

1977 No. 2006 (S. 153)

## PUBLIC HEALTH, SCOTLAND

**The Control of Pollution (Licensing of Waste Disposal)  
(Scotland) Regulations 1977***Made - - - - 2nd December 1977**Laid before Parliament 9th December 1977**Coming into Operation 1st January 1978*

In exercise of the powers conferred on me by sections 3(1), 5(1) and (5), 6(4), 10(1), 11(3) (as read with 11(4)), 30(4) and 104(1) of the Control of Pollution Act 1974(a) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

*Title and commencement*

1. These regulations may be cited as the Control of Pollution (Licensing of Waste Disposal) (Scotland) Regulations 1977 and shall come into operation on 1st January 1978.

*Interpretation*

2.—(1) The Interpretation Act 1889(b) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(2) In these regulations, “dredging operations” includes the removal of anything forming part of or projecting from the bed of the sea or of any inland water, by whatever means it is removed and whether or not at the time of removal it is wholly or partly above water.

(3) Any reference in these regulations to a numbered section shall be construed as a reference to the section bearing that number in the Control of Pollution Act 1974.

(4) In these regulations “the Act” means the Control of Pollution Act 1974; “controlled waste” has the same meaning as in section 30(1) of the Act; “disposal authority” has the same meaning as in section 30(2) of the Act; “the foreshore” means the land between high water mark and low water mark; “high water mark” means the high water mark of ordinary spring tides; “limits of supply” has the meaning assigned to it by section 148(4) of the Local Government (Scotland) Act 1973(c); “low water mark” means the low water mark of ordinary spring tides;

(a) 1974 c. 40.

(b) 1889 c. 63.

(c) 1973 c. 65.

“water authority” means any water authority within the meaning of section 148 of the Local Government (Scotland) Act 1973;

“water development board” means a Board established by virtue of section 5(1)(b) of the Water (Scotland) Act 1967(a) and includes the Central Scotland Water Development Board.

*Industrial waste*

3. For the purposes of sections 3 to 11, 16 and 18(1) and (2), waste of the following descriptions shall be treated as being industrial waste—

- (a) waste produced in the course of constructing, improving, repairing or demolishing any building or structure;
- (b) waste produced as a result of dredging operations; and
- (c) sewage deposited on land, other than—
  - (i) sewage deposited, whether inside or outside the curtilage of a sewage treatment works, as an integral part of the operation of those works;
  - (ii) sewage sludge spread on land for agricultural purposes;
  - (iii) sewage deposited on land from a sanitary convenience forming part of a moving or stationary vehicle which is being used for the conveyance of passengers; and
  - (iv) sewage buried on land being matter taken from a movable receptacle contained in a sanitary convenience serving a signal box, camp site, caravan site, building site, or other land or premises.

*Excepted cases under section 3(1)*

4.—(1) Subject to the provisions of paragraph (2) below, the following cases are hereby prescribed for the purposes of section 3(1), that is to say any case where—

- (a) waste produced in the course of constructing, improving, repairing or demolishing any building or structure is deposited or disposed of on a site being used, or about to be used, for the construction, improvement or repair of a building or structure, provided always that the deposit or disposal is made by, or with the consent of, the occupier of the site;
- (b) waste ash is deposited or disposed of on a site being used, or about to be used, for the construction, improvement or repair of a building or structure, provided always that the deposit or disposal is made by, or with the consent of, the occupier of the site;
- (c) waste produced in the course of demolishing a building is deposited on the site of such demolition;
- (d) spent railway ballast is deposited on operational land belonging to the British Railways Board;
- (e) waste produced in the course of dredging operations for the purpose of land drainage or the maintenance of a watercourse, is deposited along the banks of that watercourse;

- (f) waste produced in the course of maintaining any park, sports field, public garden or other recreation ground, or any cemetery, is deposited or disposed of within the boundaries of the ground in which it is produced, provided such deposit or disposal is by or with the consent of the occupier of the ground;
- (g) waste is deposited or disposed of for the sole purpose of research into the effect of waste on the natural environment or, as the case may be, into the performance of plant or equipment designed or adapted to deal with waste, provided that the disposal authority in whose district or area the deposit or disposal takes place is notified in advance that the deposit or disposal is to be carried out for the sole purpose of research;
- (h) waste is deposited directly on land for a period not exceeding one month by, or with the consent of, the occupier of the land, other than waste deposited at a site specifically designed or adapted for the reception of waste with a view to its being disposed of elsewhere;
- (i) waste is deposited in a receptacle that has been provided or adapted for the reception of waste with a view to that waste being disposed of elsewhere, provided always that the deposit is made by, or with the consent of, the owner of the receptacle;
- (j) waste is disposed of on the site on which it is produced by means of static plant with a disposal capacity of not more than 200 kilogrammes per hour;
- (k) waste is deposited on the foreshore by means of a pipe; or
- (l) waste is disposed of as an integral part of the industrial process that produces it.

(2) Sub-paragraphs (a) to (k) of paragraph (1) above shall not apply to the deposit or disposal on land, or in a receptacle, of any substance (whether solid, semi-solid or liquid) which is poisonous, noxious or polluting and the presence of which on the land, or as the case may be, in the receptacle, is liable to give rise to an environmental hazard.

(3) The presence of waste for the purposes of paragraph (2) of this regulation is to be treated as giving rise to an environmental hazard if the waste has been deposited or disposed of in such manner, and in such quantity (whether that quantity by itself or cumulatively with other deposits of the same or different substances) as to subject persons or animals to material risk of death, injury or impairment of health, or as to threaten the pollution or contamination (whether on the surface or underground) of any water supply; and where waste is deposited or disposed of in any receptacle, whether sealed or not, this shall not of itself be taken to exclude any risk which might be expected to arise if the waste were not so deposited or disposed of.

#### *Licence applications*

5. An application for a disposal licence made in pursuance of section 5(1) shall state the full name and address of the applicant and include the following information concerning the land or, as the case may be, the plant or equipment to which the application relates—

- (a) a map showing its location;

- (b) the full address of that location;
- (c) a plan showing its layout;
- (d) the form of deposit or disposal for which the licence is being sought;
- (e) the types and estimated quantities of controlled waste it is proposed to deposit or dispose of; and
- (f) details of any planning permission under the Town and Country Planning (Scotland) Act 1972(a) which has been granted or applied for in respect of the use which is the subject of the application, or any determination under section 51 of that Act.

*Persons prescribed for the purposes of sections 5(5) and 11(3) as read with 11(4)*

6.—(1) The following shall be prescribed persons for the purposes of sections 5(5)(a)(iii) and 11(3)(c) as read with 11(4)(a)—

- (a) the Health and Safety Executive; and
  - (b) in the case of applications relating to proposals to deposit controlled waste through shafts, galleries, wells, boreholes or pipes into fractures, fissures or intergranular pore-spaces in geological formations, the Institute of Geological Sciences.
- (2) (a) For the purposes of section 5(5)(a)(iii) the following shall be prescribed persons—
- (i) any regional council, water development board or fire authority whose area includes, and
  - (ii) any water authority whose limits of supply include  
land on which activities may be carried on in pursuance of a proposed disposal licence if it is issued in accordance with the proposal.
- (b) For the purposes of section 11(3)(c) as read with section 11(4)(a) the following shall be prescribed persons—
- (i) any regional council, water development board or fire authority whose area includes, and
  - (ii) any water authority whose limits of supply include  
land occupied or intended to be occupied by a disposal authority which that authority proposes to use in accordance with section 11(2).

*Appeals under section 10(1)*

7.—(1) Notice of appeal under section 10(1) (Appeals to Secretary of State from decisions with respect to licences) shall be given in writing within six months of the date of the decision in question, or, as the case may be, of the deemed rejection under section 6(5), or such longer period as the Secretary of State may at any time allow.

(2) The Secretary of State may, if he thinks fit, require a person who has appealed under section 10(1) to furnish him within a specified period with two copies of a statement of the reasons for his appeal and two copies of any or all of the following documents—

- (a) the application, if any, to the disposal authority for a disposal licence or for a modification of such a licence;
- (b) any relevant plans, drawings, particulars and documents submitted to the disposal authority in support of the application;
- (c) any relevant record, consent, determination, notice or other notification made or issued by the disposal authority;
- (d) any relevant planning permission in force under the Town and Country Planning (Scotland) Act 1972 or any determination under section 51 of that Act; and
- (e) all relevant correspondence.

(3) The Secretary of State shall send to the disposal authority a copy of the notice of appeal and of every other document submitted by the appellant with that notice or furnished by him under paragraph (2) above.

(4) The Secretary of State may, if he thinks fit, require the appellant or the disposal authority to submit within a specified period a further statement in writing in respect of any of the matters to which the appeal relates and he may before disposing of any such appeal afford to the appellant and the disposal authority an opportunity of appearing before and being heard by a person appointed in that behalf by the Secretary of State.

*Prescribed particulars to be contained in register of disposal licences in accordance with section 6(4)*

8. The register of disposal licences to be maintained by every disposal authority in pursuance of section 6(4) shall contain the following particulars in respect of each licence issued—

- (a) the date of the granting of the disposal licence;
- (b) the full name and address of the holder of the licence;
- (c) the full name and address of the local representative (if any) of the holder of the licence;
- (d) the location of the site to which the licence relates;
- (e) the form of deposit or disposal to which the licence relates;
- (f) the types of waste of which the deposit or disposal is authorised by the licence, and any limitations as to quantity specified therein; and
- (g) the conditions (if any) attached to the issue or variation of the licence.

*Bruce Millan,*  
One of Her Majesty's Principal  
Secretaries of State.

New St. Andrew's House,  
Edinburgh.  
2nd December 1977.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations, which apply to Scotland only, make provision for a number of matters concerning the licensing of sites for the disposal of controlled waste under Part I of the Control of Pollution Act 1974.

They prescribe certain descriptions of waste to be industrial waste for the purposes of Part I, except a number of types of controlled waste from the requirement that the occupier of the site on which disposal operations are carried out should be the holder of a licence from the disposal authority (district council or islands council), and indicate the information to be provided by an applicant for a disposal licence. In addition, they prescribe various bodies for the purposes of Sections 5(5)(a)(iii) and 11(3)(c) as read with 11(4)(a) of that Act, describe the manner in which appeals to the Secretary of State under Section 10(1) of the Act are to be brought, and list the particulars to be contained in the register of disposal licences that is to be maintained by each disposal authority.

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