
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the regime for the control and tracking of the movement of hazardous waste for the purpose of implementing the Hazardous Waste Directive (Directive [91/689/EC](#)) in Northern Ireland.

Hazardous Waste

The Waste Framework Directive (Directive [75/442/EEC](#)) regulates, subject to the certain exclusions, the management of all types of waste (“Directive waste”). The Hazardous Waste Directive supplements the Waste Framework Directive by imposing additional requirements in relation to Directive waste, which displays certain hazardous properties. These requirements have previously been transposed by the Special Waste Regulations (Northern Ireland) 1998 through controls on “special waste”. These Regulations repeal the Special Waste Regulations (Northern Ireland) 1998 and replace the term “special waste” with “hazardous waste”.

Parts 1 to 3 of the Regulations define hazardous waste and set out how the Regulations apply to that waste. The definition of hazardous waste in regulation 6 refers to the list of hazardous wastes set out in the List of Wastes (Northern Ireland) Regulations 2005 ([S.R. 2005 No. 301](#)). Regulations 9 to 11 permit the Department of the Environment to determine specific wastes to be classed as hazardous or non-hazardous within Northern Ireland.

Part 3 of the Regulations includes an exemption from these controls for domestic waste, which displays hazardous properties but not if it comprises asbestos waste or is collected separately. In both cases, the Regulations do not impose obligations directly on householders.

Mixing Ban

Part 4 bans the mixing of hazardous waste during disposal or recovery operation or by anyone who produces, collects or transports hazardous waste unless such activity is permitted or authorised in accordance with the Waste Framework Directive. It also imposes a duty to separate different categories of Hazardous Waste where technically and economically feasible.

Movement of Hazardous Waste

Part 5 requires documents to be completed whenever hazardous waste is removed from premises, (which includes removal from ships and removal by pipeline). The Regulations require that all hazardous waste produced in Northern Ireland must be accompanied by the appropriate documentation for transfer within the United Kingdom. The various types of form are set out in Schedules 4 to 7. The Regulations require an accurate description of consignments of waste accompanies them whenever they move and each consignment to be accompanied with a unique consignment code. This is in addition to any requirements to ensure hazardous waste is properly packaged and labelled (see in particular the Packaging (Essential Requirements) Regulations 2003 ([S.I. 2003/1941](#))).

Producers, holders, carriers, consignors and consignees are all required to complete various parts of the forms. There is provision for a schedule of the carriers to monitor the waste chain and a copy of the completed Schedule of Carriers must be sent to the Department of the Environment. If the

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consignee rejects the waste, suitable alternative arrangements, including a new consignment note, must be made. Schedule 7 deals with cross border transfers within the United Kingdom and Gibraltar.

Registers, Records and Returns

Part 6 requires producers, holders, carriers, consignors and consignees to keep records. These must be kept for no less than 3 years. The Department of the Environment retains a right of inspection. The Regulations require consignees to provide producers, holders or consignors with a return as set out in Schedule 8 or a copy of the consignment note within 30 days of accepting the consignment.

Enforcement

Part 7 makes it an offence for failure to comply with the requirements of these Regulations. The maximum penalty for failure to comply with a requirement imposed by or under the regulations set out in regulation 45 is level 5 on the standard scale (currently £5000) or to a fine or imprisonment for a period not exceeding two years. The Department of the Environment may issue fixed penalty notices of £200 instead of seeking conviction in the courts in relation to such offences. Other offences under the Regulations (including the provision of false information) are subject to a maximum fine of level 5 if tried summarily and higher fines and also imprisonment if tried on indictment. It is a defence to any offence under these Regulations, that the accused took all reasonable precautions and exercised due diligence to avoid the offence.

Part 7 also imposes duties on holders of hazardous waste in the event of an emergency or grave danger which arises from hazardous waste.

Amendments to other legislation

Schedule 10, Part I omits references to special waste in the Waste and Contaminated Land (Northern Ireland) Order 1997 and replace them with references to hazardous waste.

Schedule 10, Part II makes consequential amendments to secondary legislation so that references to special waste are omitted and references to hazardous waste are updated so that they are consistent with these Regulations.