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EUROPEAN COMMUNITIES

PUBLIC HEALTH

**The Transfrontier Shipment of Hazardous Waste
Regulations (Northern Ireland) 1989**

Made 29th March 1989

Coming into operation in accordance with regulation 1

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SCHEDULE

EXCEPTED SUBSTANCES

The Department of the Environment, being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation and control of the transit, import and export of waste (including recyclable materials) which is dangerous or which requires the taking of special precautions and in relation to anything supplemental or incidental to those matters, in exercise of the powers conferred by that section and by Articles 17(1), (2), (3), 36(4) and 86(2) of the Pollution Control and Local Government (Northern Ireland) Order 1978(c) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Transfrontier Shipment of Hazardous Waste Regulations (Northern Ireland) 1989 and shall come into operation as follows—

- (a) Regulations 3 to 18 and 31 shall come into operation on 15th June 1989.
- (b) This regulation and the remaining regulations shall come into operation on 15th May 1989.

Interpretation and application

2.—(1) In these regulations—

- “acknowledgement” means an acknowledgement under Article 4 of the Directive;
- “carrier” means any person who transports a consignment;
- “completed” means, in the case of a consignment note, completed in accordance with the instructions set out in Annex IV to Commission Directive 85/469/EEC(d) and in the case of a uniform document, completed in accordance with the instructions on that document;
- “consignee” means the person to whom a consignment is transported for disposal;
- “consignment” means a quantity of hazardous waste that is intended to be, is being, or has been transported from one state to another without its being divided or added to;
- “consignment note” means a consignment note printed in accordance with Annex III to Commission Directive 85/469/EEC to be completed in accordance with Annex IV of that Directive and, in relation to such a note, “copy 1”, “copy 2” and “copy 3” mean respectively the copies of the note so numbered and entitled “copy for the authority issuing the acknowledgement”, “copy for the holder of the waste” and “copy accompanying the waste”;

(a) S.I. 1985/1195

(b) 1972 c. 68

(c) S.I. 1978/1049 (N.I. 19)

(d) OJ No. L272, 12.10.1985, p. 1 as amended by Commission Directive 87/112/EEC (OJ No. L48, 17.2.1987, p. 31)

- “the Department” means the Department of the Environment for Northern Ireland;
- “Directive” means Council Directive 84/631/EEC on the supervision and control within the European Community of the transfrontier shipment of hazardous waste(a);
- “hazardous waste” has the same meaning as “special waste” in regulation 3 of the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981(b), other than waste which is special waste solely because—
- (a) it consists of, or contains any of, the substances listed in the Schedule, or
 - (b) it is a medicinal product in accordance with regulation 3(1)(b) of those regulations;
- “holder” means the person having a consignment in his possession or control immediately before it is transported from the premises at which it is produced or stored;
- “member State” means a state other than the United Kingdom that is a member of the European Economic Community;
- “member State of destination” means the member State in which a consignment is, or is to be, disposed of;
- “member State of dispatch” means the member State in which a consignment originates;
- “member State of transit” means any member State through which a consignment is, or is to be, transported for disposal in another state;
- “non-ferrous metal consignment” means a consignment that is, or is to be, transported for the purpose of enabling its non-ferrous metal content to be re-used, regenerated or recycled;
- “objection” means an objection under Article 4 of the Directive;
- “port” means seaport or airport;
- “third state” means a state that is not a member of the European Economic Community;
- “third state of destination” means the third state in which a consignment is, or is to be, disposed of;
- “third state of dispatch” means the third state in which a consignment originates;
- “third state of transit” means any third state through which a consignment is, or is to be, transported for disposal in another state;
- “uniform document” means a uniform document printed in accordance with Annex III to Commission Directive 85/469/EEC and, in relation to such a document, “copy 1”, “copy 2”, “copy 3” and “copy 4”

(a) OJ No. L326, 13.12.1984, p. 31 as amended by Council Directive 86/279/EEC (OJ No. L181, 4.7.1986, p. 13), and as adapted to technical progress by Commission Directive 85/469/EEC and Commission Directive 87/112/EEC

(b) S.R. 1981 No. 252

mean respectively the copies of the document so numbered and entitled "copy for the consignee of the waste", "copy for the competent authority", "copy for the holder of the waste" and "copy for the competent authority";

"the 1978 Order" means the Pollution Control and Local Government (Northern Ireland) Order 1978.

(2) Any reference in these regulations to the competent authority of a member State is a reference to the authority designated by that member State in pursuance of Article 16 of the Directive.

(3) Where, under these regulations, anything is to be done by or to a third state, it shall be done by or to either the government of that state, or by or to the authority in that state specified by that government.

(4) Other expressions used in these regulations shall have the meaning they bear in the 1978 Order.

(5) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(6) These regulations do not apply to the off-loading of waste from a ship to land where the waste is produced by the normal operation of the ship.

PART II

DUTIES OF HOLDERS OF HAZARDOUS WASTE

Consignment to a member State: single consignment

3. Subject to regulations 4 and 5, a holder shall not transport, or cause or permit to be transported, a consignment from Northern Ireland to a destination in a member State unless, before the consignment is removed from the premises at which it was produced, or at which it is stored, he—

- (a) enters into a contract with the consignee for the disposal of the consignment;
- (b) sends to the competent authority of the member State of destination a completed consignment note relating to the transport of the consignment;
- (c) sends a photocopy of the completed copy 1 to—
 - (i) the district council for the area in which the consignment is currently located;
 - (ii) the district council for the area in which is situated the port through which the consignment is to leave Northern Ireland;
 - (iii) the Secretary of State for the Environment, where the consignment is to be transported through England, the Secretary of State for Wales, where the consignment is to be transported through Wales, and the Secretary of State for Scotland, where the consignment is to be transported through Scotland;
 - (iv) the competent authority of any member State of transit; and
 - (v) any third state of transit;

(a) 1954 c. 33 (N.I.)

- (d) receives acknowledgement of the consignment note from the competent authority referred to in paragraph (b);
- (e) either—
 - (i) is informed by the district council referred to in paragraph (c)(i) that it makes no objection under regulation 22; or
 - (ii) receives no objection from that district council within a period of 20 days from the date on which a photocopy of copy 1 of the consignment note was received by that authority;
- (f) completes copy 3 of the acknowledged consignment note and sends a photocopy of it to each of the relevant persons mentioned in paragraphs (b) and (c); and
- (g) gives a completed copy 3 to the carrier.

Multiple consignments to a member State

4.—(1) Where a holder intends, within any period of twelve months, to transport, or to cause or permit to be transported, more than one consignment from Northern Ireland to a member State of destination and—

- (a) each consignment consists of hazardous waste having essentially the same physical and chemical characteristics;
- (b) each consignment is to be transported to the same consignee;
- (c) entry is to be made with Her Majesty's Commissioners of Customs and Excise at the same port in respect of each consignment; and
- (d) clearance is to be sought for each consignment at the same customs office of entry in the member State of destination and in any member State of transit, and at the same customs office of exit from any member State of transit,

regulation 3 shall not apply if, before the first consignment is removed from the premises at which it was produced or at which it is stored, the holder complies with the requirements of paragraph (2), and if, before each consignment is removed from the premises at which it was produced or at which it is stored, the holder complies with the requirements of paragraph (3).

(2) The requirements of this paragraph are that the holder—

- (a) enters into a contract with the consignee for the disposal of all the consignments;
- (b) sends to the competent authority of the member State of destination a consignment note which comprises copies 1 and 2, completed with respect to the transport of all the consignments, and separate forms of copy 3 completed as respects each of the proposed consignments;
- (c) sends a photocopy of the completed copy 1 of the note to—
 - (i) the district council for any area in which the consignments are, or will be, located immediately before transport;
 - (ii) the district council for the area in which is situated the port through which the consignments are to leave Northern Ireland;
 - (iii) the Secretary of State for the Environment, where the consignments are to be transported through England, the Secretary of State for Wales, where the consignments are to be

transported through Wales, and the Secretary of State for Scotland, where the consignments are to be transported through Scotland;

- (iv) the competent authority of any member State of transit; and
- (v) any third state of transit;
- (d) receives acknowledgement of the consignment note from the competent authority referred to in sub-paragraph (b);
- (e) either—
 - (i) is informed by the district councils indicated in sub-paragraph (c)(i) that they make no objection under regulation 22; or
 - (ii) receives no such objection from those district councils within a period of 20 days from the date on which a photocopy of copy 1 of the consignment note was received by those councils; and
- (f) complies with any conditions as to the supply of information about the consignments imposed under Article 5(2) of the Directive by—
 - (i) the competent authority of the member State of destination, or
 - (ii) the competent authority of any member State of transit.
- (3) The requirements of this paragraph are that the holder—
 - (a) completes the appropriate copy 3 of the acknowledged consignment note, and sends a photocopy of it to each of the relevant persons mentioned in paragraph (2)(b) and (c); and
 - (b) gives the appropriate completed copy 3 to the carrier.

Exception for certain consignments containing non-ferrous metal to member States

5. Where a holder intends to transport, or to cause or permit to be transported, a non-ferrous metal consignment from Northern Ireland to a destination in a member State regulation 3 shall not apply if, before the consignment is removed from the premises at which it was produced or at which it is stored, he—

- (a) enters into a contract with the consignee with respect to the re-use, regeneration or recycling of the non-ferrous metal content of the consignment;
- (b) makes a declaration to this effect on a uniform document;
- (c) otherwise completes the uniform document;
- (d) sends the completed copy 4 to the competent authority of the member State of destination; and
- (e) gives completed copies 1 and 2 to the carrier.

Consignment to a third state: single consignment

6. Subject to regulations 7 and 8, a holder shall not transport or cause or permit to be transported, a consignment from Northern Ireland to a destination in a third state unless, before the consignment is removed from the premises at which it was produced, or at which it is stored he—

- (a) obtains the agreement of that third state to the receipt of that consignment in that country for disposal;

- (b) enters into a contract with the consignee for the disposal of the consignment;
- (c) sends a completed consignment note relating to the transport of the consignment—
- (i) where the consignment will pass through one or more member States of transit and that State or the last of those States under Article 4 of the Directive acknowledges receipt of the consignment note or raises objections, to the competent authority of that State; or
 - (ii) in any other case, to the Department;
- (d) sends a photocopy of the completed copy 1 of the note to—
- (i) where paragraph (c)(i) applies, the Department;
 - (ii) the district council for the area in which is situated the port through which the consignment is to leave Northern Ireland;
 - (iii) the Secretary of State for the Environment, where the consignment is to be transported through England, the Secretary of State for Wales, where the consignment is to be transported through Wales, and the Secretary of State for Scotland, where the consignment is to be transported through Scotland;
 - (iv) the competent authority of any member State of transit;
 - (v) any third state of transit; and
 - (vi) the third state of destination;
- (e) receives acknowledgement of the consignment note from the person to whom the completed note was sent in accordance with paragraph (c);
- (f) where paragraph (c)(i) applies, either—
- (i) is informed by the Department that it has no objection; or
 - (ii) receives no objection from the Department within the period of 20 days from the date on which it received a photocopy of copy 1 of the consignment note;
- (g) completes copy 3 of the acknowledged consignment note and sends a photocopy of it to each of the relevant persons mentioned in paragraphs (c) and (d); and
- (h) gives the completed copy 3 to the carrier.

Multiple consignments to a third state

7.—(1) Where a holder intends, within any period of twelve months, to transport, or to cause or permit to be transported, more than one consignment of hazardous waste from Northern Ireland to a third state of destination and—

- (a) each consignment consists of hazardous waste having essentially the same physical and chemical characteristics;
- (b) each consignment is to be transported to the same consignee;
- (c) entry is to be made with Her Majesty's Commissioners of Customs and Excise at the same port in respect of each consignment; and

- (d) where the consignments are to be transported through any member State of transit, clearance is to be sought at the same customs office of exit from that member State;

regulation 6 shall not apply if, before the first consignment is removed from the premises at which it was produced or at which it is stored, the holder complies with the requirements of paragraph (2) and if, before each consignment is removed from the premises at which it was produced or at which it is stored, the holder complies with the requirements of paragraph (3).

- (2) The requirements of this paragraph are that the holder—
- (a) obtains the agreement of the third state of destination to the receipt of all the consignments in that country for disposal;
- (b) enters into a contract with the consignee for the disposal of all the consignments;
- (c) sends a consignment note which comprises copies 1 and 2, completed with respect to the transport of all the consignments, and separate forms of copy 3 completed as respects each of the proposed consignments,
- (i) where the consignment is due to pass through one or more member States of transit and that State or the last of those States under Article 4 of the Directive acknowledges receipt of the consignment note or raises objections, to the competent authority of that State; or
- (ii) in any other case, the Department;
- (d) sends a photocopy of copy 1 of the completed consignment note to—
- (i) where sub-paragraph (c)(i) applies, the Department;
- (ii) the district council for the area in which is situated the port through which the consignments are to leave Northern Ireland;
- (iii) the Secretary of State for the Environment, where the consignments are to be transported through England, the Secretary of State for Wales, where the consignments are to be transported through Wales, and the Secretary of State for Scotland, where the consignments are to be transported through Scotland;
- (iv) the competent authority of any member State of transit;
- (v) any third state of transit; and
- (vi) the third state of destination;
- (e) receives acknowledgement of the consignment note from the person to whom the completed consignment note was sent in accordance with sub-paragraph (c);
- (f) where sub-paragraph (c)(i) applies, either—
- (i) is informed by the Department that it has no objection; or
- (ii) receives no objection from the Department within the period of 20 days from the date on which it received a photocopy of copy 1 of the consignment note; and

- (g) complies with any conditions as to the supply of information about the consignments imposed in accordance with Article 5(2) of the Directive by—
- (i) the competent authority of any member State of transit; and
 - (ii) where sub-paragraph (c)(ii) applies, the Department.
- (3) The requirements of this paragraph are that the holder—
- (a) completes the appropriate copy 3 of the acknowledged consignment note and sends a photocopy of it to each of the relevant persons mentioned in paragraphs (2)(c) and (d); and
 - (b) gives the appropriate completed copy 3 to the carrier.

Exception for certain consignments containing non-ferrous metal to third states

8. Where a holder intends to transport, or to cause or permit to be transported, a non-ferrous metal consignment from Northern Ireland to a destination in a third state, regulation 6 shall not apply if, before the consignment is removed from the premises at which it has been produced or at which it is being stored, he—

- (a) enters into a contract with the consignee with respect to the re-use, regeneration or recycling of the non-ferrous metal content of the consignment;
- (b) makes a declaration to this effect on a uniform document;
- (c) otherwise completes the uniform document;
- (d) sends the completed copy 4 to the district council for the area in which the consignment is currently located;
- (e) sends a photocopy of copy 4 to the competent authority of any last member State of transit; and
- (f) gives completed copies 1 and 2 to the carrier.

Additional duties regarding consignments to third states

9.—(1) This regulation applies to a consignment to which regulation 6 applies and to a consignment in relation to which the holder relies on the exemption provided by regulation 7.

(2) Where regulations 6(c)(ii) or 7(2)(c)(ii) apply the holder shall notify the Department in writing within six weeks from the date on which the consignment left the area of the European Economic Community—

- (a) of the customs port of exit from the area of the European Economic Community; and
- (b) of the arrival of the consignment at the place of destination stated on the consignment note.

(3) In cases to which paragraph (2) does not apply, the holder shall notify the competent authority of the member State of transit or, where there are more than one of such States, the competent authority of the last member State of transit within six weeks from the date on which the consignment left the area of the European Economic Community—

- (a) of the customs post of exit from the area of the European Economic Community; and
- (b) of the arrival of the consignment at the place of destination stated in the consignment note.

Retention of documents

10.—(1) A holder shall keep for at least two years from the date of receipt any copy of a consignment note or photocopy of it sent or given to him in pursuance of these regulations or any provision of the law of a member State giving effect to the Directive.

(2) A holder who sends a uniform document under regulation 5 or 8 shall keep copy 3 of that document for at least two years from the date on which he has sent it.

PART III

DUTIES OF CONSIGNEES OF HAZARDOUS WASTE TRANSPORTED INTO NORTHERN IRELAND

Acceptance of a consignment

11. Subject to regulation 12, a consignee shall not accept a consignment transported into Northern Ireland unless—

- (a) such acceptance is in accordance with a contract he entered into with the holder; and
- (b) he has received the completed copy 3 of the consignment note which was dispatched with the consignment.

Acceptance of a consignment containing non-ferrous metal

12. Regulation 11 shall not apply where a consignee accepts a non-ferrous metal consignment transported into Northern Ireland if—

- (a) such acceptance is in accordance with a contract he entered into with the holder with respect to the re-use, regeneration or recycling of the non-ferrous metal content of the consignment; and
- (b) he has received the copies 1 and 2 of the uniform document which accompanied the consignment.

Notification of acceptance of a consignment

13. A consignee who accepts a consignment other than a non-ferrous metal consignment shall, no later than 15 days from the date of acceptance, complete the copy 3 of the consignment note which accompanied the consignment and send photocopies of that copy to—

- (a) the holder;
- (b) the competent authority of any member State or of Northern Ireland indicated on the consignment note as being concerned;
- (c) any third state of dispatch or transit; and
- (d) the Department.

Notification of acceptance of a consignment containing non-ferrous metal

14. A consignee who accepts a non-ferrous metal consignment shall, no later than 15 days from the date of acceptance—

- (a) declare on copies 1 and 2 of the uniform document that accompanied the consignment that the re-use, regeneration or recycling of the non-ferrous metal content of the consignment will actually be carried out; and
- (b) send the completed copy 2 to the district council for the area in which he receives the consignment.

Retention of documents

15.—(1) A consignee shall keep for at least two years from the date of receipt any copy of a consignment note or photocopy of it sent or given to him in pursuance of these regulations.

(2) A consignee who under these regulations receives from a carrier a copy 1 of a completed uniform document shall keep that copy for at least two years from the date of receipt.

PART IV

DUTIES OF CARRIERS OF HAZARDOUS WASTE

Documents carried during transport

16.—(1) A carrier shall not transport any consignment in Northern Ireland unless—

- (a) in the case of a consignment other than a non-ferrous metal consignment, it is accompanied by a completed copy 3 of a consignment note relating to the consignment; or
- (b) in the case of a non-ferrous metal consignment, it is accompanied by copies 1 and 2 of a uniform document relating to the consignment.

(2) A carrier shall not transfer such consignment to another person in Northern Ireland without—

- (a) endorsing copy 3 of the consignment note in accordance with the instructions, passing the document to the transferee and retaining a photocopy of the document, or
- (b) passing on to him copies 1 and 2 of the uniform document.

Notification when consignment leaves Northern Ireland

17. A carrier intending to transport a consignment other than a non-ferrous metal consignment from Northern Ireland for disposal in a third state, without the consignment being subsequently transported through another member State of transit or through Great Britain, shall, before the consignment leaves Northern Ireland, endorse copy 3 of the completed consignment note relating to the consignment, deliver that document to Her Majesty's Commissioners of Customs and Excise at the port from which the consignment is to leave Northern Ireland and retain a photocopy of that document.

Retention of documents

18. Any carrier who in pursuance of these regulations retains a photocopy of a completed copy 3 of a consignment note shall retain that photocopy for at least two years.

PART V

DUTIES OF DISTRICT COUNCILS

Acknowledgement of or objection to transport of a consignment into Northern Ireland

19. Where a district council is notified by way of a consignment note of the transport of one or more consignments to one or more destinations in Northern Ireland it shall, not later than one month from receipt of the note, either—

- (a) enter an acknowledgement on the consignment note, retain copy 1 and return the other copies to the holder; or
- (b) give notice in writing to the holder that it objects to the transport of the consignment under Article 4(3) of the Directive.

Notification of acknowledgement of or objection to transport of a consignment into Northern Ireland

20. The district council shall send a photocopy of copy 2 of any consignment note acknowledged by it under regulation 19(a) or, as the case may be, its notice of objection under regulation 19(b), to—

- (a) the competent authority of the member State of dispatch;
- (b) the competent authority of any member State of transit;
- (c) any third state of transit;
- (d) the consignee;
- (e) the Department;
- (f) the district council for the area in which is situated the port through which the consignment is to be brought into Northern Ireland; and
- (g) the Secretary of State for the Environment, where the consignment is to be transported through England, the Secretary of State for Wales, where the consignment is to be transported through Wales, and the Secretary of State for Scotland, where the consignment is to be transported through Scotland.

Removal of objection to transport of a consignment into Northern Ireland

21. As soon as a district council which has objected under regulation 19(b) is satisfied that the reason for not issuing an acknowledgement no longer exists, or where the Department decides, on an appeal under regulation 26, that an acknowledgement should be issued, the district council concerned shall forthwith—

- (a) enter an acknowledgement on the relevant consignment note, retain copy 1 of the note and return the other copies to the holder; and
- (b) send a photocopy of copy 2 to those persons to whom a photocopy of the notice of objection was required to be sent under regulation 20.

Objection to transport of a consignment from Northern Ireland

22. A district council shall, within 20 days from receiving a photocopy of copy 1 of a consignment note under regulation 3(c)(i) or 4(2)(c)(i), notify the holder of the waste in writing that either—

- (a) under Article 4(6) of the Directive it objects to the transport of the consignment; or
- (b) it has no such objection.

Notification of objection to transport of a consignment from Northern Ireland

23. The district council shall forthwith send a photocopy of any notice of objection under regulation 22 to—

- (a) the competent authority of any member State of destination;
- (b) the competent authority of any member State of transit;
- (c) the Department; and
- (d) the Secretary of State for the Environment, where the consignment is to be transported through England, the Secretary of State for Wales, where the consignment is to be transported through Wales, and the Secretary of State for Scotland, where the consignment is to be transported through Scotland.

Removal of objection to transport of a consignment from Northern Ireland

24. As soon as a district council which objected under regulation 22(a) is satisfied that the reason for its objection no longer exists, or where the Department decides on an appeal under regulation 26 that no objection should be made, the district council concerned shall forthwith—

- (a) notify the holder in writing that it no longer objects; and
- (b) send a photocopy of such notification to those persons to whom it was required to send a photocopy of the objection under regulation 23.

Retention of documents

25. A district council which, under these regulations or any provision of a member State giving effect to the Directive, receives a copy of a consignment note or uniform document or a photocopy of it shall, except where otherwise required by regulation 19(a), keep that document for at least two years from the date of receipt.

PART VI

APPEALS

26.—(1) Where a district council objects under regulations 19(b) or 22(a) to the transport of a consignment, the holder or the consignee may, in accordance with this regulation, appeal against the objection to the Department.

(2) The appellant shall give written notice of the appeal within the period of one month from the date on which the objection is notified to him or within such longer period as the Department may at any time allow.

(3) A notice of appeal shall contain a statement of the grounds on which the appeal is made.

(4) The appellant shall send to the Department with the notice of appeal two copies of each of the following documents—

(a) the objection;

(b) any disposal licence relevant to the appeal issued to the consignee in pursuance of Article 7 of the 1978 Order; and

(c) any correspondence or other documents relevant to the appeal.

(5) The appellant shall send to the district council that made the objection a copy of the notice of appeal and a copy of any correspondence or other documents submitted by him to the Department under paragraph (4)(c).

PART VII

ENFORCEMENT

False information with respect to consignment notes and uniform documents

27. A holder shall not, with the intention of securing an acknowledgement, avoiding an objection or avoiding the imposition of conditions, send a consignment note or uniform document pursuant to these regulations knowing it to be false in a material particular or being reckless as to whether it is false in a material particular.

Offences and penalties

28.—(1) A holder, carrier or consignee who fails to comply with these regulations, other than regulations 10, 15 and 18 shall commit an offence and be liable on summary conviction to a fine not exceeding £2,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

(2) Any person who fails to comply with regulations 10, 15 or 18 shall commit an offence and be liable on summary conviction to a fine not exceeding £400.

(3) In any proceedings for an offence under these regulations, other than regulation 27, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(4) In any proceedings for an offence under paragraph (1) for failure to comply with regulations 3 to 9, 11 to 14, 16 and 17 it shall be a defence for the person charged to prove that he was not reasonably able to comply with the provision concerned by reason of an emergency and that he took all reasonable steps to ensure that the necessary copies of the consignment note or uniform document were completed or furnished or received (as the case may be) as soon as practicable after the event.

(5) Where the commission by a person of an offence under these regulations is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

Offences by corporations

29.—(1) Where an offence under these regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished, subject to and in accordance with regulation 28.

(2) In paragraph (1) “director”, in relation to a body corporate established by or under any statutory provision for the purpose of carrying on under public ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

(3) In paragraph (2) “statutory provision” has the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954(a).

Responsible authorities

30. The district council for the district from or into which a consignment is transported shall so supervise the keeping of records under Parts II, III and IV as to ensure that the requirements of those Parts are complied with.

PART VIII

AMENDMENTS

Amendment of The Pollution Control (Special Waste) Regulations (Northern Ireland) 1981

31. For regulation 8 of the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981(b) substitute the following regulation—

“**8.**—(1) Subject to paragraph (2)—

(a) these regulations shall apply to a person who imports special waste into Northern Ireland as they apply to a producer and as if the waste were produced at the place where it first enters Northern Ireland; and

(b) regulation 7 shall apply to a person who exports special waste from Northern Ireland as it applies to a disposer.

(2) These regulations except for regulations 15 and 16 and regulation 17 in its application to regulations 15 and 16 shall not apply to consignments of hazardous waste within the meaning of the Transfrontier Shipment of Hazardous Waste Regulations (Northern Ireland) 1989.”

Sealed with the Official Seal of the Department of the Environment on 29th March 1989.

(L.S.)

Ian B. McQuiston

Assistant Secretary

(a) 1954 c. 33 (N.I.)
(b) S.R. 1981 No. 252

EXCEPTED SUBSTANCES

Acids and alkalis arising from uses other than surface treatment and finishing of metals

Barium compounds

Boron compounds

Chlorinated solvents

Inorganic halogen-containing compounds

Inorganic sulphur-containing compounds, except thiocyanates

Nickel and nickel compounds

Organic solvents

Phosphorus and its compounds

Silver compounds

Vanadium compounds

Zinc compounds

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations implement Council Directive 84/631/EEC, as amended by Council Directive 86/279/EEC, and adapted to technical progress by Commission Directives 85/469/EEC and 87/112/EEC, on the supervision and control within the European Community of the transfrontier shipment of hazardous waste. Such waste is, with some exceptions, "special waste" as defined in the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981. The regulations provide a system of consignment notes and uniform documents to be used by persons who produce, transport and dispose of consignments of hazardous waste.

Regulations 3 to 9 prohibit persons from commencing, or allowing the commencement of, the transport of such consignment to destinations outside the United Kingdom until such transport has been notified to the appropriate authorities and the relevant competent authority of the appropriate member State has acknowledged the notification. (Lists of competent authorities for the purpose of the Directive are published in the Official Journal of the European Communities, OJ No. C 64, 11.3.1987.) Where a number of consignments of waste having essentially the same physical and chemical characteristics are to be transported within a 12 month period to the same consignee, regulations 4 and 7 provide for notification of, and acknowledgement by, the appropriate authorities in respect of the series of consignments, rather than each individual consignment.

Regulation 11 prohibits the acceptance of a consignment of hazardous waste transported into Northern Ireland unless it is accompanied by a consignment note. Regulation 13 requires consignees to notify the relevant authorities of the acceptance of the consignment. Regulation 16 prohibits a carrier from transporting a consignment of waste to which the regulations apply unless the consignment is accompanied throughout its journey by the appropriate documentation. Regulation 17 provides in certain cases that where a carrier intends to transport a consignment from Northern Ireland to a destination outside the European Community, he shall deliver a completed copy of a consignment note to Her Majesty's Commissioners of Customs and Excise at the port from which the consignment is to leave Northern Ireland.

In regulations 5, 8, 12 and 14 provision is made for a simplified notification procedure to be used with respect to hazardous waste the non-ferrous metal content of which is to be recycled, using for this purpose a uniform document rather than a consignment note.

Regulations 10, 15, 18 and 25 require holders, consignees, carriers, and district councils respectively, to retain documents for at least two years.

Regulation 19 requires a district council that is notified of the transport of a consignment of hazardous waste into Northern Ireland to either acknowledge the notification or to object to the transport of the consignment giving reasons, within one month from the notification.

Regulation 20 lays down the procedures for acknowledgements and objections and regulation 21 deals with the removal of objections. Regulations 22 to 24 make similar provisions in relation to the transport of a consignment of hazardous waste from Northern Ireland.

Regulation 26 lays down the procedure for appeal by a holder or consignee (as defined in regulation 2(1)) to the Department against an objection by a district council to the transport of a consignment.

Regulation 27 makes it an offence for a holder of hazardous waste to send a consignment note or uniform document knowing it to be false, or being reckless as to whether it is false, in any material particular. It is an offence under regulation 28(1) for a holder, carrier or consignee to fail to comply with the regulations (other than regulations 10, 15 and 18 relating to the retention of documents). Regulation 28(1) provides for a maximum fine of £2,000 on summary conviction, or imprisonment for up to two years or a fine of any amount, or both, on conviction on indictment. Under regulation 28(2) failure to retain documents as required in regulations 10, 15 and 18 is an offence, for which a maximum fine of £400 on summary conviction is specified. Defences are provided in regulation 28(3) and (4) for persons who take all reasonable precautions and exercise all due care and diligence to avoid the commission of offences, other than under regulation 27, or are not reasonably able to comply with the provisions of regulations 3 to 9, 11 to 14, 16 and 17. Regulation 28(5) provides that where the commission of an offence is due to the act or default of another person, that person shall be guilty of the offence, and may be charged and convicted accordingly.

Regulation 29 provides that, where an offence is committed by a body corporate, an officer of that body shall in certain circumstances also be guilty of that offence.

District councils are required by regulation 30 to supervise record-keeping by holders, consignees and carriers of hazardous waste so as to ensure that the requirements of Parts II, III and IV of the regulations are met.

Regulation 31 disapplies with certain exceptions the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981 to consignments of hazardous waste.

Consignment notes and uniform documents are available from the Department of the Environment for Northern Ireland, Environmental Protection Division, Calvert House, 23 Castle Place, Belfast BT1 1FY.

Copies of the relevant Directives and of extracts from the Official Journal of the European Communities, may be obtained from Her Majesty's Stationery Office, 80 Chichester Street, Belfast BT1 4JY.