(1)(b) of the Hazardous Waste (Wales) Regulations 2005;”;

(ii) for point (c) there were substituted—

“(c) ‘hazardous waste’ has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005.”;

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

(5) In regulation 8—

(a) in paragraph (2)—

(i) omit the words from “by the Secretary of State” to “may be,”;

(ii) for “Article 7(2) of the Waste Directive” substitute “paragraph (3)”;

(b) after paragraph (2) insert—

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(1) OJ No L 182, 16.7.1999, p 1.

(2) OJ No L 328, 10.12.2011, p 49.

“(3) For the purposes of paragraph (2), a specific batch of waste is determined to be hazardous—

- (a) in relation to England if—
  - (i) of a type listed in regulations made under section 62A(2) of the 1990 Act;
  - (ii) it is the subject of a determination by the Secretary of State under regulation 8 of the Hazardous Waste (England and Wales) Regulations 2005<sup>(1)</sup>;
- (b) in relation to Northern Ireland, it is the subject of a determination by the Department of Agriculture, Environment and Rural Affairs under regulation 9 of the Hazardous Waste Regulations (Northern Ireland) 2005<sup>(2)</sup>;
- (c) in relation to Scotland, it is the subject of a determination by the Scottish Ministers, because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex III.”.

(6) In regulation 9—

- (a) in paragraph (2)—
  - (i) omit the words from “by the Secretary of State” to “may be,”;
  - (ii) 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 batch of waste is determined to be non-hazardous if it is the subject of a decision—

- (a) in relation to England, by the Secretary of State under regulation 9 of the Hazardous Waste (England and Wales) Regulations 2005;
- (b) in relation to Northern Ireland, by the Department of Agriculture, Environment and Rural Affairs under regulation 10 of the Hazardous Waste Regulations (Northern Ireland) 2005;
- (c) in relation to Scotland, by the Scottish Ministers that the Scottish Ministers consider that the waste displays none

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(1) S.I. 2005/894, amended by S.I. 2011/988, 2015/1360, 2016/738, 2018/575.

(2) S.R. 2005 No. 300; relevant amending instruments are S.R. 2011 No. 127 and S.R. 2015 No. 288.

of the hazardous properties listed in Annex III.”.

(7) In regulations 47(5B) and 48(6B) (as amended by regulation 5(2) and 5(3)), for “Council Directive 1999/31/EC on the landfill of waste as last amended by Council Directive 2011/97/EU” substitute “the Landfill Directive”.

(8) In regulation 60(1), in the words before subparagraph (a), omit from “and” to “Directive”.

### **The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011**

**10.**—(1) The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011(1) are amended as follows.

(2) In regulation 2(1), in the definition of “the Waste Framework Directive” (“y Gyfarwyddeb Fframwaith Gwastraff”) (as substituted by regulation 6), at the end, insert “and read in accordance with paragraphs (3) to (8)”.

(3) After paragraph (2) insert—

“(3) 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 Welsh Ministers, the Natural Resources Body for Wales 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 Wales.

(4) Article 2 is to be read as if—

(a) in paragraph 2—

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

(ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;

(iii) in point (d), for the words from “Directive 2006/21/EC” to the end there substituted “the Mining Waste Directive (see regulation 2A)”;

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(1) S.I. 2011/1014 (W.152), amended by S.I.2016/691 (W.189); there are other amending instruments but none is relevant.

- (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
- (c) paragraph 4 were omitted.(5) Article 5 is to be read as if paragraph 2 were omitted.
- (6) Article 6 is to be read as if—
  - (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, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013”;
    - (ii) the second sentence were omitted.
- (7) Article 7 is to be read as if—
  - (a) in paragraph 1—
    - (i) the first and second sentences were omitted;
    - (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 Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as hazardous waste;
      - (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as non-hazardous waste;
      - (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;
      - (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of

waste displaying hazardous properties).”;

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

(d) after paragraph 6 there were inserted—

“**6A.** In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

(e) paragraph 7 were omitted.

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

(4) After regulation 2, insert—

### **“Meaning of “the Mining Waste Directive” in regulation 2**

**2A.**—(1) In regulation 2(4)(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, read in accordance with subsections (2) to (4).

(2) Article 2 is to be read as if—

(a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive 2000/60/EC were a reference to that Article read in accordance with subsection (4);

(b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, for “Article 1(a) of Directive 75/442/EC” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.

(4) For the purposes of paragraph (2)(a), Article 11(3)(j) of Directive 2000/60/EC is to be read as if—

(a) the first reference to “Member States” were a reference to the Welsh Ministers or the Natural Resources Body for Wales;

(b) at the end, there were inserted—

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment

(Water Framework Directive) (England and Wales) Regulations 2017 has the same meaning as in those Regulations.”.

*Name*

Deputy Minister for Housing and Local Government,  
under authority of the Minister for Housing and Local  
Government, one of the Welsh Ministers

Date