

2020 No. 904

ENVIRONMENTAL PROTECTION

The Waste (Circular Economy) (Amendment) Regulations 2020

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The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State is a Minister designated(b) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment.

PART 1

Introductory Provisions

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Waste (Circular Economy) (Amendment) Regulations 2020 and come into force on 1st October 2020.

(2) An amendment made by Part 2 has the same extent as the provision amended, except regulations 4 and 5(3), which have the extent stated in those regulations.

(3) An amendment made by Part 3 has the same extent as the provision amended.

PART 2

Amendments to primary legislation

Town and Country Planning Act 1990

2. In the Town and Country Planning Act 1990(c), in section 336(1), in the definition of “waste”, in paragraph (a), for “Council Regulation (EU) 2017/997”, substitute “Directive (EU) 2018/851(d)”.

Environmental Protection Act 1990

3. In the Environmental Protection Act 1990(e), in section 75(1A), for “Council Regulation (EU) 2017/997”, substitute “Directive (EU) 2018/851”.

(a) 1972 c. 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) with effect from exit day, but saved with modifications until IP completion day by section 1A of the Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c.1)). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(b) S.I. 2008/301.

(c) 1990 c.8; the definition of waste in section 336(1) was substituted by S.I. 2011/988 and was amended by S.I. 2018/1232.

(d) OJ No L 150, 14.6.2018, p. 109.

(e) 1990 c.43; section 75(1A) was inserted by S.I. 2019/620.

Environment Act 1995

4. In the Environment Act 1995(a), in section 56(1), in paragraph (h) of the definition of “environmental licence” as it extends to England and Wales, for “Council Regulation (EU) 2017/1997”, substitute “Directive (EU) 2018/851”.

Waste and Emissions Trading Act 2003

5.—(1) The Waste and Emissions Trading Act 2003(b) is amended as follows.

(2) For section 21(3), substitute—

“(3) In this section “municipal waste” means—

- (a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture; and
- (b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households.

(3A) But municipal waste does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or waste generated by construction and demolition activities.”.

(3) In section 37—

(a) as it extends to England and Wales and Northern Ireland—

- (i) in the heading, after “waste”, insert “, recovery and disposal”;
- (ii) after subsection (1) insert—

“(1A) In this Part, “recovery” and “disposal” have the same meanings as in the Waste Directive.”;

(iii) in subsection (2), for “Council Regulation (EU) 2017/997”, substitute “Directive (EU) 2018/851”;

(b) as it extends to Scotland—

- (i) in the heading, after “waste”, insert “, recovery and disposal”;
- (ii) after subsection (1) insert—

“(1A) In this Part, “recovery” and “disposal” have the same meanings as in the Waste Directive.”;

(iii) in subsection (2), for “Council Regulation (EU) 2017/997”, substitute “Directive (EU) 2018/851”.

Marine and Coastal Access Act 2009

6. In the Marine and Coastal Access Act 2009(a), in section 75(5), for “Council Regulation (EU) 2017/997”, substitute “Directive (EU) 2018/851”.

(a) 1995 c.25. Section 41(1)(c) was substituted in relation to England by S.I. 2005/894 and in relation to Wales by S.I. 2005/1806 (W. 138), and was amended by S.I. 2011/988, 2013/755 (W.90) and 2018/942 and is prospectively repealed from IP completion day by S.I. 2019/458. Section 41(1)(g) was inserted in relation to England, Wales and Scotland by S.I. 2009/890 and was amended by S.I. 2011/2911 and 2013/755 (W. 90) and is prospectively amended from IP completion day by S.I. 2019/458. In section 56(1), paragraph (h) of the definition of “environmental licence” as it extends to England and Wales was substituted by S.I. 2011/988 and was amended by S.I. 2019/526 and is prospectively amended from IP completion day by S.I. 2019/458.

(b) 2003 c.33. Section 21(3) was amended by S.I. 2011/2499. Section 37, as it extends to England and Wales, was substituted by S.I. 2011/988 and was amended by S.I. 2019/620. Section 37, as it extends to Scotland, was substituted by S.I. 2011/226 and was amended by S.I. 2019/620. Section 37, as it extends to Northern Ireland, was substituted by S.I. 2019/620. Section 37, as it extends to England and Wales and Scotland and Northern Ireland, is prospectively amended from IP completion day by S.I. 2019/620.

PART 3

Amendments to secondary legislation

The End-of-Life Vehicles Regulations 2003

7. In the End-of-Life Vehicles Regulations 2003(b), in regulation 2—
- (a) in the definition of “the Directive”, for “Commission Directive (EU) 2017/2096” substitute “Commission Delegated Directive (EU) 2020/363(c)”;
 - (b) in the definition of “the Waste Directive” for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

The End-of-Life Vehicles (Producer Responsibility) Regulations 2005

8. In the End-of-Life Vehicles (Producer Responsibility) Regulations 2005(d), in regulation 2—
- (a) in the definition of “the Directive”, for “Commission Directive (EU) 2017/2096” substitute “Commission Delegated Directive (EU) 2020/363”;
 - (b) in the definition of “the Waste Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

The Hazardous Waste (England and Wales) Regulations 2005

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

(2) In regulation 2(1)(a), for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

(3) In regulation 5(2), in the definition of “management”, after “recovery” insert “(including sorting)”.

(4) For regulation 19(4) substitute—

“(4) Paragraph (1) applies to the mixing of waste oil only where such mixing would impede regeneration or another recycling operation delivering an equivalent or a better overall outcome than regeneration.

(5) In paragraph (4)—

“recycling” means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes, including the reprocessing of organic material but not including energy recovery or reprocessing into materials that are to be used as fuels;

“regeneration” means any recycling operation whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, the oxidation products and the additives contained in such oils.”.

(5) In regulation 20—

(a) in paragraph (1)—

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- (a) 2009 c.23; section 75(5) was inserted by S.I. 2011/405 and amended by S.I. 2016/738 and 2018/942.
 - (b) S.I. 2003/2635. The definition of “the Directive” was amended by S.I. 2018/942. The definition of “the Waste Directive” was substituted by S.I. 2016/738 and was amended by S.I. 2018/942 and is prospectively amended from IP completion day by S.I. 2019/188.
 - (c) OJ No L 67, 5.3.2020, p. 119.
 - (d) S.I. 2005/263. The definition of “the Directive” was amended by S.I. 2018/942. The definition of “the Waste Directive” was substituted by S.I. 2016/738 and was amended by S.I. 2018/942. Both definitions are prospectively amended from IP completion day by S.I. 2019/188.
 - (e) S.I. 2005/894. Regulation 2(1)(a) was substituted by S.I. 2016/738 and amended by S.I. 2018/735 and is prospectively amended from IP completion day by S.I. 2019/188. Regulation 5(2) was substituted by S.I. 2011/988. Regulation 19(4) was inserted by S.I. 2011/988. Regulations 47(5B) and 48(6B) were inserted by S.I. 2011/988 and are prospectively amended from IP completion day by S.I. 2019/188.

- (i) for “This regulation” substitute “Paragraph (2)”;
- (ii) in sub-paragraph (b)(i), omit “and economically”;
- (b) after paragraph (2) insert—
 - “(2A) Where separation is not required pursuant to paragraph (2), the holder must make arrangements for mixed hazardous waste to be treated at a facility authorised by a waste permit to treat that waste.”.
- (6) In regulation 47(5B)—
 - (a) after “landfill of waste” insert “, as last amended by Directive (EU) 2018/850(a)”;
 - (b) at the end insert “or (3)”.
- (7) In regulation 48(6B)—
 - (a) after “landfill of waste” insert “, as last amended by Directive (EU) 2018/850”;
 - (b) at the end insert “or (3)”.

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007

10. In regulation 2 of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(b)—

- (a) in paragraph (1)—
 - (i) in the definition of “the Packaging Waste Directive”, for “Directive (EU) 2015/720” substitute “Directive (EU) 2018/852(c)”;
 - (ii) in the definition of “the Waste Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
- (b) in paragraph (2)—
 - (i) in the definition of “disposal”, for “Article 3(10) of the Packaging Waste Directive” substitute “Article 3(19) of the Waste Directive”;
 - (ii) for the definition of “energy recovery” substitute—
 - ““energy recovery” means the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;”;
 - (iii) omit the definition of “organic recycling”;
 - (iv) in the definition of “recycling”, for “Article 3(7) of the Packaging Waste Directive” substitute “Article 3(17) of the Waste Directive”;
 - (v) in the definition of “reuse”, for “Article 3(5) of the Packaging Waste Directive” substitute “Article 3(13) of the Waste Directive”.

The Marine Works (Environmental Impact Assessment) Regulations 2007

11. In Schedule A1 to the Marine Works (Environmental Impact Assessment) Regulations 2007(d), in paragraph 15, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

(a) OJ No L 150, 14.6.2018, p. 100.
 (b) S.I. 2007/871. The definition of “the Packaging Waste Directive” was amended by S.I. 2019/188. The definition of “the Waste Directive” was substituted by S.I. 2016/738 and amended, in relation to England, by S.I. 2018/575, in relation to Wales by S.I. 2018/721 (W. 140) and in relation to Scotland by S.I. 2019/188. Both definitions are prospectively amended from IP completion day by S.I. 2019/188.
 (c) OJ No L 150, 14.6.2018, p. 141.
 (d) S.I. 2007/1518. This SI was revoked in relation to Scotland by S.S.I. 2017/115. Schedule A1 was inserted by S.I. 2017/588 and paragraph 15 of that Schedule was amended by S.I. 2018/942.

The Batteries and Accumulators (Placing on the Market) Regulations 2008

12.—(1) The Batteries and Accumulators (Placing on the Market) Regulations 2008(a) are amended as follows.

(2) In regulation 2(1), in the definition of “appliance”, after “(WEEE)” insert “, as last amended by Directive (EU) 2018/849(b)”.

(3) In regulation 7(3), for “Council Regulation (EU) 2017/997/EU” substitute “Directive (EU) 2018/851”.

(4) In regulation 26(2), for “Directive 2013/56/EU” substitute “Directive (EU) 2018/849”.

The Waste Batteries and Accumulators Regulations 2009

13.—(1) The Waste Batteries and Accumulators Regulations 2009(c) are amended as follows.

(2) In regulation 2—

(a) in paragraph (1), in the definition of “appliance”, after “(WEEE)” insert “as last amended by Directive (EU) 2018/849”;

(b) in paragraph (1A), for “Council Regulation (EU) 2017/997/EU” substitute “Directive (EU) 2018/851”.

(3) In regulation 56(4), for “Council Directive 2011/97/EU” substitute “Directive (EU) 2018/850”.

The Marine Licensing (Exempted Activities) Order 2011

14. In article 3 of the Marine Licensing (Exempted Activities) Order 2011(d), in the definition of “the Waste Framework Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

The Waste (England and Wales) Regulations 2011

15.—(1) The Waste (England and Wales) Regulations 2011(e) are amended as follows.

(2) In regulation 3(1)—

(a) in the definition of “Waste Framework Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;

(b) after the definition of “waste management plan” insert—

““waste prevention measures” means measures taken before a substance, material or product has become waste that reduce—

(a) the quantity of waste, including through the re-use of products or the extension of the life span of products;

(a) S.I. 2008/2164. In regulation 2(1), the definition of “appliance” was substituted by S.I. 2015/1360 and is prospectively amended from IP completion day by S.I. 2019/188. Regulation 7(3) was substituted, in relation to England and Wales, by S.I. 2011/988 and, in relation to Scotland, by S.S.I. 2011/226 and was amended and is prospectively amended from IP completion day by S.I. 2019/188. Regulation 26 was inserted by S.I. 2012/1139 and regulation 26(2) was amended by S.I. 2018/942.

(b) OJ No L 150, 14.6.2018, p. 93.

(c) S.I. 2009/890. In regulation 2(1), the definition of “appliance” was substituted by S.I.2015/1360 and is prospectively amended from IP completion day by S.I. 2019/188. Regulation 2(1A) was inserted by, and is prospectively amended from IP completion day by, S.I. 2019/188. Regulation 56(3) was amended by S.I. 2019/188. Regulation 56(4) was inserted by, and is prospectively amended from IP completion day by, S.I. 2019/188.

(d) S.I. 2011/409. In Article 3, the definition of “the Waste Framework Directive” was substituted by S.I. 2016/738 and was amended by S.I. 2018/942.

(e) S.I. 2011/988. In regulation 3(1), the definition of “Waste Framework Directive” was substituted, in relation to England, by S.I. 2016/738 and, in relation to Wales, by S.I. 2016/691 (W. 189) and was amended, in relation to England, by S.I. 2018/575 and, in relation to Wales, by S.I. 2018/721 (W. 140) and is prospectively amended from IP completion day by S.I. 2019/188. Regulations 13 and 14(2) were substituted by S.I. 2012/1889. Regulation 20(1)(a) and (3) are prospectively amended from IP completion day by S.I. 2019/188.

- (b) the adverse impacts of generated waste on the environment and human health; or
 - (c) the content of hazardous substances in materials and products;”.
- (3) In regulation 4—
- (a) in paragraph (1), omit “, not later than 12th December 2013”;
 - (b) omit paragraph (3).
- (4) In regulation 5—
- (a) after sub-paragraph (a) insert—
 - “(aa) includes one or more programmes of food waste prevention measures;”;
 - (b) in sub-paragraph (c)—
 - (i) in paragraph (i), after “waste prevention measures” insert “and their contribution to waste prevention”;
 - (ii) after paragraph (i) omit “and”;
 - (iii) after paragraph (ii) insert—
 - “(iii) sets out at least the waste prevention measures listed in Schedule 1, Part 5; and
 - (iv) where relevant, describes the contribution of instruments listed in Schedule 1, Part 6 to waste prevention.”.
- (5) For regulation 6(1) and (2) substitute—
- “(1) An appropriate authority must establish appropriate qualitative and quantitative indicators and targets, such as on the quantity of waste that is generated, against which to monitor and assess the implementation of the waste prevention measures.
 - (2) An appropriate authority must publish the indicators and targets it establishes.”.
- (6) In regulation 8(2)—
- (a) at the beginning, insert “Subject to Part 2A of Schedule 1, ”;
 - (b) omit “(taken together)”;
 - (c) after sub-paragraph (a) omit “and”;
 - (d) for sub-paragraph (b) substitute—
 - “(b) include the matters set out—
 - (i) in relation to England, in paragraphs 5 to 10 and 11(a)(ii) and (b) of Part 2 of Schedule 1;
 - (ii) in relation to Wales, in Part 2 of Schedule 1.”;
 - (e) after sub-paragraph (b) insert—
 - “(c) conform to the provisions in paragraph 5(1)(b) of Schedule 10 to the Environmental Permitting (England and Wales) Regulations 2016(a); and
 - (d) for the purposes of litter prevention, conform to—
 - (i) the programme of measures published pursuant to regulation 14(1) of the Marine Strategy Regulations 2010(b); and
 - (ii) each programme of measures proposed and approved under regulation 12(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017(c)—
 - (aa) in relation to England, for river basin districts that are wholly or partly in England;

(a) S.I. 2016/1154, to which there are amendments not relevant to these Regulations.
 (b) S.I. 2010/1627, to which there are amendments not relevant to these Regulations.
 (c) S.I. 2017/407, to which there are amendment not relevant to these Regulations.

(bb) in relation to Wales, for river basin districts that are wholly or partly in Wales.”.

(7) In regulation 13—

(a) omit paragraph (1);

(b) for paragraph (4) substitute—

“(4) The duties in this regulation apply where separate collection is necessary to ensure that waste undergoes preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of the Waste Framework Directive and to facilitate or improve preparing for re-use, recycling or recovery, unless one of the following conditions is met—

- (a) collecting the waste paper, metal, plastic or glass together results in output from those operations which is of comparable quality to that achieved through separate collection;
- (b) separate collection of the waste does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;
- (c) separate collection of the waste is not technically feasible taking into consideration good practices in waste collection; or
- (d) separate collection of the waste would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility.”.

(8) In regulation 14, for paragraphs (1) and (2) substitute—

“(1) Subject to paragraph (2), an establishment or undertaking which collects, transports or receives waste must ensure that where that waste has been separately collected it is not mixed with other material with different properties.

(2) The duty in paragraph (1) applies where keeping waste separate is necessary to ensure that waste undergoes preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of the Waste Framework Directive and to facilitate or improve preparing for re-use, recycling or recovery, unless one of the following conditions is met—

- (a) mixing certain types of waste together results in output from those operations which is of comparable quality to that achieved through keeping waste separate;
- (b) keeping waste separate does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;
- (c) keeping waste separate is not technically feasible taking into consideration good practices in waste collection; or
- (d) keeping waste separate would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility.”.

(9) In regulation 20—

(a) in paragraph (1)(a), at the end insert “, as last amended by Directive (EU) 2018/850”;

(b) in paragraph (3), in the definition of “landfill”—

- (i) after “Directive 1999/31/EC” insert “, as last amended by Directive (EU) 2018/850”;
- (ii) at the end insert “or (3)”.

(10) In Schedule 1—

(a) in Part 1—

(i) in paragraph 1, after “preventing or reducing” insert “the generation of waste and”;

(ii) in paragraph 2, at the end insert—

“(3) To make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those listed in paragraph 17 or other appropriate instruments and measures.”;

(b) for Part 2 substitute—

“PART 2

Matters which must be included in waste management plans

Analysis of the current waste management situation etc.

5. An analysis of the current waste management situation in England or Wales, as the case may be, the measures to be taken to improve environmentally sound preparing for re-use, recycling, recovery and disposal of waste and an evaluation of how the plan will support the implementation of the objectives and provisions of the Waste Framework Directive.

General policies in relation to waste and litter

6. As appropriate and taking into account the geographical level and geographical area to which the plan relates, provisions relating to—

- (a) the type, quantity and source of waste generated within the territory, the waste likely to be shipped from or to the United Kingdom, and an evaluation of the development of waste streams in the future;
- (b) existing major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste, waste containing significant amounts of critical raw materials or waste streams addressed by specific legislation;
- (c) an assessment of the need for closure of existing waste installations, and for additional waste installation infrastructure in accordance with the objective in paragraph 4;
- (d) an assessment of the investments and other financial means, including for local authorities, required to meet the needs identified following the assessment in subparagraph (c);
- (e) an assessment of existing waste collection schemes, including the material and territorial coverage of separate collection and measures to improve their operation, of any exceptions to the requirement for waste to be subject to separate collection and of the need for new collection schemes;
- (f) sufficient information on the location criteria for site identification and on the capacity of future disposal or major recovery installations, if necessary;
- (g) general waste management policies, including planned waste management technologies and methods, or policies for waste posing specific management problems;
- (h) measures to combat and prevent all forms of littering and to clean up litter;
- (i) appropriate qualitative or quantitative indicators and targets, including on the quantity of generated waste and its treatment and on municipal waste that is disposed of or subject to energy recovery.

Policies in relation to packaging waste

7. In pursuance of the objectives and measures in Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste, a chapter on the management of packaging and packaging waste, including measures taken—

- (a) to prevent the formation of packaging waste in accordance with the Packaging (Essential Requirements) Regulations 2015(a);
- (b) that consist of national programmes and projects to introduce extended producer responsibility schemes to minimise the environmental impact of packaging;
- (c) that achieve a sustained reduction in the consumption of lightweight plastic carrier bags;
- (d) that actively encourage public information and awareness campaigns concerning the adverse environmental impact of the excessive consumption of lightweight plastic carrier bags;
- (e) that encourage the increase in the share of reuseable packaging placed on the market and of systems to reuse packaging in an environmentally sound manner without compromising food hygiene or the safety of consumers.

Policies in relation to separate collection of waste

8. Measures to promote high quality recycling including the setting up of separate collections of waste, subject to regulation 13.

Policies in relation to bio-waste

9. As appropriate, measures, in accordance with the objectives in paragraphs 2 and 3—
- (a) to encourage the recycling, including composting and digestion, of bio-waste in a way that fulfils a high level of environment protection and results in output which meets relevant high-quality standards;
 - (b) to encourage home composting; and
 - (c) to promote the use of materials produced from bio-waste.

Policies in relation to re-use

10. Measures to be taken to promote preparing for re-use activities, in particular—
- (a) measures to encourage the establishment and support of preparing for re-use and repair networks;
 - (b) measures to facilitate, where compatible with proper waste management, the access of preparing for re-use and repair networks to waste held by collection schemes or facilities that can be prepared for re-use but is not destined for preparing for re-use by those schemes or facilities;
 - (c) the use of economic instruments;
 - (d) the use of procurement criteria;
 - (e) the setting of quantitative objectives.

Preparing for re-use and recycling targets and landfill reduction targets

11. Measures to be taken to ensure that—
- (a) the preparing for re-use and the recycling of municipal waste is a minimum of—
 - (i) in relation to a national waste management plan relating to Wales—

(a) S.I. 2015/1640, amended by S.I. 2018/942 and prospectively amended from IP completion day by S.I. 2019/188.

- (aa) 55% by weight by 2025;
- (bb) 60% by weight by 2030;
- (ii) in relation to any national waste management plan, 65% by weight by 2035; and
- (b) the amount of municipal waste landfilled is reduced to 10% or less of the total amount of municipal waste generated (by weight) by 2035.

Part 2A

Waste management plans: transitional provision

- 11A.**—(1) This Part applies to a waste management plan that—
- (a) is adopted before 1st October 2020; or
 - (b) is reviewed or modified under regulation 10, if the first formal preparatory act of that review or modification commenced before 1st October 2020.
- (2) A waste management plan to which this Part applies—
- (a) is not required—
 - (i) to include a statement of the appropriate authority’s policies for attaining the objectives specified in paragraphs 1 and 2(3) of Part 1 of this Schedule;
 - (ii) to include any of the matters set out in Part 2 of this Schedule; or
 - (iii) to comply with regulation 8(2)(c) or (d); but
 - (b) must include—
 - (i) a statement of the appropriate authority’s policies for attaining the objectives specified in Part 1 of this Schedule; and
 - (ii) the matters set out in Part 2 of this Schedule, as they applied immediately before 1st October 2020.”;
 - (c) after Part 4 insert—

“Part 5

Waste prevention measures referred to in regulation 5(c)(iii)

- 16.** The waste prevention measures referred to in regulation 5(c)(iii) are measures to—
- (a) promote and support sustainable production and consumption models;
 - (b) encourage the design, manufacturing and use of products that are resource-efficient, durable (including in terms of life span and absence of planned obsolescence), repairable, re-usable and upgradable;
 - (c) target products containing critical raw materials to prevent those materials becoming waste;
 - (d) encourage the re-use of products and the setting up of systems promoting repair and re-use activities, including in particular for—
 - (i) electrical and electronic equipment;
 - (ii) textiles;
 - (iii) furniture
 - (iv) packaging; and
 - (v) construction materials and products;
 - (e) encourage, as appropriate and without prejudice to intellectual property rights, the availability of spare parts, instruction manuals, technical information, or other

instruments, equipment or software enabling the repair and re-use of products without compromising their quality and safety;

- (f) reduce waste generation in processes related to industrial production, extraction of minerals, manufacturing, construction and demolition, taking into account best available techniques;
- (g) reduce the generation of food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households;
- (h) encourage food donation and other redistribution for human consumption, prioritising human use over animal feed and the reprocessing into non-food products;
- (i) promote the reduction of the content of hazardous substances in materials and products;
- (j) reduce the generation of waste, in particular waste that is not suitable for preparing for re-use or recycling;
- (k) identify products that are the main sources of littering and take appropriate measures to prevent and reduce litter from such products;
- (l) aim to halt the generation of marine litter; and
- (m) develop and support information campaigns to raise awareness about waste prevention and littering.

Part 6

Examples of economic instruments and other measures to provide incentives for the application of the waste hierarchy

17. The economic instruments and other measures referred to in paragraph 2(3) of this Schedule and regulation 5(c)(iv) are—

- (a) charges and restrictions for the landfilling and incineration of waste which incentivise waste prevention and recycling, while keeping landfilling the least preferred waste management option;
- (b) ‘pay-as-you-throw’ schemes that charge waste producers on the basis of the actual amount of waste generated and provide incentives for separation at source of recyclable waste and for reduction of mixed waste;
- (c) fiscal incentives for donation of products, in particular food;
- (d) extended producer responsibility schemes for various types of waste and measures to increase their effectiveness, cost efficiency and governance;
- (e) deposit-refund schemes and other measures to encourage efficient collection of used products and materials;
- (f) sound planning of investments in waste management infrastructure;
- (g) sustainable public procurement to encourage better waste management and the use of recycled products and materials;
- (h) phasing out of subsidies which are not consistent with the waste hierarchy;
- (i) use of fiscal measures or other means to promote the uptake of products and materials that are prepared for re-use or recycled;
- (j) support to research and innovation in advanced recycling technologies and remanufacturing;
- (k) use of best available techniques for waste treatment;

- (l) economic incentives for regional and local authorities, in particular to promote waste prevention and intensify separate collection schemes, while avoiding support to landfilling and incineration;
- (m) public awareness campaigns, in particular on separate collection, waste prevention and litter reduction, and mainstreaming these issues in education and training;
- (n) systems for coordination, including by digital means, between all competent public authorities involved in waste management;
- (o) promoting continuous dialogue and cooperation between all stakeholders in waste management and encouraging voluntary agreements and company reporting on waste.”.

The Controlled Waste (England and Wales) Regulations 2012

16. In regulation 2 of the Controlled Waste (England and Wales) Regulations 2012(**a**), in the definition of “Waste Directive”, for “Council Regulation (EU) 2017/997/EU” substitute “Directive (EU) 2018/851”.

The Climate Change Agreements (Eligible Facilities) Regulations 2012

17. In regulation 2 of the Climate Change Agreements (Eligible Facilities) Regulations 2012(**b**), in the definition of “the Waste Framework Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

The Waste Electrical and Electronic Equipment Regulations 2013

- 18.** In regulation 2 of the Waste Electrical and Electronic Equipment Regulations 2013(**c**)—
- (a) in the definition of “the Directive”, for “as it had effect immediately before 4th July 2018” substitute “as last amended by Directive (EU) 2018/849”;
 - (b) in the definition of “the Waste Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

The Packaging (Essential Requirements) Regulations 2015

- 19.**—(1) The Packaging (Essential Requirements) Regulations 2015(**d**) are amended as follows.
- (2) In regulation 2(1)—
- (a) in the definition of “the Directive”, at the end insert “, as last amended by Council Directive (EU) 2018/852”;
 - (b) in the definition of “the Waste Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.
- (3) In Schedule 1—
- (a) in paragraph 1—
 - (i) for sub-paragraph (2) substitute—
- “(2) Packaging must be designed, produced and commercialised in such a way as to—

(a) S.I. 2012/811; in regulation 2, the definition of “Waste Directive” was inserted by, and is prospectively amended from IP completion day by, S.I. 2019/188.

(b) S.I. 2012/2999; in regulation 2, the definition of “the Waste Framework Directive” was substituted by S.I. 2016/738 and was amended by S.I. 2018/942.

(c) S.I. 2013/3113. In regulation 2, the definition of “the Directive” was substituted by, and is prospectively amended from IP completion day by, S.I. 2019/188 and the definition of “the Waste Directive” was inserted by S.I. 2016/738 and was amended by S.I. 2018/942 and is prospectively amended from IP completion day by S.I. 2019/188.

(d) S.I. 2015/1640. In regulation 2(1), the definition of “Directive” is prospectively revoked from IP completion day by S.I. 2019/188 and the definition of “the Waste Directive” was amended by S.I. 2018/942 and is prospectively amended from IP completion day by S.I. 2019/188.

- (a) permit its reuse or recovery (including recycling), in line with the waste hierarchy, and;
- (b) minimise its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.”;
- (ii) after sub-paragraph (3) insert—
 - “(4) In sub-paragraph (2)(a), the reference to “the waste hierarchy” is to be interpreted in accordance with—
 - (a) in relation to England and Wales, regulation 12(1) and (2) of the Waste (England and Wales) Regulations 2011(a);
 - (b) in relation to Scotland, paragraphs 6(2) and (3) of Schedule 4 to the Waste Management Licensing (Scotland) Regulations 2011(b);
 - (c) in relation to Northern Ireland, regulation 17(1) and (2) of the Waste (Northern Ireland) Regulations 2011(c).”;
- (b) after paragraph 3(4) insert—
 - “(5) Oxo-degradable plastic packaging is not to be considered as biodegradable.
 - (6) In sub-paragraph (5), “oxo-degradable plastic packaging” means plastic packaging made of plastic materials that include additives which catalyse the fragmentation of the plastic material into micro-fragments.”.

The Renewables Obligation Order 2015

20. In article 2(1) of the Renewables Obligation Order 2015(d), in paragraph (b) of the definition of “solid recovered fuel”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

The Environmental Permitting (England and Wales) Regulations 2016

21.—(1) The Environmental Permitting (England and Wales) Regulations 2016(e) are amended as follows.

- (2) In regulation 3—
 - (a) in the definition of “the Batteries Directive”, after “waste batteries and accumulators” insert “, as last amended by Directive (EU) 2018/849”;
 - (b) in the definition of “the End-of-Life Vehicles Directive”, after “on end-of-life-vehicles” insert “, as last amended by Commission Delegated Directive (EU) 2020/363”;
 - (c) in the definition of “the Landfill Directive”, after “landfill of waste” insert “, as last amended by Directive (EU) 2018/850”;
 - (d) in the definition of “the Waste Framework Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
 - (e) in the definition of “the WEEE Directive”, after “(WEEE)” insert “, as last amended by Directive (EU) 2018/849”.
- (3) In Schedule 2—
 - (a) in paragraph 1(2), for “T32” substitute “T33”;
 - (b) in paragraph 17—
 - (i) in paragraph (1)(b)—

(a) S.I. 2011/988, to which there are amendments not relevant to this regulation.
 (b) S.S.I 2011/228, to which there are amendments not relevant to this regulation.
 (c) S.I. 2011/127, to which there are amendments not relevant to these Regulations.
 (d) S.I. 2015/1947; amended by S.I. 2018/942. There are other amending instruments but none are relevant.
 (e) S.I. 2016/1154; relevant amending instruments are S.I. 2018/575, S.I. 2018/721 (W. 140) and S.I. 2018/1227. In regulation 3, the definitions of “the Batteries Directive”, “the End-of-Life Vehicles Directive”, “the Landfill Directive”, “the Waste Framework Directive” and “the WEEE Directive” are prospectively amended from IP completion day by S.I. 2019/39.

- (aa) in paragraph (ii), at the end add “, T12, T14, T15, T30, T33 or U8”;
- (bb) in paragraph (iii), for “T3 or T7” substitute, “T3, T7 or T17”;
- (ii) in sub-paragraph (3)—
 - (aa) for paragraph (a) substitute—
 - “(a) keep chronological records of—
 - (i) the quantity, nature and origin of all waste disposed of or recovered in the course of that operation;
 - (ii) where the waste operation involves the treatment of hazardous waste, the quantity of products and materials resulting from preparing for re-use, recycling or other recovery operations in the course of that operation; and
 - (iii) where relevant, the destination, frequency of collection, mode of transport and treatment method of all waste disposed of or recovered in the course of that operation; and”;
 - (bb) in paragraph (b), for “T3 or T7” substitute “T3, T7 or T17”;
- (iii) for sub-paragraph (4)(a) and (b), substitute—
 - “(a) if the operation involves the treatment of hazardous waste—
 - (i) retain any records that it is required to keep under sub-paragraph (3) for a period of 3 years; and
 - (ii) during that period, if the exemption registration authority so directs, send those records to the exemption registration authority in such form and manner as the exemption registration authority specifies,
 - (b) if the operation does not involve the treatment of hazardous waste—
 - (i) retain any records that it is required to keep under sub-paragraph (3) for a period of 2 years; and
 - (ii) during that period make those records available to the exemption registration authority on request.”.

(4) In Schedule 3—

- (a) in Chapter 1, in paragraph 1(8)(b)—
 - (i) for “T32” substitute “T33”;
 - (ii) for “32” substitute “33”;
- (b) in Chapter 3—
 - (i) in Section 1, in paragraph 1—
 - (aa) in sub-paragraph (1)(a), for “T32” substitute “T33”;
 - (bb) in sub-paragraph (2), for “T32” substitute “T33”;
 - (ii) in Section 2—
 - (aa) omit paragraph 22;
 - (bb) at the end, insert—

“Recovery of central heating oil by filtration (T33)

- 33.—**(1) The recovery of central heating oil by filtering relevant waste.
- (2) The table specifying relevant waste for the purpose of this paragraph is set out below.

<i>Codes</i>	<i>Waste types</i>
130701*	Central heating oil only

- (3) For the purpose of this paragraph, the specific conditions are that—

- (a) the total quantity of the waste treated over any 7 day period does not exceed 400 litres,
- (b) the waste is stored with secondary containment,
- (c) the treatment is carried on at a location with sealed drainage, and
- (d) the operation is for the purpose of reusing the waste.”.

(5) In Schedule 9, after Part 3, insert—

“Part 4

Waste separately collected for preparing for re-use and recycling not to be incinerated

1.—(1) Every environmental permit which authorises a small waste incineration plant, a waste co-incineration plant, or a waste incineration plant is deemed to contain the following condition, unless such a condition to the same effect is included in the permit.

(2) The condition is that the operator must not accept—

- (a) any waste paper, metal, plastic or glass for incineration if that waste has been separately collected for the purpose of preparing for re-use or recycling; or
- (b) any waste for incineration that results from the treatment of waste referred to in paragraph (a), unless—
 - (i) the relevant permit authorises the operator to accept that type of waste for incineration; and
 - (ii) incineration of that waste delivers the best environmental outcome in accordance with regulation 12 of the Waste (England and Wales) Regulations 2011.”.

(6) In Schedule 10—

- (a) in paragraph 2(1)(d), at the end insert “or (3)”;
- (b) after paragraph 5 insert—

“Waste separately collected for preparing for re-use and recycling not to be landfilled

5A.—(1) Every environmental permit which authorises a landfill is deemed to contain the following condition, unless such a condition to the same effect is included in the permit.

(2) The condition is that the operator must not accept—

- (a) any waste paper, metal, plastic or glass for landfill if that waste has been separately collected for the purpose of preparing for re-use or recycling; or
- (b) any waste for landfill that results from the treatment of waste referred to in paragraph (a), unless—
 - (i) the relevant permit authorises the operator to accept that type of waste for landfill; and
 - (ii) landfill of that waste delivers the best environmental outcome in accordance with regulation 12 of the Waste (England and Wales) Regulations 2011.”.

(7) In Schedule 20, in paragraph 6, at the end insert “and Commission Implementing Decision (EU) 2020/248 laying down technical guidelines for inspections in accordance with Article 17 of Directive 2006/21/EC(a)”.

(a) OJ No L 51, 25.2.2020, p. 4.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

22. In Schedule 1 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017(a), in paragraph 9 of the descriptions of development, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

23. In Schedule 1 to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(b), in paragraph 9 of the descriptions of development, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.

Goldsmith of Richmond Park
Minister of State

25th August 2020

Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement for England and Wales, and partially implement for Scotland and Northern Ireland, 6 amending EU Directives in the field of waste, namely Directive (EU) 2018/849 (OJ No L 150, 14.6.2018, p. 93), Directive (EU) 2018/850 (OJ No L 150, 14.6.2018, p. 100), Directive (EU) 2018/851 (OJ No L 150, 14.6.2018, p. 109), Directive (EU) 2018/852 (OJ No L 150, 14.6.2018, p. 141), Commission Delegated Directive (EU) 2020/362 (OJ No L 67, 5.3.2020, p. 116) and Commission Delegated Directive (EU) 2020/363 (OJ L No 67, 5.3.2020, p. 119) (“the amending Directives”).

The amending Directives amend 6 EU Directives; European Parliament and Council Directive 94/62/EC on packaging and packaging waste (OJ No L 365, 31.12.1994, p. 10), Council Directive 1999/31/EC on the landfill of waste (OJ No L 182, 16.7.1999, p. 1), Directive 2000/53/EC of the European Parliament and of the Council on end-of life vehicles (OJ No L 269, 21.10.2000, p. 34), Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators (OJ No L 266, 26.9.2006, p. 1), Directive 2008/98/EC of the European Parliament and of the Council on waste (OJ No L 312, 22.11.2008, p. 3) (“the Waste Framework Directive”) and Directive 2012/19/EC of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (OJ No L 197, 24.7.2012, p. 38) (“the relevant Directives”).

Part 2 of these Regulations amends primary legislation to update references to the Waste Framework Directive in the Town and Country Planning Act 1990, the Environmental Protection Act 1990, the Environment Act 1995, the Waste and Emissions Trading Act 2003 and the Marine and Coastal Access Act 2009. It also amends the Waste and Emissions Trading Act 2003 in relation to definitions in Article 3 of the Waste Framework Directive.

Part 3 of these Regulations amends subordinate legislation. Regulation 9 amends the Hazardous Waste (England and Wales) Regulations, as amended, which implement hazardous waste requirements in the Waste Framework Directive in England. Regulation 15 amends the Waste (England and Wales) Regulations 2011, as amended, which partially implement the Waste Framework Directive in England and Wales. Regulation 19 amends the Packaging (Essential Requirements) Regulations 2015, as amended, which partially implement Directive 94/62/EC in the UK.

(a) S.I. 2017/571, amended by S.I. 2018/875; there are other amending instruments but none is relevant.

(b) S.I. 2017/572, amended by S.I. 2018/942; there are other amending instruments but none is relevant.

Regulation 21 amends the Environmental Permitting (England and Wales) Regulations 2016 (“the 2016 Regulations”), as amended, which partially implement the relevant Directives in England and Wales. Paragraphs (2) to (6) amend the 2016 Regulations to implement the amending Directives. Paragraph (7) amends the 2016 Regulations to implement obligations relating to the management of waste from extractive industries in England and Wales in Commission Implementing Decision (EU) 2020/248 laying down technical guidelines for inspections in accordance with Article 17 of Directive 2006/21/EC (OJ L No 51, 25.2.2020, p. 4).

The remaining provisions of Part 3 update references to the relevant Directives in subordinate legislation relating to packaging waste, end-of-life vehicles, waste batteries and accumulators and waste electrical and electronic equipment and also updates references to the Waste Framework Directive in relation to the definition of waste in other subordinate legislation.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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