

Council Directive of 12 December 1991 on hazardous waste (91/689/EEC) (repealed)

COUNCIL DIRECTIVE

of 12 December 1991

on hazardous waste

(91/689/EEC) (repealed)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular [X¹ Article 130s] thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas Council Directive 78/319/EEC of 20 March 1978 on toxic and dangerous waste⁽⁴⁾, established Community rules on the disposal of dangerous waste; whereas in order to take account of experience gained in the implementation of that Directive by the Member States, it is necessary to amend the rules and to replace Directive 78/319/EEC by this Directive;

Whereas the Council resolution of 7 May 1990 on waste policy⁽⁵⁾ and the action programme of the European Communities on the environment, which was the subject of the resolution of the Council of the European Communities and of the representatives of the Government of the Member States, meeting within the Council, of 19 October 1987 on the continuation and implementation of a European Community policy and action programme on the environment (1987 to 1992)⁽⁶⁾, envisage Community measures to improve the conditions under which hazardous wastes are disposed of and managed;

Whereas the general rules applying to waste management which are laid down by Council Directive 75/442/EEC of 15 July 1975 on waste⁽⁷⁾, as amended by Directive 91/156/EEC⁽⁸⁾, also apply to the management of hazardous waste;

Whereas the correct management of hazardous waste necessitates additional, more stringent rules to take account of the special nature of such waste;

Whereas it is necessary, in order to improve the effectiveness of the management of hazardous waste in the Community, to use a precise and uniform definition of hazardous waste based on experience;

Whereas it is necessary to ensure that disposal and recovery of hazardous waste is monitored in the fullest manner possible;

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Whereas it must be possible rapidly to adapt the provisions of this Directive to scientific and technical progress; whereas the Committee set up by Directive 75/442/EEC must also be empowered to adapt the provisions of this Directive to such progress,

HAS ADOPTED THIS DIRECTIVE:

Editorial Information

- X1** Substituted by [Corrigendum to Council Directive 91/689/EEC of 12 December 1991 on hazardous waste \(Official Journal of the European Communities L 377 of 31 December 1991\)](#).

Article 1

1 The object of this Directive, drawn up pursuant to Article 2 (2) of Directive 75/442/EEC, is to approximate the laws of the Member States on the controlled management of hazardous waste.

2 Subject of this Directive, Directive 75/442/EEC shall apply to hazardous waste.

3 The definition of 'waste' and of the other terms used in this Directive shall be those in Directive 75/442/EEC.

[^{F14} For the purpose of this Directive 'hazardous waste' means:

- waste classified as hazardous waste featuring on the list established by Commission Decision 2000/532/EC⁽⁹⁾ on the basis of Annexes I and II to this Directive. This waste must have one or more of the properties listed in Annex III. The list shall take into account the origin and composition of the waste and, where necessary, limit values of concentration. This list shall be periodically reviewed and, if necessary revised. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4) of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste⁽¹⁰⁾,
- any other waste which is considered by a Member State to display any of the properties listed in Annex III. Such cases shall be notified to the Commission and reviewed with a view to adapting the list. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4) of Directive 2006/12/EC.]

5 Domestic waste shall be exempted from the provisions of this Directive. The Council shall establish, upon a proposal from the Commission, specific rules taking into consideration the particular nature of domestic waste not later than the end of 1992.

Textual Amendments

- F1** Substituted by [Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives \(Text with EEA relevance\)](#).

Article 2

1 Member States shall take the necessary measures to require that on every site where tipping (discharge) of hazardous waste takes place the waste is recorded and identified.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

2 Member States shall take the necessary measures to require that establishment and undertaking which dispose of, recover, collect or transport hazardous waste do not mix different categories of hazardous waste or mix hazardous waste with non-hazardous waste.

3 By way of derogation from paragraph 2, the mixing of hazardous waste with other hazardous waste or with other waste, substances or materials may be permitted only where the conditions laid down in Article 4 of Directive 75/442/EEC are complied with and in particular for the purpose of improving safety during disposal or recovery. Such an operation shall be subject to the permit requirement imposed in Articles 9, 10 and 11 of Directive 75/442/EEC.

4 Where waste is already mixed with other waste, substances or materials, separation must be effected, where technically and economically feasible, and where necessary in order to comply with Article 4 of Directive 75/442/EEC.

Article 3

1 The derogation referred to in Article 11 (1) (a) of Directive 75/442/EEC from the permit requirement for establishments or undertakings which carry out their own waste disposal shall not apply to hazardous waste covered by this Directive.

2 In accordance with Article 11 (1) (b) of Directive 75/442/EEC, a Member State may waive Article 10 of that Directive for establishments or undertakings which recover waste covered by this Directive:

- if the Member State adopts general rules listing the type and quantity of waste and laying down specific conditions (limit values for the content of hazardous substances in the waste, emission limit values, type of activity) and other necessary requirements for carrying out different forms of recovery, and
- if the types or quantities of waste and methods of recovery are such that the conditions laid down in Article 4 of Directive 75/442/EEC are complied with.

3 The establishments or undertakings referred to in paragraph 2 shall be registered with the competent authorities.

4 If a Member State intends to make use of the provisions of paragraph 2, the rules referred to in that paragraph shall be sent to the Commission not later than three months prior to their coming into force. The Commission shall consult the Member States. In the light of these consultations the Commission shall propose that the rules be finally agreed upon in accordance with the procedure laid down in Article 18 of Directive 75/442/EEC.

Article 4

1 Article 13 of Directive 75/442/EEC shall also apply to producers of hazardous waste.

2 Article 14 of Directive 75/442/EEC shall also apply to producers of hazardous waste and to all establishments and undertakings transporting hazardous waste.

3 The records referred to in Article 14 of Directive 75/442/EEC must be preserved for at least three years except in the case of establishments and undertakings transporting hazardous waste which must keep such records for at least 12 months. Documentary evidence that the management operations have been carried out must be supplied at the request of the competent authorities or of a previous holder.

Article 5

1 Member States shall take the necessary measures to ensure that, in the course of collection, transport and temporary storage, waste is properly packaged and labelled in accordance with the international and Community standards in force.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

2 In the case of hazardous waste, inspections concerning collection and transport operations made on the basis of Article 13 of Directive 75/442/EEC shall cover more particularly the origin and destination of such waste.

3 Where hazardous waste is transferred, it shall be accompanied by an identification form containing the details specified in Section A of Annex I to Council Directive 84/631/EEC of 6 December 1984 on the supervision and control within the European Community of the transfrontier shipment of hazardous waste⁽¹¹⁾, as last amended by Directive 86/279/EEC⁽¹²⁾.

Article 6

1 As provided in Article 7 of Directive 75/442/EEC, the competent authorities shall draw up, either separately or in the framework of their general waste management plans, plans for the management of hazardous waste and shall make these plans public.

2 The Commission shall compare these plans, and in particular the methods of disposal and recovery. It shall make this information available to the competent authorities of the Member States which ask for it.

Article 7

In cases of emergency or grave danger, Member States shall take all necessary steps, including, where appropriate, temporary derogations from this Directive, to ensure that hazardous waste is so dealt with as not to constitute a threat to the population or the environment. The Member State shall inform the Commission of any such derogations.

Article 8

1 In the context of the report provided for in Article 16 (1) of Directive 75/442/EEC, and on the basis of a questionnaire drawn up in accordance with that Article, the Member States shall send the Commission a report on the implementation of this Directive.

2 In addition to the consolidated report referred to in Article 16 (2) of Directive 75/442/EEC, the Commission shall report to the European Parliament and the Council every three years on the implementation of this Directive.

F²₃

Textual Amendments

- F2** Deleted by [Regulation \(EC\) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC \(Text with EEA relevance\).](#)

[^{F1}Article 9

The measures necessary for adapting the Annexes of this Directive to scientific and technical progress and for revising the list of wastes referred to in Article 1(4), designed to amend non-essential elements of this Directive, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(4) of Directive 2006/12/EC.]

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Textual Amendments

- F1** Substituted by [Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives](#) (Text with EEA relevance).

[^{F3} Article 10

1 Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive by 27 June 1995. They shall immediately inform the Commission thereof.]

2 When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3 Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

Textual Amendments

- F3** Substituted by [Council Directive 94/31/EC of 27 June 1994 amending Directive 91/689/EEC on hazardous waste](#).

[^{F3} Article 11

Directive 78/319/EEC shall be repealed with effect from 27 June 1995.]

Textual Amendments

- F3** Substituted by [Council Directive 94/31/EC of 27 June 1994 amending Directive 91/689/EEC on hazardous waste](#).

Article 12

This Directive is addressed to the Member States.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

ANNEX I

CATEGORIES OR GENERIC TYPES OF HAZARDOUS WASTE LISTED ACCORDING TO THEIR NATURE OR THE ACTIVITY WHICH GENERATED THEM⁽¹³⁾ (WASTE MAY BE LIQUID, SLUDGE OR SOLID IN FORM)

ANNEX I.A.

Wastes displaying any of the properties listed in Annex III and which consist of:

1. anatomical substances; hospital and other clinical wastes;
2. pharmaceuticals, medicines and veterinary compounds;
3. wood preservatives;
4. biocides and phyto-pharmaceutical substances;
5. residue from substances employed as solvents;
6. halogenated organic substances not employed as solvents excluding inert polymerized materials;
7. tempering salts containing cyanides;
8. mineral oils and oily substances (e.g. cutting sludges, etc.);
9. oil/water, hydrocarbon/water mixtures, emulsions;
10. substances containing PCBs and/or PCTs (e.g. dielectrics etc.);
11. tarry materials arising from refining, distillation and any pyrolytic treatment (e.g. still bottoms, etc.);
12. inks, dyes, pigments, paints, lacquers, varnishes;
13. resins, latex, plasticizers, glues/adhesives;
14. chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known (e.g. laboratory residues, etc.);
15. pyrotechnics and other explosive materials;
16. photographic chemicals and processing materials;
17. any material contaminated with any congener of polychlorinated dibenzo-furan;
18. any material contaminated with any congener of polychlorinated dibenzo-p-dioxin.

ANNEX I.B.

Wastes which contain any of the constituents listed in Annex II and having any of the properties listed in Annex III and consisting of:

19. animal or vegetable soaps, fats, waxes;
20. non-halogenated organic substances not employed as solvents;
21. inorganic substances without metals or metal compounds;
22. ashes and/or cinders;

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

23. soil, sand, clay including dredging spoils;
24. non-cyanidic tempering salts;
25. metallic dust, powder;
26. spent catalyst materials;
27. liquids or sludges containing metals or metal compounds;
28. residue from pollution control operations (e.g. baghouse dusts, etc.) except (29), (30) and (33);
29. scrubber sludges;
30. sludges from water purification plants;
31. decarbonization residue;
32. ion-exchange column residue;
33. sewage sludges, untreated or unsuitable for use in agriculture;
34. residue from cleaning of tanks and/or equipment;
35. contaminated equipment;
36. contaminated containers (e.g. packaging, gas cylinders, etc.) whose contents included one or more of the constituents listed in Annex II;
37. batteries and other electrical cells;
38. vegetable oils;
39. materials resulting from selective waste collections from households and which exhibit any of the characteristics listed in Annex III;
40. any other wastes which contain any of the constituents listed in Annex II and any of the properties listed in Annex III.

ANNEX II

CONSTITUENTS OF THE WASTES IN ANNEX I.B. WHICH RENDER THEM HAZARDOUS WHEN THEY HAVE THE PROPERTIES DESCRIBED IN ANNEX III⁽¹⁴⁾

Wastes having as constituents:

- | | |
|-----|---------------------------------|
| C1 | beryllium; beryllium compounds; |
| C2 | vanadium compounds; |
| C3 | chromium (VI) compounds; |
| C4 | cobalt compounds; |
| C5 | nickel compounds; |
| C6 | copper compounds; |
| C7 | zinc compounds; |
| C8 | arsenic; arsenic compounds; |
| C9 | selenium; selenium compounds; |
| C10 | silver compounds; |

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

C11	cadmium; cadmium compounds;
C12	tin compounds;
C13	antimony; antimony compounds;
C14	tellurium; tellurium compounds;
C15	barium compounds; excluding barium sulfate;
C16	mercury; mercury compounds;
C17	thallium; thallium compounds;
C18	lead; lead compounds;
C19	inorganic sulphides;
C20	inorganic fluorine compounds, excluding calcium fluoride;
C21	inorganic cyanides;
C22	the following alkaline or alkaline earth metals: lithium, sodium, potassium, calcium, magnesium in uncombined form;
C23	acidic solutions or acids in solid form;
C24	basic solutions or bases in solid form;
C25	asbestos (dust and fibres);
C26	phosphorus: phosphorus compounds, excluding mineral phosphates;
C27	metal carbonyls;
C28	peroxides;
C29	chlorates;
C30	perchlorates;
C31	azides;
C32	PCBs and/or PCTs;
C33	pharmaceutical or veterinary compounds;
C34	biocides and phyto-pharmaceutical substances (e.g. pesticides, etc.);
C35	infectious substances;
C36	creosotes;
C37	isocyanates; thiocyanates;
C38	organic cyanides (e.g. nitriles, etc.);
C39	phenols; phenol compounds;
C40	halogenated solvents;
C41	organic solvents, excluding halogenated solvents;
C42	organohalogen compounds, excluding inert polymerized materials and other substances referred to in this Annex;
C43	aromatic compounds; polycyclic and heterocyclic organic compounds;
C44	aliphatic amines;
C45	aromatic amines
C46	ethers;
C47	substances of an explosive character, excluding those listed elsewhere in this Annex;
C48	sulphur organic compounds;
C49	any congener of polychlorinated dibenzo-furan;
C50	any congener of polychlorinated dibenzo-p-dioxin;
C51	hydrocarbons and their oxygen; nitrogen and/or sulphur compounds not otherwise taken into account in this Annex.

Annex III

PROPERTIES OF WASTES WHICH RENDER THEM HAZARDOUS

H1	‘Explosive’: substances and preparations which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene.
H2	‘Oxidizing’: substances and preparations which exhibit highly exothermic reactions when in contact with other substances, particularly flammable substances.
H3-A	<p>‘Highly flammable’:</p> <ul style="list-style-type: none"> — liquid substances and preparations having a flash point below 21 °C (including extremely flammable liquids), or — substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any application of energy, or — solid substances and preparations which may readily catch fire after brief contact with a source of ignition and which continue to burn or to be consumed after removal of the source of ignition, or — gaseous substances and preparations which are flammable in air at normal pressure, or — substances and preparations which, in contact with water or damp air, evolve highly flammable gases in dangerous quantities.
H3-B	‘Flammable’: liquid substances and preparations having a flash point equal to or greater than 21 °C and less than or equal to 55 °C.
H4	‘Irritant’: non-corrosive substances and preparations which, through immediate, prolonged or repeated contact with the skin or mucous membrane, can cause inflammation.
H5	‘harmful’: substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may involve limited health risks.
H6	‘Toxic’: substances and preparations (including very toxic substances and preparations) which, if they are inhaled or ingested or if they penetrate the skin, may involve serious, acute or chronic health risks and even death.
H7	‘Carcinogenic’: substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce cancer or increase its incidence.
H8	‘Corrosive’: substances and preparations which may destroy living tissue on contacts.
H9	‘Infectious’: substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.
H10	‘Teratogenic’: substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce non-hereditary congenital malformations or increase their incidence.
H11	‘Mutagenic’: substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce hereditary genetic defects or increase their incidence.
H12	Substances and preparations which release toxic or very toxic gases in contact with water, air or an acid.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- H13 Substances and preparations capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics listed above.
- H14 ‘Ecotoxic’: substances and preparations which present or may present immediate or delayed risks for one or more sectors of the environment.

Notes

1. Attribution of the hazard properties ‘toxic’ (and ‘very toxic’), ‘harmful’, ‘corrosive’ and ‘irritant’ is made on the basis of the criteria laid down by Annex VI, part I A and part II B, of Council Directive 67/548/EEC of 27 June 1967 of the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances⁽¹⁵⁾, in the version as amended by Council Directive 79/831/EEC⁽¹⁶⁾.
2. With regard to attribution of the properties ‘carcinogenic’, ‘teratogenic’ and ‘mutagenic’, and reflecting the most recent findings, additional criteria are contained in the Guide to the classification and labelling of dangerous substances and preparations of Annex VI (part II D) to Directive 67/548/EEC in the version as amended by Commission Directive 83/467/EEC⁽¹⁷⁾.

Test methods

The test methods serve to give specific meaning to the definitions given in Annex III.

The methods to be used are those described in Annex V to Directive 67/548/EEC, in the version as amended by Commission Directive 84/449/EEC⁽¹⁸⁾, or by subsequent Commission Directives adapting Directive 67/548/EEC to technical progress. These methods are themselves based on the work and recommendations of the competent international bodies, in particular the OECD.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (1) OJ No C 295, 19.11.1988, p. 8, and OJ No C 42, 22.2.1990, p. 19.
- (2) OJ No C 158, 26.6.1989, p. 238.
- (3) OJ No C 56, 6.3.1989, p. 2.
- (4) OJ No L 84, 31.3.1978, p. 43.
- (5) OJ No C 122, 18.5.1990, p. 2.
- (6) OJ No C 328, 7.12.1987, p. 1.
- (7) OJ No L 194, 25.7.1975, p. 39.
- (8) OJ No L 78, 26.3.1991, p. 32.
- (9) [F1OJ L 226, 6.9.2000, p. 3.
- (10) OJ L 114, 27.4.2006, p. 9.]
- (11) OJ No L 326, 13.12.1984, p. 31.
- (12) OJ No L 181, 4.7.1986, p. 13.
- (13) Certain duplications of entries found in Annex II are intentional.
- (14) Certain duplications of generic types of hazardous wastes listed in Annex I are intentional.
- (15) OJ No L 196, 16.8.1967, p. 1.
- (16) OJ No L 259, 15.10.1979, p. 10.
- (17) OJ No L 257, 16.9.1983, p. 1.
- (18) OJ No L 251, 19.9.1984, p. 1.

Textual Amendments

- F1** Substituted by Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Text with EEA relevance).