
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous changes to waste management legislation by amending the Environment Act 1995 (c. 25) (“the 1995 Act”) and the Waste Management Licensing Regulations 1994 (“the 1994 Regulations”).

Regulation 2 further amends the definition of “environmental licence” in section 56(1) of the 1995 Act to extend the powers of SEPA, as the waste regulation authority under the 1994 Regulations, to charge by virtue of a scheme under section 41 of the 1995 Act for the registration of certain activities which are exempt from the requirement for a waste management licence under regulations 17, 18 and Schedule 3 of the 1994 Regulations.

Regulations 4 to 22 amend the 1994 Regulations.

Regulation 4 broadens the scope of mobile plant prescriptions in regulation 12 of the 1994 Regulations.

Regulation 5 corrects an error in regulation 16(1)(bb) of the 1994 Regulations as amended by regulation 15 of the Waste Incineration (Scotland) Regulations (S.S.I. 2003/170), such that “of Part A” now reads “Part A”.

Regulations 6 to 8 amend regulations 17, 18 and 18A of, and Schedules 3 and 3A to, the 1994 Regulations, which relate to the requirement for registration of activities exempt from waste management licensing, as provided for in Article 11(2) of Directive 75/442/EEC on waste (O.J. No. L 194, 25.7.1975, p39) as amended by Directive 91/156/EEC (O.J. No. L 377, 31.12.1991, p.48).

Regulation 6 amends the list of paragraphs of Schedule 3 referred to in regulation 17(2) of the 1994 Regulations, which relate to the carrying out of the activities with the consent of the occupier of the land, to take account of the exempt activities set out in paragraphs 8, 12, 12A and 46 of that Schedule.

Regulation 7 amends regulation 18 of the 1994 Regulations to: (a) take account of the further activities which may be registered as exempt activities, namely activities falling within paragraphs 8, 10, 12, 12A and 46 of Schedule 3 to the 1994 Regulations; (b) specify in relation to paragraph 46 the circumstances in which relevant particulars may be deemed to be entered in the register; (c) make further provision in certain circumstances for the refusal and/or removal of registration for those activities; and (d) impose fines on summary conviction for failure to register any of the exempt activities falling within those paragraphs.

Regulation 8 amends regulation 18A of the 1994 Regulations which specifies the registration obligations incumbent on an establishment or undertaking which carries out activities. The registration obligations now extend to exempt activities falling within paragraphs 8, 10, 12, 12A and 46 of Schedule 3 to the 1994 Regulations and include obligations such as the keeping of appropriate records and the content of such records. Provision is also made for a fine to be imposed for failure to comply with registration obligations or related requirements of the 1994 Regulations.

Regulation 9 corrects typographical errors in Schedule 1A to the 1994 Regulations. Schedule 1A sets out the detailed requirements for the certification of persons as technically competent to hold a waste management licence for the purposes of section 74(3)(b) of the Environmental Protection Act 1990 by the Waste Management Industry Training and Advisory Board (WAMITAB).

Regulations 10 to 16 amend paragraphs 7 to 10, 12, 19, 30 of Schedule 3 to the 1994 Regulations which respectively exempt from waste management licensing certain land treatment activities (paragraph 7), storage and spreading of sludge (paragraph 8), land reclamation or improvement

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activities (paragraph 9), recovery operations at sewage treatment works (paragraph 10), composting biodegradable waste (paragraph 12), building waste storage activities (paragraph 19) and burning waste on land in the open (paragraph 30).

Regulation 10 further amends paragraph 7 of Schedule 3 to the 1994 Regulations to modify the list of wastes which can fall within the exempt activities and to provide for a 50 hectare restriction on the area of land covered by any one exemption.

Regulation 11 replaces paragraph 8 of Schedule 3 to the 1994 Regulations to make provision for the storage and spreading of sludge on non-agricultural land if it results in ecological improvement or enhances the growth of certain crops.

Regulation 12 amends paragraph 9 of Schedule 3 to the 1994 Regulations to make minor modifications to the conditions under which the exemption applies.

Regulation 13 replaces paragraph 10 of Schedule 3 to the 1994 Regulations to increase the quantities of sewage sludge which may be treated at a sewage treatment works in reliance on the exemption and to specify the list of wastes which can be used or stored.

Regulation 14 replaces paragraph 12 of Schedule 3 to the 1994 Regulations to make detailed provision for the types and quantities (including storage and treatment) of waste which can be composted and the conditions which must be satisfied in reliance of an exemption under that paragraph. A new regulation 12A is also inserted in Schedule 3 to the 1994 Regulations which provides, subject to certain conditions, for the composting of the wastes for the purposes of cultivating mushrooms in certain specified areas (such as where the waste is produced or where the compost is to be used).

Regulation 15 amends paragraph 19 of Schedule 3 to the 1994 Regulations to impose a 50,000 tonne restriction on the storage on site of all of the wastes listed under the exemption and to further modify the list of wastes there.

Regulation 16 amends paragraph 30 of Schedule 3 to the 1994 Regulations to exclude waste falling within paragraph 46 of Schedule 3 to the 1994 Regulations from that exemption and to include the operational land of the British Waterways Board within the types of land on which such waste may be produced.

Regulation 17 corrects an error in Table 4B of paragraph 45 of Schedule 3 to the 1994 Regulations. The End-of-Life (Storage and Treatment) (Scotland) Regulations 2003 (S.S.I. 2003/593) (“the 2003 Regulations”) amended certain provisions of Table 4B in paragraph 45 of Schedule 3 to the 1994 Regulations. As a result of a typographical error in Regulation 7(4)(e)(bb) of the 2003 Regulations, reference was made to “400 vehicles” rather than “100 vehicles”. The correction has the effect of prescribing a maximum total quantity of 1,000 motor vehicles which may be stored, where appropriate, on an impermeable pavement for the purposes of the entry in relation to motor vehicles in Table 4B of paragraph 45 of Schedule 3 to the 1994 Regulations.

Regulation 18 inserts a new paragraph 46 in Schedule 3 to the 1994 Regulations which sets out the conditions (such as the type, storage, quantity of waste) which must be met for the burning of dunnage in reliance of an exemption and the area in which such waste may be burnt.

Regulation 19 amends Schedule 3A of the 1994 Regulations to take account of the activities falling within paragraphs 7, 8, 9, 10, 12, 12A, 19 and 46 of Schedule 3 to the 1994 Regulations in relation to the plans and documents now required for registration. Regulation 18 also modifies the parameters by reference to which such waste shall be analysed.

Regulation 20 amends paragraph 13 of Part I of Schedule 4 to the 1994 Regulations to make provision for SEPA’s periodic inspection of activities exempt under paragraphs 7, 8(2), 9, 10, 12, 12A and 19 of Schedule 3 to the 1994 Regulations.

Regulations 21 and 22 replace Parts III and IV of Schedule 4 to the 1994 Regulations to update the list of waste disposal and waste recovery operations respectively in light of Commission Decision

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[96/350/EC](#) (O.J. No. L 135, 6.6.1996, page 32) which amends Annexes IIA and IIB of Directive [75/442/EEC](#) on waste.

Regulation 23 is a transitional provision to allow continued reliance on an existing exemption under paragraphs 8, 10 or 12 of Schedule 3 to the 1994 Regulations, as replaced by these Regulations, for a period of 7 months from the coming into force of these Regulations.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the library of the Scottish Parliament and copies can be obtained from the SEPA Sponsorship and Waste Division, Scottish Executive Environment and Rural Affairs Department (SEERAD), Victoria Quay, Leith, EH6 6QQ.