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# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

*[<sup>F1</sup>Special waste ][<sup>F1</sup>Hazardous waste] and non-controlled waste*

#### Textual Amendments

- F1** Words in s. 62 cross-heading substituted (E.W.) (16.7.2005) by [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, **72(1)** (with reg. 75)

#### **62 Special provision with respect to certain dangerous or intractable waste.**

[<sup>F2</sup>(1) If the Secretary of State considers that controlled waste of any kind is or may be so dangerous or difficult to treat, keep or dispose of that special provision is required for dealing with it he shall make provision by regulations for the treatment, keeping or disposal of waste of that kind (“special waste”).

(2) Without prejudice to the generality of subsection (1) above, the regulations may include provision—

- (a) for the giving of directions by waste regulation authorities with respect to matters connected with the treatment, keeping or disposal of special waste;
- (b) for securing that special waste is not, while awaiting treatment or disposal in pursuance of the regulations, kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;
- (c) in connection with requirements imposed on consignors or consignees of special waste, imposing, in the event of non-compliance, requirements on any person carrying the consignment to re-deliver it as directed;

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- (d) for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to a prescribed authority;
  - (e) for the keeping of records by waste regulation authorities and by persons who import, export, produce, keep, treat or dispose of special waste or deliver it to another person for treatment or disposal, for the inspection of the records and for the furnishing by such persons to waste regulation authorities of copies of or information derived from the records;
  - (f) for the keeping in the register under section 64(1) below of copies of such of those records, or such information derived from those records, as may be prescribed;
  - (g) providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence, which shall not exceed, on summary conviction, a fine at level 5 on the standard scale and, on conviction on indictment, imprisonment for a term of two years or a fine or both.
- (3) Without prejudice to the generality of subsection (1) above, the regulations may include provision—
- [<sup>F3</sup>(a) for the supervision by waste regulation authorities—
    - (i) of activities authorised by virtue of the regulations or of activities by virtue of carrying on which persons are subject to provisions of the regulations, or
    - (ii) of persons who carry on activities authorised by virtue of the regulations or who are subject to provisions of the regulations,
 and for the recovery from persons falling within sub-paragraph (ii) above of the costs incurred by waste regulation authorities in performing functions conferred upon those authorities by the regulations;]
  - (b) as to the recovery of expenses or other charges for the treatment, keeping or disposal or the re-delivery of special waste in pursuance of the regulations;
  - (c) as to appeals to the Secretary of State from decisions of waste regulation authorities under the regulations.
- [<sup>F4</sup>(3A) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).]
- (4) In the application of this section to Northern Ireland “waste regulation authority” means [<sup>F5</sup>the Department of the Environment for Northern Ireland].]

#### Extent Information

**E1** S. 62: for extent of s. 62(2)(e) to Northern Ireland see s. 164(4)

#### Textual Amendments

- F2** S. 62 omitted (E.W.) (16.7.2005) by virtue of [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, **72(2)** (with reg. 75)
- F3** S. 62(3)(a) substituted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 80(2)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**
- F4** S. 62(3A) added (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 80(3)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F5** Words in s. 62(4) substituted (17.9.1998) by S.I. 1997/2778 (N.I. 19), art. 83(1), **Sch. 5 para. 4**; S.R. 1998/288, **art. 2**

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**Modifications etc. (not altering text)**

**C1** S. 62(3)(c): power to delegate functions conferred (1.4.1996) by 1995 c. 25, s.114 (with ss. 7(6), 115, 117); S.I. 1995/186, art.3

[<sup>F6</sup>62ZA **Special provision with respect to hazardous waste in England and Wales**

- (1) The relevant national authority may, by regulations, make provision for, about or connected with the regulation of hazardous waste in England and Wales.
- (2) Provision that may be made in the regulations includes provision—
  - (a) prohibiting or restricting any activity in relation to hazardous waste;
  - (b) for the giving of directions by waste regulation authorities with respect to matters connected with any activity in relation to hazardous waste;
  - (c) imposing requirements about how hazardous waste may be kept (including requirements about the quantities of hazardous waste which may be kept at any place);
  - (d) about hazardous waste that originated outside England or Wales;
  - (e) about the registration of hazardous waste controllers or places where activities in relation to hazardous waste are carried out;
  - (f) for the keeping of records by hazardous waste controllers;
  - (g) for the inspection of those records by waste regulation authorities or specified persons;
  - (h) for the provision by hazardous waste controllers of copies of, or information derived from, those records to waste regulation authorities or specified persons;
  - (i) for hazardous waste controllers to inform waste regulation authorities, or specified persons, when carrying out activities in relation to hazardous waste;
  - (j) about the circumstances in which waste which is not hazardous waste, but which shares characteristics with hazardous waste, is to be treated as hazardous waste;
  - (k) for, about or connected with criminal offences;
  - (l) for, about or connected with the imposition of civil sanctions.
- (3) The regulations may not provide for an offence to be punishable—
  - (a) on summary conviction, by imprisonment, or
  - (b) on conviction on indictment, by a term of imprisonment exceeding two years.
- (4) For the purposes of this section “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices and enforcement undertakings).
- (5) The regulations may make provision for, about or connected with the imposition of a sanction of that kind whether or not—
  - (a) the conduct in respect of which the sanction is imposed constitutes an offence, or
  - (b) the person imposing it is a regulator for the purposes of Part 3 of the Regulatory Enforcement and Sanctions Act 2008.
- (6) The regulations may also include provision—

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- (a) for the supervision by waste regulation authorities—
    - (i) of activities in relation to hazardous waste, or
    - (ii) of hazardous waste controllers;
  - (b) about the keeping of records (which may include registers of hazardous waste controllers and places where hazardous waste may be kept or processed) by waste regulation authorities;
  - (c) as to the recovery of expenses or other charges for the treatment, keeping or disposal or the re-delivery of hazardous waste by waste regulation authorities or hazardous waste controllers;
  - (d) as to appeals to the relevant national authority from decisions of waste regulation authorities.
- (7) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).
- (8) Regulations under this section may confer functions (including functions involving the exercise of a discretion) on the relevant national authority or a waste regulation authority.
- (9) The regulations may—
- (a) make different provision for different purposes;
  - (b) make incidental, supplementary, consequential, transitional or saving provision.
- (10) For the purposes of this section “mixing” in relation to hazardous waste means—
- (a) diluting it (with any substance);
  - (b) mixing it with other hazardous waste of a different type, or that has different characteristics;
  - (c) mixing it with any other substance or material (whether waste or not).
- (11) In this section—
- “activity”, in relation to hazardous waste, includes—
- (a) keeping, collecting, receiving, importing, exporting, transporting or producing hazardous waste;
  - (b) sorting, treating, recovering, mixing or otherwise processing hazardous waste;
  - (c) disposing of hazardous waste in any manner (including providing hazardous waste to another person for the purposes of that person carrying out an activity in relation to it);
  - (d) examining, testing or classifying hazardous waste (including doing any of those things to waste in connection with establishing whether it is hazardous);
  - (e) acting as a broker of, or dealer in, hazardous waste;
  - (f) directing or supervising another person in relation to an activity in relation to hazardous waste;
- “hazardous waste controller” means a person who carries out any activity in relation to hazardous waste;
- “relevant national authority” means—
- (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers;
- “specified” means specified in the regulations.]

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**Textual Amendments**

- F6** S. 62ZA inserted (24.1.2022 for E., 7.3.2022 for W.) by [Environment Act 2021 \(c. 30\), s. 60\(2\)](#) (with s. 144); S.I. 2022/48, reg. 2(j); S.I. 2022/223, regs. 1(2), 2(b)

**F7 62A Lists of waste displaying hazardous properties**

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**Textual Amendments**

- F7** S. 62A omitted (31.12.2020) by virtue of [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(2), 7

**63 Waste other than controlled waste.**

- (1) [<sup>F8</sup>The Secretary of State may, after consultation with such bodies as he considers appropriate, make regulations providing that prescribed provisions of this Part shall have effect in a prescribed area—
- (a) as if references in those provisions to controlled waste or controlled waste of a kind specified in the regulations included references to such waste as is mentioned in section 75(7)(c) below which is of a kind so specified; and
  - (b) with such modifications as may be prescribed;
- and the regulations may make such modifications of other enactments as the Secretary of State considers appropriate.]
- <sup>F9</sup>[<sup>F10</sup>(2) A person who deposits, or knowingly causes or knowingly permits the deposit of, any waste—
- (a) which is not controlled waste, but
  - (b) which, if it were controlled waste, would be special waste,
- in a case where he would be guilty of an offence under section 33 above if the waste were special waste and any waste management licence were not in force, shall, subject to subsection (3) below, be guilty of that offence and punishable as if the waste were special waste.]
- (3) [<sup>F11</sup>No offence is committed by virtue of subsection (2) above if the act charged was done under and in accordance with any consent, licence, approval or authority granted under any enactment (excluding any planning permission under the enactments relating to town and country planning).]
- (4) [<sup>F8</sup>Section 45(2) and section 47(1) above shall apply to waste other than controlled waste as they apply to controlled waste.]
- [<sup>F12</sup>(5) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

**Textual Amendments**

- F8** S. 63(1)(4) repealed (E.W.) (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), reg. 2(5)

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- F9** S. 63(2)(3) omitted (E.W.) (16.7.2005) by virtue of [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, [73](#) (with reg. 75)
- F10** S. 63(2) substituted (1.4.2015 for S.) by [Environment Act 1995 \(c. 25\)](#), s. 125(3), [Sch. 22 para. 81](#) (with ss. [7\(6\)](#), [115](#), [117](#)); [S.S.I. 2015/73](#), art. 2(1)
- F11** S. 63(2)(3) omitted (E.W.) (16.7.2005) by virtue of [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, [73](#) (with reg. 75)
- F12** S. 63(5) added (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 40\(4\)](#); [S.S.I. 2014/160](#), art. 2(1)(2), sch.

#### **Modifications etc. (not altering text)**

- C2** S. 63(1) applied (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), [20\(7\)](#) (with s. [20\(10\)](#))
- C3** S. 63(1) applied (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), [22\(7\)](#) (with s. [22\(10\)](#))

#### **Commencement Information**

- I1** S. 63 partly in force; s. 63 not in force at Royal Assent see s. 164(3); s. 63(1) in force at 18.2.1993 by [S.I. 1993/274](#), [art. 2\(1\)](#)

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