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STATUTORY INSTRUMENTS

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**2008 No. 9**

**ENVIRONMENTAL PROTECTION**

**The Transfrontier Shipment of Waste  
(Amendment) Regulations 2008**

<i>Made</i>	- - - -	<i>7th January 2008</i>
<i>Laid before Parliament</i>		<i>11th January 2008</i>
<i>Coming into force</i>	- -	<i>5th February 2008</i>

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to measures relating to the regulation and control of the transit, import and export of waste (including recyclable materials)<sup>(2)</sup> and in relation to the prevention, reduction and elimination of pollution caused by waste<sup>(3)</sup>.

These Regulations make provision for a purpose mentioned in that section and it appears to the Secretary of State that it is expedient for the references to [Commission Regulation \(EC\) No 1418/2007](#) concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply<sup>(4)</sup> to be construed as references to that instrument as amended from time to time.

The Secretary of State makes the following Regulations under the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>(5)</sup>:

**Title and commencement**

1. These Regulations may be cited as the Transfrontier Shipment of Waste (Amendment) Regulations 2008 and come into force on 5th February 2008.

**Amendments**

2. The Transfrontier Shipment of Waste Regulations 2007<sup>(6)</sup> are amended as follows.

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(1) 1972 c. 68.

(2) [S.I. 1993/2661](#), to which there are amendments not relevant to these Regulations.

(3) [S.I. 1992/2870](#), to which there are amendments not relevant to these Regulations.

(4) OJ No L 316, 4.12.2007, p.6.

(5) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(6) [S.I. 2007/1711](#).

#### Amendments to regulation 4

3.—(1) In regulation 4(1), after the definition of “authorised person”, insert the following definition—

““[Commission Regulation \(EC\) No 1418/2007](#)” means [Commission Regulation \(EC\) No 1418/2007](#) concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply;”.

(2) At the end of regulation 4, add—

“;

(c) [Commission Regulation \(EC\) No 1418/2007](#) is a reference to that Regulation as amended from time to time”.

#### Amendment to regulation 19

4. In regulation 19(1), after the words “Article 3(1)(a) or (b)”, insert “or Article 3(5)”.

#### Regulations 23A and 23B

5. After regulation 23, insert—

##### **“Requirements for export of waste listed in Annex III or IIIA to non-OECD Decision countries**

**23A.**—(1) This regulation applies to waste—

- (a) listed in Annex III or IIIA to the Community Regulation; and
- (b) the export of which is not prohibited under Article 36.

(2) A person who transports waste destined for recovery in any country listed in the Annex to [Commission Regulation \(EC\) No 1418/2007](#) (being a country to which the OECD Decision does not apply) commits an offence if he does so in breach of that Regulation.

(3) A person who transports waste destined for recovery in any other country to which the OECD Decision does not apply commits an offence if he does so without complying with the procedure of prior written notification and consent as described in Article 35, in accordance with the second paragraph of Article 37(2).

(4) In either case, he commits an offence if he transports such waste in breach of Article 37(4) (requirement for consignment only to facilities operating or authorised to operate under the applicable national law of the country of destination).

##### **Requirements for export of waste classified under more than one entry in Annex III etc. to non-OECD Decision countries**

**23B.**—(1) This regulation applies to waste specified in Article 37(5) that is—

- (a) destined for recovery in a country to which the OECD Decision does not apply; and
- (b) the export of which is not prohibited under Article 36.

(2) A person who transports such waste commits an offence if he does so—

- (a) without the procedure of prior written notification and consent as described in Article 35 having been complied with in accordance with Article 37(5); or

- (b) in breach of Article 37(4) (requirement for consignment only to facilities operating or authorised to operate under the applicable national law of the country of destination).”.

7th January 2008

*Joan Ruddock*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

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## EXPLANATORY NOTE

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

These Regulations amend the Transfrontier Shipment of Waste Regulations 2007.

They insert regulation 23A which creates an offence for failure to comply with [Commission Regulation \(EC\) No 1418/2007](#). This Commission Regulation sets out the requirements for, and prohibitions that apply to, the export of waste listed in Annex III or IIIA to Regulation [\(EC\) No 1013/2006](#) of the European Parliament and of the Council on shipments of waste (OJ No L 190, 12.7.2006, p.1) that is destined for recovery in non-OECD Decision countries.

They insert regulation 23B which creates an offence for failure to comply with Article 37(5) of Regulation [\(EC\) No 1013/2006](#). This Article applies the procedure of prior written notification and consent to the export of the following waste for recovery in countries to which the OECD Decision does not apply—

- (a) shipments of wastes not classified under one single entry in Annex III to Regulation [\(EC\) No 1013/2006](#) ;
- (b) shipments of mixtures of wastes not classified under one single entry in Annex III or IIIA to that Regulation; and
- (c) shipments of waste classified in Annex IIIB to that Regulation.

Regulations 23A(4) and 23B(2)(b) create offences for failure to comply with Article 37(4) of Regulation [\(EC\) No 1013/2006](#). This Article requires such waste to be sent to facilities that are authorised in the country of destination.

An impact assessment has not been produced for this instrument. An impact assessment of the effect that the Transfrontier Shipment of Waste Regulations 2007 will have on the costs of business and the voluntary sector is available from the Department for Environment, Food and Rural Affairs, Hazardous Waste Unit, Ergon House, Horseferry Road, London SW1P 2AL. This impact assessment is annexed to the Explanatory Memorandum which is available alongside the instrument on the Office of Public Sector Information website.

**Changes to legislation:**

There are currently no known outstanding effects for the The Transfrontier Shipment of Waste (Amendment) Regulations 2008.