
STATUTORY INSTRUMENTS

1994 No. 1056

ENVIRONMENTAL PROTECTION

The Waste Management Licensing Regulations 1994

| | | |
|---|---------|-------------------------|
| <i>Made</i> | - - - - | <i>12th April 1994</i> |
| <i>Laid before Parliament</i> | | <i>13th April 1994</i> |
| <i>Coming into force</i> | | |
| — <i>except for regulations 4 and 5</i> | | <i>1st May 1994</i> |
| <i>Regulations 4 and 5</i> | | <i>10th August 1994</i> |

The Secretary of State for the Environment as respects England, the Secretary of State for Wales as respects Wales and the Secretary of State for Scotland as respects Scotland, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the prevention, reduction and elimination of pollution of water and the prevention, reduction and elimination of pollution caused by waste, in exercise of the powers conferred on them by section 2(2) of that Act, sections 30(4) and 104(1) of the Control of Pollution Act 1974⁽³⁾, sections 1(3)(a), 2, 8(2) and 9(1)(4) of the Control of Pollution (Amendment) Act 1989⁽⁵⁾, sections 29(10), 33(3), 35(6), 36(1), 39(3), 40(3), 43(8), 45(3), 50(3), 54(14), 64(1), (4) and (8), 74(6), 75(8) and 156 of the Environmental Protection Act 1990⁽⁶⁾ (having in particular had regard in exercising their powers under section 33(3) of that Act to the matters specified in section 33(4) of that Act) and of all other powers enabling them in that behalf hereby make the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Waste Management Licensing Regulations 1994 and, except for regulations 4 and 5, shall come into force on 1st May 1994.

(2) Regulations 4 and 5 shall come into force on 10th August 1994.

(3) In these Regulations, unless the context otherwise requires—
“the 1990 Act” means the Environmental Protection Act 1990;

(1) S.I.1989/2393 and 1992/2870.
(2) 1972 c. 68.
(3) 1974 c. 40.
(4) See the definition of “prescribed”.
(5) 1989 c. 14.
(6) 1990 c. 43.

“the 1991 Regulations” means the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(7);

“construction work” includes the repair, alteration or improvement of existing works;

“the Directive” means Council Directive 75/442/EEC on waste(8) as amended by Council Directives 91/156/EEC(9) and 91/692/EEC(10);

“Directive waste” means any substance or object in the categories set out in Part II of Schedule 4 which the producer or the person in possession of it discards or intends or is required to discard but with the exception of anything excluded from the scope of the Directive by Article 2 of the Directive, “discard” has the same meaning as in the Directive, and “producer” means anyone whose activities produce Directive waste or who carries out preprocessing, mixing or other operations resulting in a change in its nature or composition;

“disposal” means any of the operations listed in Part III of Schedule 4, and any reference to waste being disposed of is a reference to its being submitted to any of those operations;

“disposal licence” and “disposal authority” have the meaning given by sections 3(1) and 30(2) to (2D) respectively of the Control of Pollution Act 1974(11);

“enforcing authority” and “local enforcing authority” have the meaning given by section 1(7) and (8) of the 1990 Act;

“exempt activity” means any of the activities set out in Schedule 3;

“inland waters”—

- (a) in England and Wales, has the meaning given by section 221(1) of the Water Resources Act 1991(12);
- (b) in Scotland, has the meaning given by section 30A of the Control of Pollution Act 1974(13) except that it includes any loch or pond whether or not it discharges into a river or watercourse;

“operational land” has the meaning given by sections 263 and 264 of the Town and Country Planning Act 1990(14) or, in Scotland, sections 211 and 212 of the Town and Country Planning (Scotland) Act 1972(15);

“recovery” means any of the operations listed in Part IV of Schedule 4, and any reference to waste being recovered is a reference to its being submitted to any of those operations;

“scrap metal” has the meaning given by section 9(2) of the Scrap Metal Dealers Act 1964(16);

“special waste” has the meaning given by regulation 2 of the Control of Pollution (Special Waste) Regulations 1980(17);

“waste” means Directive waste;

“waste management licence” has the meaning given by section 35(1) of the 1990 Act, and “site licence” has the meaning given by section 35(12) of the 1990 Act;

(7) S.I. 1991/472, amended by S.I. 1991/836, 1992/614, 1993/1749, 2405.

(8) OJ No. L 194, 25.7.1975, p. 39.

(9) OJ No. L 078, 26.3.1991, p. 32.

(10) OJ No. L 377, 31.12.1991, p. 48.

(11) 1974 c. 40; section 30(2A) to (2D) is inserted by paragraph 11(b) of Schedule 2 to the Waste Regulation and Disposal (Authorities) Order 1985 (S.I. 1985/1884).

(12) 1991 c. 57.

(13) 1974 c. 40; section 30A is inserted by paragraph 4 of Schedule 23 to the Water Act 1989 (c. 15).

(14) 1990 c. 8.

(15) 1972 c. 52.

(16) 1964 c. 69.

(17) S.I. 1980/1709, to which there are amendments not relevant to these Regulations.

“waste oil” means any mineral-based lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, mineral lubricating oil, oil for turbines and hydraulic oil;

“waste regulation authority”, “waste disposal authority” and “waste collection authority” have the meaning given by section 30 of the 1990 Act; and

“work” includes preparatory work.

(4) Any reference in these Regulations to carrying on business as a scrap metal dealer has the meaning given by section 9(1) of the Scrap Metal Dealers Act 1964, and any reference, in relation to Scotland, to carrying on business as a metal dealer has the meaning given by section 37(2) of the Civic Government (Scotland) Act 1982(18).

(5) Regulations 13, 14 and 15, and Schedule 4, shall apply in relation to land in the area of a waste disposal authority in Scotland which is occupied by the authority as if—

- (a) references to a waste management licence were references to a resolution under section 54 of the 1990 Act;
- (b) references to an application being made for a waste management licence were references to consideration being given to passing such a resolution;
- (c) references to granting or issuing a waste management licence were references to passing, and references to rejecting an application were references to not passing, such a resolution;
- (d) references to the terms or conditions of a waste management licence were references to the terms or conditions specified in such a resolution; and
- (e) references to varying or revoking a waste management licence under section 37 or 38 of the 1990 Act were references to varying or rescinding such a resolution under section 54(8) of that Act.

(6) These Regulations do not extend to Northern Ireland.

Application for a waste management licence or for the surrender or transfer of a waste management licence

2.—(1) An application for a waste management licence shall be made in writing.

(2) An application for the surrender of a site licence shall be made in writing and shall, subject to paragraphs (3) and (4) below, include the information and be accompanied by the evidence prescribed by Schedule 1.

(3) Nothing in paragraph (2) above shall require the information prescribed by paragraphs 3 to 6 of Schedule 1 to be provided to the waste regulation authority if the information has previously been provided by the applicant to the authority or a predecessor of the authority in connection with a waste management licence, or a disposal licence under section 5 of the Control of Pollution Act 1974, in respect of the site in question or any part of it.

(4) Insofar as the information prescribed by paragraphs 4, 5(a) and 6(a) of Schedule 1 relates to activities carried on, or works carried out, at the site at a time prior to the applicant’s first involvement with the site, paragraph (2) above only requires that information to be included in the application so far as it is known to either the applicant or, where the applicant is a partnership or body corporate, to any of the partners or, as the case may be, to any director, manager, secretary or other similar officer of the body corporate.

(5) An application for the transfer of a waste management licence shall be made in writing and shall include the information prescribed by Schedule 2.

Relevant offences

3. An offence is relevant for the purposes of section 74(3)(a) of the 1990 Act if it is an offence under any of the following enactments—

- (a) section 22 of the Public Health (Scotland) Act 1897⁽¹⁹⁾;
- (b) section 95(1) of the Public Health Act 1936⁽²⁰⁾;
- (c) section 3, 5(6), 16(4), 18(2), 31(1), 32(1), 34(5), 78, 92(6) or 93(3) of the Control of Pollution Act 1974⁽²¹⁾;
- (d) section 2 of the Refuse Disposal (Amenity) Act 1978⁽²²⁾;
- (e) the Control of Pollution (Special Waste) Regulations 1980;
- (f) section 9(1) of the Food and Environment Protection Act 1985⁽²³⁾;
- (g) the Transfrontier Shipment of Hazardous Waste Regulations 1988⁽²⁴⁾;
- (h) the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988⁽²⁵⁾;
- (i) section 1, 5, 6(9) or 7(3) of the Control of Pollution (Amendment) Act 1989;
- (j) section 107, 118(4) or 175(1) of the Water Act 1989⁽²⁶⁾;
- (k) section 23(1), 33, 34(6), 44, 47(6), 57(5), 59(5), 63(2), 69(9), 70(4), 71(3) or 80(4) of the 1990 Act;
- (l) section 85, 202 or 206 of the Water Resources Act 1991;
- (m) section 33 of the Clean Air Act 1993⁽²⁷⁾.

Technical competence

4.—(1) Subject to paragraph (2) and regulation 5 below, a person is technically competent for the purposes of section 74(3)(b) of the 1990 Act in relation to a facility of a type listed in Table 1 below if, and only if, he is the holder of one of the certificates awarded by the Waste Management Industry Training and Advisory Board specified in that Table as being a relevant certificate of technical competence for that type of facility.

Table 1

| Type of facility | Relevant certificate of technical competence |
|--|---|
| A landfill site which receives special waste. | Managing landfill operations: special waste (level 4). |
| A landfill site which receives biodegradable waste or which for some other reason requires substantial engineering works to protect the environment but which in either case does not receive any special waste. | <ol style="list-style-type: none"> 1. Managing landfill operations: biodegradable waste (level 4); or 2. Managing landfill operations: special waste (level 4). |
| Any other type of landfill site with a total capacity exceeding 50,000 cubic metres. | <ol style="list-style-type: none"> 1. Landfill operations: inert waste (level 3); or |

(19) 1897 c. 38.

(20) 1936 c. 49.

(21) 1974 c. 40; sections 31(1), 32(1) and 34(5) are substituted by paragraph 4 of Schedule 23 to the Water Act 1989 (c. 15).

(22) 1978 c. 3.

(23) 1985 c. 48.

(24) S.I. 1988/1562.

(25) S.I. 1988/2292.

(26) 1989 c. 15.

(27) 1993 c. 11.

| Type of facility | Relevant certificate of technical competence |
|---|--|
| | <p>2. Managing landfill operations: biodegradable waste (level 4); or</p> <p>3. Managing landfill operations: special waste (level 4).</p> |
| A site on which waste is burned in an incinerator designed to incinerate waste at a rate of more than 50 kilograms per hour but less than 1 tonne per hour. | Managing incinerator operations: special waste (level 4). |
| A waste treatment plant where special waste is subjected to a chemical or physical process. | Managing treatment operations: special waste (level 4). |
| A waste treatment plant where waste is subjected to a chemical or physical process and none of the waste is special waste. | <p>1. Treatment operations: inert waste (level 3); or</p> <p>2. Managing treatment operations: special waste (level 4).</p> |
| A transfer station where— | Managing transfer operations: special waste (level 4). |
| (a) biodegradable, clinical or special waste is dealt with; and | |
| (b) the total quantity of waste at the station at any time exceeds 5 cubic metres. | |
| A transfer station where— | 1. Transfer operations: inert waste (level 3); |
| (a) no biodegradable, clinical or special waste is dealt with; and | or |
| (b) the total quantity of waste at the station at any time exceeds 50 cubic metres. | 2. Managing transfer operations: special waste (level 4). |
| A civic amenity site. | Civic amenity site operations (level 3). |

(2) Paragraph (1) above does not apply in relation to a facility which is used exclusively for the purposes of—

- (a) carrying on business as a scrap metal dealer or, in Scotland, as a metal dealer; or
- (b) dismantling motor vehicles.

(3) In this regulation—

“civic amenity site” means a place provided under section 1 of the Refuse Disposal (Amenity) Act 1978(28) or by virtue of section 51(1)(b) of the 1990 Act;

“clinical waste” has the meaning given by regulation 1(2) of the Controlled Waste Regulations 1992(29); and

“transfer station” means a facility where waste is unloaded in order to permit its preparation for further transport for treatment, keeping or disposal elsewhere.

(28) 1978 c. 3; section 1(1) is prospectively repealed by section 1(8), section 1(3) and (4) is modified for certain purposes by paragraph 14(1), and section 1(7) is amended by paragraph 14(4), of Schedule 2 to the Waste Regulation and Disposal (Authorities) Order 1985 (S.I. 1985/1884) (paragraph 14(1) of that Order is amended by article 5 of the Local Government Reorganisation (Miscellaneous Provision) (No. 5) Order 1986 (S.I. 1986/564)).

(29) S.I. 1992/588, to which there are amendments not relevant to the definition of clinical waste.

Technical competence-transitional provisions

5.—(1) Where before 10th August 1994 a person has applied to the Waste Management Industry Training and Advisory Board for a certificate of technical competence and at any time in the 12 months ending on that date he acted as the manager of a facility of a type listed in Table 1 above for which the certificate is a relevant certificate, then, until 10th August 1999, regulation 4 shall not apply to him in relation to either—

- (a) any facility of that type; or
- (b) a facility of any other type if—
 - (i) the certificate is a relevant certificate for that other type of facility; and
 - (ii) the entry for that other type of facility appears, in Table 1 above, after the entry in that Table for the type of facility in respect of which he acted as the manager,and he shall be treated as technically competent for the purposes of section 74(3)(b) of the 1990 Act in relation to any such facility.

(2) Where a person is 55 or over on 10th August 1994 and in the 10 years ending on that date he has had at least 5 years experience as the manager of a facility of a type listed in Table 1 above, then, until 10th August 2004, regulation 4 shall not apply to him in relation to either—

- (a) any facility of that type; or
- (b) a facility of any other type if each certificate which is a relevant certificate for the type of facility in relation to which he has had such experience as manager is also a relevant certificate for that other type of facility,

and he shall be treated as technically competent for the purposes of section 74(3)(b) of the 1990 Act in relation to any such facility.

(3) A person shall be treated as the manager of a facility for the purposes of paragraph (1) or (2) above if at the relevant time he was the manager of activities which were carried on at that facility and which were authorised by a disposal licence under section 5 of the Control of Pollution Act 1974, a resolution under section 11 of that Act or under section 54 of the 1990 Act, or a waste management licence.

Notice of appeal

6.—(1) A person who wishes to appeal to the Secretary of State under section 43 or 66(5) of the 1990 Act (appeals to the Secretary of State from decisions with respect to waste management licences or from determinations that information is not commercially confidential) shall do so by notice in writing.

- (2) The notice shall be accompanied by—
- (a) a statement of the grounds of appeal;
 - (b) where the appeal relates to an application for a waste management licence or for the modification, surrender or transfer of a waste management licence, a copy of the appellant's application and any supporting documents;
 - (c) where the appeal relates to a determination under section 66(2) or (4) of the 1990 Act that information is not commercially confidential, the information in question;
 - (d) where the appeal relates to an existing waste management licence (including a waste management licence which has been suspended or revoked), a copy of that waste management licence;
 - (e) a copy of any correspondence relevant to the appeal;

- (f) a copy of any other document relevant to the appeal including, in particular, any relevant consent, determination, notice, planning permission, established use certificate or certificate of lawful use or development; and
- (g) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

(3) The appellant shall serve a copy of his notice of appeal on the waste regulation authority together with copies of the documents mentioned in paragraph (2) above.

(4) If the appellant wishes to withdraw an appeal, he shall do so by notifying the Secretary of State in writing and shall send a copy of that notification to the waste regulation authority.

Time limit for making an appeal

7.—(1) Subject to paragraph (2) below, notice of appeal shall be given—

- (a) in the case of an appeal under section 43 of the 1990 Act, before the expiry of the period of 6 months beginning with—
 - (i) the date of the decision which is the subject of the appeal; or
 - (ii) the date on which the waste regulation authority is deemed by section 36(9), 37(6), 39(10) or 40(6) of the 1990 Act to have rejected the application;
- (b) in the case of an appeal under section 66(5) of the 1990 Act, before the expiry of the period of 21 days beginning with the date on which the determination which is the subject of the appeal is notified to the person concerned.

(2) The Secretary of State may in relation to an appeal under section 43 of the 1990 Act at any time allow notice of appeal to be given after the expiry of the period mentioned in paragraph (1) (a) above.

Reports of hearings

8. The person hearing an appeal under section 43(2)(c) of the 1990 Act⁽³⁰⁾ shall, unless he has been appointed to determine the appeal under section 43(2)(b) of that Act, make a written report to the Secretary of State which shall include his conclusions and recommendations or his reasons for not making any recommendations.

Notification of determination

9.—(1) The Secretary of State or other person determining an appeal shall notify the appellant in writing of his decision and of his reasons.

(2) If the Secretary of State determines an appeal after a hearing under section 43(2)(c) of the 1990 Act, he shall provide the appellant with a copy of any report made to him under regulation 8.

(3) The Secretary of State or other person determining an appeal shall, at the same time as notifying the appellant of his decision, send the waste regulation authority a copy of any document sent to the appellant under this regulation.

Particulars to be entered in public registers

10.—(1) Subject to sections 65 and 66 of the 1990 Act and regulation 11, a register maintained by a waste regulation authority under section 64(1) of the 1990 Act shall contain full particulars of—

- (a) current or recently current waste management licences (“licences”) granted by the authority and any associated working plans;

⁽³⁰⁾ Section 43(2) is applied by section 66(6) to appeals under section 66(5).

- (b) current or recently current applications to the authority for licences, or for the transfer or modification of licences, including details of—
 - (i) documents submitted by applicants containing supporting information;
 - (ii) written representations considered by the authority under section 36(4)(b), (6)(b) or (7)(b) or 37(5) of the 1990 Act;
 - (iii) decisions of the Secretary of State under section 36(5), or, in Scotland, section 36(6), of the 1990 Act;
 - (iv) notices by the authority rejecting applications;
 - (v) emergencies resulting in the postponement of references under section 37(5)(a) of the 1990 Act;
- (c) notices issued by the authority under section 37 of the 1990 Act effecting the modification of licences;
- (d) notices issued by the authority under section 38 of the 1990 Act effecting the revocation or suspension of licences or imposing requirements on the holders of licences;
- (e) notices of appeal under section 43 of the 1990 Act relating to decisions of the authority and other documents relating to such appeals served on or sent to the authority under regulation 6(3) or (4) or 9(3);
- (f) convictions of holders of licences granted by the authority for any offence under Part II of the 1990 Act (whether or not in relation to a licence) including the name of the offender, the date of conviction, the penalty imposed and the name of the Court;
- (g) reports produced by the authority in discharge of any functions under section 42 of the 1990 Act, including details of—
 - (i) any correspondence with the National Rivers Authority or river purification authority as a result of section 42(2) of the 1990 Act;
 - (ii) remedial or preventive action taken by the authority under section 42(3) of the 1990 Act;
 - (iii) notices issued by the authority under section 42(5) of the 1990 Act;
- (h) any monitoring information relating to the carrying on of any activity under a licence granted by the authority which was obtained by the authority as a result of its own monitoring or was furnished to the authority in writing by virtue of any condition of the licence or section 71(2) of the 1990 Act;
- (i) directions given by the Secretary of State to the authority under section 35(7), 37(3), 38(7), 42(8), 50(9), 54(11) or (15), 58 or 66(7) of the 1990 Act;
- (j) any summary prepared by the authority of the amount of special waste produced or disposed of in their area;
- (k) registers and records provided to the authority under regulation 13(5) or 14(1) of the Control of Pollution (Special Waste) Regulations 1980⁽³¹⁾;
- (l) applications to the authority under section 39 of the 1990 Act for the surrender of licences, including details of—
 - (i) documents submitted by applicants containing supporting information and evidence;
 - (ii) information and evidence obtained under section 39(4) of the 1990 Act;
 - (iii) written representations considered by the authority under section 39(7)(b) or (8)(b) of the 1990 Act;
 - (iv) decisions by the Secretary of State under section 39(7) or (8) of the 1990 Act; and

⁽³¹⁾ S.I. 1980/1709, to which there are amendments not relevant to these Regulations.

- (v) notices of determination and certificates of completion issued under section 39(9) of the 1990 Act;
- (m) written reports under section 70(3) of the 1990 Act by inspectors appointed by the authority;
- (n) in Scotland, resolutions made by the authority under section 54 of the 1990 Act, including details of—
 - (i) proposals made in relation to land in the area of the authority by a waste disposal authority under section 54(4) of the 1990 Act;
 - (ii) statements made and written representations considered by the authority under section 54(4) of the 1990 Act;
 - (iii) requests made to, and disagreements with, the authority which are referred to the Secretary of State under section 54(7) of the 1990 Act and his decisions on such references;
 - (iv) emergencies resulting in the postponement of references under section 54(4) of the 1990 Act.
- (2) The register shall also contain the following—
 - (a) where an inspector appointed by the authority exercises any power under section 69(3) of the 1990 Act, a record showing when the power was exercised and indicating what information was obtained, and what action was taken, on that occasion;
 - (b) where any information is excluded from the register by virtue of section 66 of the 1990 Act and the information shows whether or not there is compliance with any condition of a waste management licence, a statement based on that information indicating whether or not there is compliance with that condition.
- (3) A register maintained under section 64(4) of the 1990 Act by a waste collection authority in England which is not a waste regulation authority shall contain full particulars of the following information contained in any register maintained under section 64(1) of the 1990 Act, to the extent that it relates to the treatment, keeping or disposal of controlled waste in the area of the authority—
 - (a) current or recently current waste management licences;
 - (b) notices issued under section 37 of the 1990 Act effecting the modification of waste management licences;
 - (c) notices issued under section 38 of the 1990 Act effecting the revocation or suspension of waste management licences;
 - (d) certificates of completion issued under section 39(9) of the 1990 Act.
- (4) For the purposes of this regulation, waste management licences are “recently” current for the period of twelve months after they cease to be in force, and applications for waste management licences, or for the transfer or modification of such licences, are “recently” current if they relate to a waste management licence which is current or recently current or, in the case of an application which is rejected, for the period of twelve months beginning with the date on which the waste regulation authority gives notice of rejection or, as the case may be, on which the application is deemed by section 36(9), 37(6) or 40(6) of the 1990 Act to have been rejected.

Information to be excluded or removed from a register

11.—(1) Nothing in regulation 10(1)(g) or (m) or (2) shall require a register maintained by a waste regulation authority under section 64(1) of the 1990 Act to contain information relating to, or to anything which is the subject-matter of, any criminal proceedings (including prospective proceedings) at any time before those proceedings are finally disposed of.

(2) Nothing in regulation 10 shall require a register maintained by a waste regulation authority or waste collection authority under section 64 of the 1990 Act to contain—

- (a) any such monitoring information as is mentioned in regulation 10(1)(h) after 4 years have elapsed from that information being entered in the register; or
- (b) any information which has been superseded by later information after 4 years have elapsed from that later information being entered in the register.

Mobile plant

12. An incinerator which is an exempt incinerator for the purposes of Section 5.1 of Schedule 1 to the 1991 Regulations and which is designed to be moved on roads or other land, but no other plant, shall be treated as being mobile plant for the purposes of Part II of the 1990 Act.

Health at work

13. No conditions shall be imposed in any waste management licence for the purpose only of securing the health of persons at work (within the meaning of Part I of the Health and Safety at Work etc. Act 1974⁽³²⁾).

Waste oils

14.—(1) Where a waste management licence or disposal licence authorises the regeneration of waste oil, it shall include conditions which ensure that base oils derived from regeneration do not constitute a toxic and dangerous waste and do not contain PCBs or PCTs at all or do not contain them in concentrations beyond a specified maximum limit which in no case is to exceed 50 parts per million.

(2) Where a waste management licence or disposal licence authorises the keeping of waste oil, it shall include conditions which ensure that it is not mixed with toxic and dangerous waste or PCBs or PCTs.

(3) In this regulation—

“PCBs or PCTs” means polychlorinated biphenyls, polychlorinated terphenyls and mixtures containing one or both of such substances; and

“toxic and dangerous waste” has the meaning given by Article 1(b) of Council Directive [78/319/EEC](#)⁽³³⁾.

Groundwater

15.—(1) Where a waste regulation authority proposes to issue a waste management licence authorising—

- (a) any disposal or tipping for the purpose of disposal of a substance in list I which might lead to an indirect discharge into groundwater of such a substance;
- (b) any disposal or tipping for the purpose of disposal of a substance in list II which might lead to an indirect discharge into groundwater of such a substance;
- (c) a direct discharge into groundwater of a substance in list I; or
- (d) a direct discharge into groundwater of a substance in list II,

the authority shall ensure that the proposed activities are subjected to prior investigation.

⁽³²⁾ 1974 c. 37; see section 52(1) for the meaning of “at work”.

⁽³³⁾ OJ No. L 084, 31.3.1978, p. 43, as amended by Council Directive [91/692/EEC](#) (OJ No. L 377, 31.12.1991, p. 48).

(2) The prior investigation referred to in paragraph (1) above shall include examination of the hydrogeological conditions of the area concerned, the possible purifying powers of the soil and sub-soil and the risk of pollution and alteration of the quality of the groundwater from the discharge and shall establish whether the discharge of substances into groundwater is a satisfactory solution from the point of view of the environment.

(3) A waste management licence shall not be issued in any case within paragraph (1) above until the waste regulation authority has checked that the groundwater, and in particular its quality, will undergo the requisite surveillance.

(4) In a case within paragraph (1)(a) or (c) above—

(a) where the waste regulation authority is satisfied, in the light of the investigation, that the groundwater which may be affected by a direct or indirect discharge of a substance in list I is permanently unsuitable for other uses, especially domestic and agricultural, the waste management licence may only be issued if the authority is also satisfied that—

(i) the presence of that substance once discharged into groundwater will not impede exploitation of ground resources; and

(ii) all technical precautions will be taken to ensure that no substance in list I can reach other aquatic systems or harm other ecosystems; and

(b) where the waste regulation authority is not satisfied, in the light of the investigation, that the groundwater which may be affected by such a discharge is permanently unsuitable for other uses, especially domestic and agricultural, a waste management licence may only be issued if it is made subject to such conditions as the authority, in the light of the investigations, is satisfied will ensure the observance of all technical precautions necessary to prevent any discharges into groundwater of substances in list I.

(5) In a case within paragraph (1)(b) or (d) above, if a waste management licence is issued, it shall be issued subject to such conditions as the waste regulation authority, in the light of the investigation, is satisfied will ensure the observance of all technical precautions for preventing groundwater pollution by substances in list II.

(6) Where a waste management licence is granted in any case within paragraph (1)(a) or (b) above, the licence shall be granted on such terms and subject to such conditions as specify—

(a) the place where any disposal or tipping which might lead to a discharge into groundwater of any substances in list I or II is to be done;

(b) the methods of disposal or tipping which may be used;

(c) the essential precautions which must be taken, paying particular attention to the nature and concentration of the substances present in the matter to be disposed of or tipped, the characteristics of the receiving environment and the proximity of the water catchment areas, in particular those for drinking, thermal and mineral water;

(d) the maximum quantity permissible, during one or more specified periods of time, of matter containing substances in list I or II and, where possible, of those substances themselves, to be disposed of or tipped and the appropriate requirements as to the concentration of those substances;

(e) the technical precautions required by paragraph (4)(b) or (5) above;

(f) if necessary, the measures for monitoring the groundwater, and in particular its quality.

(7) Where a waste management licence is granted in any case within paragraph (1)(c) or (d) above, the licence shall be granted on such terms and subject to such conditions as specify—

(a) the place where any substances in list I or II are to be discharged into groundwater;

(b) the method of discharge which may be used;

- (c) the essential precautions which must be taken, paying particular attention to the nature and concentration of the substances present in the effluents, the characteristics of the receiving environment and the proximity of the water catchment areas, in particular those for drinking, thermal and mineral water;
 - (d) the maximum quantity of a substance in list I or II permissible in an effluent during one or more specified periods of time and the appropriate requirements as to the concentration of those substances;
 - (e) the arrangements enabling effluents discharged into groundwater to be monitored;
 - (f) if necessary, the measures for monitoring the groundwater, and in particular its quality.
- (8) Any authorisation granted by a waste management licence for an activity within paragraph (1) above shall be granted for a limited period only.
- (9) Any authorisation granted by a waste management licence for an activity within paragraph (1) above shall be reviewed at least every 4 years.
- (10) Waste regulation authorities shall review all waste management licences current on 1st May 1994 which authorise any activity within paragraph (1) above and shall, so far as may be necessary to give effect to Council Directive 80/68/EEC(34), exercise their powers under sections 37 and 38 of the 1990 Act (variation and revocation etc. of waste management licences) in relation to any such authorisation.
- (11) The foregoing provisions of this regulation apply, with any necessary modifications, to the granting or review by disposal authorities of disposal licences under Part I of the Control of Pollution Act 1974(35) as they apply to the granting or review by waste regulation authorities of waste management licences.
- (12) Expressions used both in this regulation and in Council Directive 80/68/EEC have for the purposes of this regulation the same meaning as in that Directive.

Exclusion of activities under other control regimes from waste management licensing

- 16.**—(1) Subject to paragraph (2) below, section 33(1)(a), (b) and (c) of the 1990 Act shall not apply in relation to the carrying on of any of the following activities—
- (a) the recovery or disposal of waste under an authorisation granted under Part I of the 1990 Act where the activity is or forms part of a process designated for central control under section 2(4) of the 1990 Act;
 - (b) the disposal of waste under an authorisation granted under Part I of the 1990 Act where the activity is or forms part of a process within paragraph (a) of Part B of Section 5.1 (incineration) of Schedule 1 to the 1991 Regulations insofar as the activity results in releases of substances into the air;
 - (c) the disposal of liquid waste under a consent under Chapter II of Part III of the Water Resources Act 1991(36) or under Part II of the Control of Pollution Act 1974(37); and
 - (d) the recovery or disposal of waste where the activity is or forms part of an operation which is for the time being either—
 - (i) the subject of a licence under Part II of the Food and Environment Protection Act 1985(38); or

(34) OJ No. L 020, 26.1.80, p. 43.

(35) 1974 c. 40.

(36) 1991 c. 57.

(37) 1974 c. 40.

(38) 1985 c. 48; Part II is amended by sections 146 and 147 of, and Part VIII of Schedule 16 to, the 1990 Act.

(ii) carried on in circumstances where such a licence would be required but for an order under section 7 of that Act.

(2) Paragraph (1)(a) and (b) above does not apply insofar as the activity involves the final disposal of waste by deposit in or on land.

Exemptions from waste management licensing

17.—(1) Subject to the following provisions of this regulation and to any conditions or limitations in Schedule 3, section 33(1)(a) and (b) of the 1990 Act shall not apply in relation to the carrying on of any exempt activity set out in that Schedule.

(2) In the case of an exempt activity set out in paragraph 4, 7, 9, 11, 13, 14, 15, 17, 18, 19, 25, 37, 40 or 41 of Schedule 3, paragraph (1) above only applies if—

- (a) the exempt activity is carried on by or with the consent of the occupier of the land where the activity is carried on; or
- (b) the person carrying on the exempt activity is otherwise entitled to do so on that land.

(3) Unless otherwise indicated in Schedule 3, paragraph (1) above does not apply to the carrying on of an exempt activity insofar as it involves special waste.

(4) Paragraph (1) above only applies in relation to an exempt activity involving the disposal or recovery of waste by an establishment or undertaking if the type and quantity of waste submitted to the activity, and the method of disposal or recovery, are consistent with the need to attain the objectives mentioned in paragraph 4(1)(a) of Part I of Schedule 4.

(5) For the purposes of Schedule 3, a container, lagoon or place is secure in relation to waste kept in it if all reasonable precautions are taken to ensure that the waste cannot escape from it and members of the public are unable to gain access to the waste, and any reference to secure storage means storage in a secure container, lagoon or place.

Registration in connection with exempt activities

18.—(1) Subject to paragraph (7) below, it shall be an offence for an establishment or undertaking to carry on, after 31st December 1994, an exempt activity involving the recovery or disposal of waste without being registered with the appropriate registration authority.

(2) It shall be the duty of each appropriate registration authority to establish and maintain a register for the purposes of paragraph (1) above of establishments and undertakings carrying on exempt activities involving the recovery or disposal of waste in respect of which it is the appropriate registration authority.

(3) Subject to paragraph (4) below, the register shall contain the following particulars in relation to each such establishment or undertaking—

- (a) the name and address of the establishment or undertaking;
- (b) the activity which constitutes the exempt activity; and
- (c) the place where the activity is carried on.

(4) The appropriate registration authority shall enter the relevant particulars in the register in relation to an establishment or undertaking if it receives notice of them in writing or otherwise becomes aware of those particulars.

(5) For the purposes of paragraph (4) above, the appropriate registration authority shall be taken to be aware of the relevant particulars in relation to an exempt activity mentioned in paragraph (10) (a), (b) or (c) below.

(6) A person guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) The preceding provisions of this regulation shall not apply in the case of an exempt activity to which paragraph 7(3)(c) of Schedule 3 applies, but the appropriate registration authority shall enter in its register the particulars furnished to it pursuant to that provision.

(8) Each appropriate registration authority shall secure that any register maintained by it under this regulation is open to inspection at its principal office by members of the public free of charge at all reasonable hours and shall afford to members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

(9) Registers under this regulation may be kept in any form.

(10) For the purposes of this regulation, the appropriate registration authority is—

(a) in the case of an exempt activity falling within—

(i) paragraph 1, 2, 3 or 24 of Schedule 3; or

(ii) paragraph 4 of Schedule 3 if it involves the coating or spraying of metal containers as or as part of a process within Part B of Section 6.5 (coating processes and printing) of Schedule 1 to the 1991 Regulations and the process is for the time being the subject of an authorisation granted under Part I of the 1990 Act, or if it involves storage related to that process; or

(iii) paragraph 12 of Schedule 3 if it involves the composting of biodegradable waste as or as part of a process within paragraph (a) of Part B of Section 6.9 (treatment or processing of animal or vegetable matter) of Schedule 1 to the 1991 Regulations, the compost is to be used for the purpose of cultivating mushrooms and the process is for the time being the subject of an authorisation granted under Part I of the 1990 Act, or if it involves storage related to that process,

the local enforcing authority responsible for granting the authorisation under Part I of the 1990 Act for the prescribed process involving the exempt activity, or to which the exempt activity relates;

(b) in a case falling within paragraph 16 of Schedule 3, the issuing authority responsible for granting the licence under article 7 or 8 of the Diseases of Animals (Waste Food) Order 1973⁽³⁹⁾ under which the exempt activity is carried on;

(c) in a case falling within paragraph 23 of Schedule 3—

(i) where the exempt activity is carried on by virtue of a licence under article 5(2)(c) or 6(2)(d), or an approval under article 8, of the Animal By-Products Order 1992⁽⁴⁰⁾, the Minister;

(ii) where the exempt activity is carried on by virtue of a registration under article 9 or 10 of that Order, the appropriate Minister;

(iii) where the exempt activity is carried on at a knacker's yard in respect of which the occupier holds a licence under section 1 of the Slaughterhouses Act 1974⁽⁴¹⁾ authorising the use of that yard as a knacker's yard or, in Scotland, in respect of which a licence has been granted under section 6 of the Slaughter of Animals (Scotland) Act 1980⁽⁴²⁾, the local authority;

and in this sub-paragraph “the Minister” and “the appropriate Minister” have the meaning given by section 86(1) of the Animal Health Act 1981⁽⁴³⁾, and “knacker's yard” and “local authority” have the meaning given by section 34 of the Slaughterhouses Act 1974 or, in Scotland, have the meaning given by section 22 of the Slaughter of Animals (Scotland) Act 1980;

⁽³⁹⁾ S.I. 1973/1936; see article 2(1) for the definition of “issuing authority”.

⁽⁴⁰⁾ S.I. 1992/3303.

⁽⁴¹⁾ 1974 c. 3.

⁽⁴²⁾ 1980 c. 13.

⁽⁴³⁾ 1981 c. 22.

- (d) in any other case, the waste regulation authority for the area in which the exempt activity is carried on.

Waste Framework Directive

19. Schedule 4 (which implements certain provisions of Council Directive 75/442/EEC on waste⁽⁴⁴⁾) shall have effect.

Registration of brokers

20.—(1) Subject to paragraphs (2) to (4) below, it shall be an offence for an establishment or undertaking after 31st December 1994 to arrange (as dealer or broker) for the disposal or recovery of controlled waste on behalf of another person unless it is a registered broker of controlled waste.

(2) Paragraph (1) above shall not apply in relation to an arrangement under which an establishment or undertaking will itself carry out the disposal or recovery of the waste and either—

- (a) it is authorised to carry out the disposal or recovery of the waste by a waste management licence, an authorisation under Part I of the 1990 Act, a consent under Chapter II of Part III of the Water Resources Act 1991⁽⁴⁵⁾ or under Part II of the Control of Pollution Act 1974⁽⁴⁶⁾ or a licence under Part II of the Food and Environment Protection Act 1985; or
- (b) the recovery of the waste is covered by an exemption conferred by—
 - (i) regulation 17(1) of, and Schedule 3 to, these Regulations; or
 - (ii) article 3 of the Deposits in the Sea (Exemptions) Order 1985⁽⁴⁷⁾.

(3) Paragraph (1) above shall not apply in relation to an arrangement for the disposal or recovery of controlled waste made by a person who is registered as a carrier of controlled waste, or who is registered for the purposes of paragraph 12(1) of Part I of Schedule 4, if as part of the arrangement he transports the waste to or from any place in Great Britain.

(4) Paragraph (1) above shall not apply to an establishment or undertaking which—

- (a) is a charity;
- (b) is a voluntary organisation within the meaning of section 48(11) of the Local Government Act 1985⁽⁴⁸⁾ or section 83(2D) of the Local Government (Scotland) Act 1973⁽⁴⁹⁾;
- (c) is an authority which is a waste collection authority, waste disposal authority or waste regulation authority; or
- (d) applies before 1st January 1995 in accordance with Schedule 5 for registration as a broker of controlled waste but only whilst its application is pending (and paragraph 1(4) and (5) of Part I of Schedule 5 shall apply for the purpose of determining whether an application is pending).

(5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) Section 157 of the 1990 Act shall apply in relation to an offence under this section as it applies in relation to an offence under that Act.

(7) Schedule 5 (which makes provision for the registration of brokers of controlled waste) shall have effect.

⁽⁴⁴⁾ OJ No. L 194, 25.7.1975, p. 39; as amended by Council Directives 91/156/EEC (OJ No. L 078, 26.3.1991, p. 32) and 91/692/EEC (OJ No. L377, 31.12.1991, p. 48).

⁽⁴⁵⁾ 1991 c. 57.

⁽⁴⁶⁾ 1974 c. 40.

⁽⁴⁷⁾ S.I. 1985/1699.

⁽⁴⁸⁾ 1985 c. 51.

⁽⁴⁹⁾ 1973 c. 65; section 83(2D) is added by section 3(3) of the Local Government Act 1986 (c. 10).

(8) Sections 68(3) to (5), 69 and 71(2) and (3) of the 1990 Act (power to appoint inspectors, powers of entry and power to obtain information) shall have effect as if the provisions of this regulation and Schedule 5 were provisions of Part II of that Act.

Amendment of the Deposits in the Sea (Exemptions) Order 1985

21.—(1) The Deposits in the Sea (Exemptions) Order 1985(**50**) shall be amended as follows.

(2) In article 3, before “A licence is not needed”, there shall be inserted “Subject to article 4,”.

(3) After article 3, there shall be added the following articles—

“Provisions relating to exemptions involving waste

4.—(1) Article 3 only applies to an establishment or undertaking in relation to an operation specified in the Schedule to this Order involving the recovery or disposal of waste if—

- (a) it is carrying out—
 - (i) its own waste disposal at the place of production; or
 - (ii) waste recovery; and
- (b) the type and quantity of waste involved, and the method of disposal or recovery, are consistent with the need to attain the objective of ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without—
 - (i) risk to water, air, soil, plants or animals; or
 - (ii) causing nuisance through noise or odours; or
 - (iii) adversely affecting the countryside or places of special interest.

(2) In this article and in article 5 below, “disposal”, “recovery” and “waste” have the meaning given by regulation 1(3) of the Waste Management Licensing Regulations 1994.

Registration of establishments and undertakings carrying on exempt operations

5.—(1) It shall be an offence for an establishment or undertaking to carry on, after 31st December 1994, an exempt activity without being registered with the licensing authority.

(2) It shall be the duty of each licensing authority to establish and maintain a register for the purposes of paragraph (1) above of establishments and undertakings carrying on exempt activities in the area for which it is the licensing authority.

(3) The register shall contain the following particulars in relation to each such establishment or undertaking—

- (a) the name and address of the establishment or undertaking;
- (b) the activity which constitutes the exempt activity; and
- (c) the place where the activity is carried on.

(4) The licensing authority shall enter those particulars in the register in relation to an establishment or undertaking if it receives notice of them in writing or otherwise becomes aware of those particulars.

(5) A person guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) Each licensing authority shall secure that any register maintained by the authority under this article is available, at all reasonable times, for inspection by the public free of charge and shall afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

(7) Registers under this article may be kept in any form.

(8) In this article, “exempt activity” means any operation specified in the Schedule to this Order involving the disposal or recovery of waste to which article 3 applies.”.

Amendment of the Collection and Disposal of Waste Regulations 1988

22.—(1) The Collection and Disposal of Waste Regulations 1988(**51**) shall be amended as follows.

(2) At the beginning of regulation 3, there shall be inserted “Subject to regulations 4 and 7A,”.

(3) At the beginning of each of regulations 6 and 7, there shall be inserted “Subject to regulation 7A,”.

(4) After regulation 7, the following shall be inserted—

“Waste not to be treated as household, industrial or commercial waste

7A.—(1) For the purposes of all the provisions of Part I of the Act, waste which is not Directive waste shall not be treated as household waste, industrial waste or commercial waste.

(2) In this regulation, “Directive waste” has the meaning given by regulation 1(3) of the Waste Management Licensing Regulations 1994.”.

Amendment of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991

23.—(1) The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(**52**) shall be amended as follows.

(2) For regulation 2(1)(c) there shall be substituted—

“(c) any wholly owned subsidiary of the British Railways Board which has applied in accordance with these Regulations for registration as a carrier of controlled waste but only—

(i) if it is registered under paragraph 12 of Schedule 4 to the Waste Management Licensing Regulations 1994; and

(ii) whilst its application is pending;”.

(3) At the end of regulation 2(1), there shall be added—

“(i) a person who—

(i) is the holder of a knacker’s yard licence or a licence under article 5(2)(c) or 6(2)(d) of the Animal By-Products Order 1992; or

(ii) has obtained an approval under article 8 of that Order; or

(iii) is registered under article 9 or 10 of that Order,

in relation to the transport of animal by-products in accordance with Schedule 2 to that Order in connection with the activity to which the licence, approval or registration relates.”

(51) S.I. 1988/819, amended by S.I. 1989/1968.

(52) S.I. 1991/1624.

- (4) In regulation 2(2), the following definitions shall be inserted at the appropriate places—
- ““animal by-products” has the same meaning as in article 3(1) of the Animal By-Products Order 1992;”
- ““knacker’s yard licence”—
- (a) in relation to England and Wales, has the same meaning as in section 34 of the Slaughterhouses Act 1974⁽⁵³⁾;
 - (b) in relation to Scotland, means a licence under section 6 of the Slaughter of Animals (Scotland) Act 1980⁽⁵⁴⁾;
- ““registered broker of controlled waste” has the same meaning as in regulation 20 of, and Schedule 5 to, the Waste Management Licensing Regulations 1994;”
- ““wholly owned subsidiary” has the same meaning as in section 736 of the Companies Act 1985⁽⁵⁵⁾.”
- (5) At the beginning of regulation 4(9), there shall be inserted “Subject to paragraph 3(11)(a) and (b) of Schedule 5 to the Waste Management Licensing Regulations 1994;”.
- (6) After regulation 4(9)(b), there shall be inserted—
- “(c) in the case of an application by a registered broker of controlled waste for registration as a carrier of controlled waste, £25;”.

Amendment of the Controlled Waste Regulations 1992

- 24.**—(1) The Controlled Waste Regulations 1992⁽⁵⁶⁾ shall be amended as follows.
- (2) In regulation 1(2)—
- (a) after the definition of “construction”, there shall be inserted the following—

““Directive waste” has the meaning given by regulation 1(3) of the Waste Management Licensing Regulations 1994;”;
 - (b) in the definition of “part residential subjects”, for “section 26(1) of the Abolition of Domestic Rates etc.(Scotland) Act 1987⁽⁵⁷⁾” there shall be substituted “section 99(1) of the Local Government Finance Act 1992⁽⁵⁸⁾”.
- (3) In regulation 2(1), for “Subject to paragraph (2),” there shall be substituted “Subject to paragraph (2) and regulations 3 and 7A;”.
- (4) In regulation 5(1), for “regulation 7” there shall be substituted “regulations 7 and 7A”.
- (5) In regulation 5(2)(b), for “regulation 7(1)(c)” there shall be substituted “regulation 7(1)(a) or (c)”.
- (6) In regulation 6, for “regulation 7” there shall be substituted “regulations 7 and 7A”.
- (7) At the end of regulation 7, there shall be added—
- “(3) Animal by-products which are collected and transported in accordance with Schedule 2 to the Animal By-Products Order 1992⁽⁵⁹⁾ shall not be treated as industrial waste or commercial waste for the purposes of section 34 (duty of care etc.as respects waste).
- (4) In this regulation, “animal by-products” has the same meaning as in article 3(1) of the Animal By-Products Order 1992.”

⁽⁵³⁾ 1974 c. 3.

⁽⁵⁴⁾ 1980 c. 13.

⁽⁵⁵⁾ 1985 c. 6.

⁽⁵⁶⁾ S.I. 1992/588, amended by S.I. 1993/566.

⁽⁵⁷⁾ 1987 c. 47.

⁽⁵⁸⁾ 1992 c. 14.

⁽⁵⁹⁾ S.I. 1992/3303.

(8) After regulation 7, the following shall be inserted—

“Waste not to be treated as household, industrial or commercial waste

7A. For the purposes of Part II of the Act, waste which is not Directive waste shall not be treated as household waste, industrial waste or commercial waste.”.

(9) In paragraphs 8(b) and 11(a) of Schedule 3 and paragraph 9 of Schedule 4, in each place after “section 22(3) of the Control of Pollution Act 1974⁽⁶⁰⁾” there shall be inserted “or section 25(2) of the Local Government and Planning (Scotland) Act 1982⁽⁶¹⁾”.

31st March 1994

John Selwyn Gummer
Secretary of State for the Environment

12th April 1994

John Redwood
Secretary of State for Wales

29th March 1994

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

⁽⁶⁰⁾ 1974 c. 40.

⁽⁶¹⁾ 1982 c. 43.

SCHEDULE 1

Regulation 2(2), (3) and (4)

INFORMATION AND EVIDENCE REQUIRED IN RELATION TO
AN APPLICATION FOR THE SURRENDER OF A SITE LICENCE

1. The full name, address and daytime telephone, fax and telex number (if any) of the holder of the site licence and, where the holder employs an agent in relation to the application, of that agent.
2. The number (if any) of the site licence, and the address or a description of the location of the site.
3. A map or plan—
 - (a) showing the location of the site;
 - (b) indicating whereabouts on the site the different activities mentioned in paragraph 4 were carried on; and
 - (c) indicating relevant National Grid references.
4. A description of the different activities involving the treatment, keeping or disposal of controlled waste which were carried on at the site (whether or not in pursuance of the licence), an indication of when those activities were carried on and an estimate of the total quantities of the different types of waste which were dealt with at the site.
5. Where the site is a landfill or lagoon—
 - (a) particulars of all significant engineering works carried out for the purpose of preventing or minimising pollution of the environment or harm to human health as a result of activities carried on at the site, including—
 - (i) an indication of when those works were carried out and a copy of all relevant plans or specifications; and
 - (ii) details of works of restoration carried out after completion of operations at the site;
 - (b) geological, hydrological and hydrogeological information relating to the site and its surrounds, including information about the flows of groundwater
 - (c) monitoring data on the quality of surface water or groundwater which could be affected by the site and on the production of any landfill gas or leachate at the site and information about the physical stability of the site; and
 - (d) where special waste has been deposited at the site, a copy of the records and plans relating to the deposits kept under regulation 14 of the Control of Pollution (Special Waste) Regulations 1980⁽⁶²⁾;

and any estimate under paragraph 4 of the total quantities of the different types of waste dealt with at the site shall, in particular, differentiate between biodegradable waste, non-biodegradable waste and special waste.

6. Where the site is not a landfill or lagoon—
 - (a) details of the contaminants likely to be present at the site having regard to—
 - (i) the different activities involving the treatment, keeping or disposal of controlled waste carried on at the site (whether or not in pursuance of the licence); and
 - (ii) the nature of the different types of waste dealt with at the site; and
 - (b) a report which—

(62) S.I. 1980/1709; to which there are amendments not relevant to these Regulations.

- (i) records the results of the analysis of samples taken in such numbers, and at such locations at the site, that they provide a reliable indication of the locations where contaminants are likely to be present in high concentrations; and
 - (ii) shows how many (and from where) samples were taken.
7. Any other information which the applicant wishes the waste regulation authority to take into account.

SCHEDULE 2

Regulation 2(5)

INFORMATION REQUIRED IN RELATION TO AN APPLICATION FOR THE TRANSFER OF A WASTE MANAGEMENT LICENCE

1. The full name, address and daytime telephone, fax and telex number (if any) of the holder of the waste management licence and, where the application is made by an agent of the holder, of the agent.
2. The number (if any) of the waste management licence and, except in the case of mobile plant, the address or a description of the location of the licensed premises.
3. In the case of mobile plant, sufficient information to identify the plant.
4. Where the proposed transferee is an individual, his full name, date of birth, address and daytime telephone, fax and telex number (if any).
5. Where the proposed transferee is a registered company or other body corporate—
 - (a) its name and, in the case of a registered company, its registered number;
 - (b) the address, telephone, fax and telex number (if any) of its registered or principal office;
 - (c) the full name, position, address and date of birth of each director, manager, secretary or other similar officer of the proposed transferee.
6. Where the proposed transferee is a partnership—
 - (a) the name of the partnership;
 - (b) its address, telephone, fax and telex number (if any);
 - (c) the full name, address and date of birth of each partner.
7. If the proposed transferee has a business name different from any name of the transferee mentioned above, the transferee's business name.
8. Where the proposed transferee has appointed an agent to deal with the transfer, the agent's full name, address and daytime telephone, fax and telex number (if any).
9. Details of any conviction of the proposed transferee or of another relevant person⁽⁶³⁾ for any offence which is relevant for the purposes of section 74(3)(a) of the 1990 Act, including the date of conviction, the penalty imposed and the name of the Court.
10. The full name of the person who is to manage the activities which are authorised by the waste management licence and information to establish that he is technically competent for the purposes of section 74(3)(b) of the 1990 Act, including—
 - (a) details of any relevant certificate of technical competence (within the meaning of regulation 4) he holds; or

⁽⁶³⁾ See the definition of "relevant person" in section 74(7) of the 1990 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) in a case where the transferee relies on regulation 5(1) or (2), sufficient information to establish that that provision applies.

11. Details of the financial provision which the proposed transferee has made or proposes to make to discharge the obligations arising from the waste management licence.

12. Any other information which the applicant wishes the waste regulation authority to take into account.

SCHEDULE 3

Regulations 1(3) and 17

ACTIVITIES EXEMPT FROM WASTE MANAGEMENT LICENSING

1.—(1) The use, under an authorisation granted under Part I of the 1990 Act, of waste glass as part of a process within Part B of Section 3.5 (glass manufacture and production) of Schedule 1 to the 1991 Regulations if the total quantity of waste glass so used in that process does not exceed 600,000 tonnes in any period of twelve months.

(2) The storage, at the place where the process is carried on, of any such waste which is intended to be so used.

2.—(1) The operation, under an authorisation granted under Part I of the 1990 Act, of a scrap metal furnace with a designed holding capacity of less than 25 tonnes to the extent that it is or forms part of a process within paragraph (a), (b) or (d) of Part B of Section 2.1 (iron and steel), or paragraph (a), (b) or (e) of Part B of Section 2.2 (non-ferrous metals), of Schedule 1 to the 1991 Regulations.

(2) The loading or unloading of such a furnace in connection with its operation in a manner covered by the exemption conferred by sub-paragraph (1) above.

(3) The storage, at the place where such a furnace is located (but not in cases where that place is used for carrying on business as a scrap metal dealer or, in Scotland, as a metal dealer), of scrap metal intended to be submitted to an operation covered by the exemption conferred by sub-paragraph (1) above.

3. The carrying on of any of the following operations—

(a) burning as a fuel, under an authorisation granted under Part I of the 1990 Act, of—

(i) straw, poultry litter or wood;

(ii) waste oil; or

(iii) solid fuel which has been manufactured from waste by a process involving the application of heat,

to the extent that it is or forms part of a process within Part B of any Section of Schedule 1 to the 1991 Regulations;

(b) the secure storage on any premises of any wastes mentioned in sub-paragraph (a) above, other than waste oil, which are intended to be burned as mentioned in that sub-paragraph, and the feeding of such wastes into an appliance in which they are to be so burned;

(c) the secure storage of waste oil at the place where it is produced for a period not exceeding twelve months if the waste oil is intended to be submitted to an operation covered by the exemption conferred by sub-paragraph (a) above;

(d) burning as a fuel, under an authorisation granted under Part I of the 1990 Act, of tyres to the extent that it is or forms part of a process within Part B of Section 1.3 of Schedule 1 to

the 1991 Regulations, and the shredding and feeding of tyres into an appliance in which they are to be so burned;

- (e) the storage in a secure place on any premises of tyres where—
 - (i) the tyres are intended to be submitted to an operation covered by the exemption conferred by sub-paragraph (d) above;
 - (ii) the tyres are stored separately;
 - (iii) none of the tyres is stored on the premises for longer than twelve months; and
 - (iv) the number of the tyres stored on the premises at any one time does not exceed 1,000.

4.—(1) The cleaning, washing, spraying or coating of waste consisting of packaging or containers so that it or they can be reused if the total quantity of such waste so dealt with at any place does not exceed 1,000 tonnes in any period of seven days.

(2) The storage of waste in connection with the carrying on of any activities described in sub-paragraph (1) above if that storage is at the place where the activity is carried on unless—

- (a) the total quantity of such waste stored at that place exceeds 1,000 tonnes; or
- (b) more than 1 tonne of metal containers used for the transport or storage of any chemical are dealt with in any period of seven days.

5.—(1) Burning waste as a fuel in an appliance if the appliance has a net rated thermal input of less than 0.4 megawatts or, where the appliance is used together with other appliances, the aggregate net rated thermal input of all the appliances is less than 0.4 megawatts.

(2) The secure storage of waste intended to be submitted to such burning.

(3) In this paragraph, “net rated thermal input” means the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

6.—(1) Burning waste oil as a fuel in an engine of an aircraft, hovercraft, mechanically propelled vehicle, railway locomotive, ship or other vessel if the total amount burned of such waste does not exceed 2, 500 litres an hour in any one engine.

(2) The storage, in a secure container, of waste oil intended to be so burned.

7.—(1) The spreading of any of the wastes listed in Table 2 on land which is used for agriculture.

(2) The spreading of any of the wastes listed in Part I of Table 2 on—

- (a) operational land of a railway, light railway, internal drainage board or the National Rivers Authority; or
- (b) land which is a forest, woodland, park, garden, verge, landscaped area, sports ground, recreation ground, churchyard or cemetery.

Table 2

PART I

Waste soil or compost.

Waste wood, bark or other plant matter.

PART II

Waste food, drink or materials used in or resulting from the preparation of food or drink.

Blood and gut contents from abattoirs.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Waste lime.

Lime sludge from cement manufacture or gas processing.

Waste gypsum.

Paper waste sludge, waste paper and de-inked paper pulp.

Dredgings from any inland waters.

Textile waste

Septic tank sludge.

Sludge from biological treatment plants.

Waste hair and effluent treatment sludge from a tannery.

(3) Sub-paragraphs (1) and (2) above only apply if—

- (a) no more than 250 tonnes or, in the case of dredgings from inland waters, 5,000 tonnes of waste per hectare are spread on the land in any period of twelve months;
- (b) the activity in question results in benefit to agriculture or ecological improvement; and
- (c) where the waste is to be spread by an establishment or undertaking on land used for agriculture, it furnishes to the waste regulation authority in whose area the spreading is to take place the particulars listed in sub-paragraph (4) below—
 - (i) in a case where there is to be a single spreading, in advance of carrying out the spreading; or
 - (ii) in a case where there is to be regular or frequent spreading of waste of a similar composition, every six months or, where the waste to be spread is of a description different from that last notified, in advance of carrying out the spreading.

(4) The particulars referred to in sub-paragraph (3)(c) above are—

- (a) the establishment or undertaking's name and address, and telephone or fax number (if any);
- (b) a description of the waste, including the process from which it arises;
- (c) where the waste is being or will be stored pending spreading;
- (d) an estimate of the quantity of the waste or, in such a case as is mentioned in sub-paragraph (3)(c)(ii) above, an estimate of the total quantity of waste to be spread during the next six months; and
- (e) the location, and intended date or, in such a case as is mentioned in sub-paragraph (3)(c)(ii) above, the frequency, of the spreading of the waste.

(5) Subject to sub-paragraph (6) below, the storage, at the place where it is to be spread, of any waste (other than septic tank sludge) intended to be spread in reliance upon the exemption conferred by sub-paragraph (1) or (2) above.

(6) Sub-paragraph (5) above does not apply to the storage of waste in liquid form unless it is stored in a secure container or lagoon and no more than 500 tonnes is stored in any one container or lagoon.

(7) The storage, in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place), of septic tank sludge intended to be spread in reliance upon the exemption conferred by sub-paragraph (1) above.

(8) In this paragraph and paragraph 8, “agriculture” has the same meaning as in the Agriculture Act 1947(**64**) or, in Scotland, the Agriculture (Scotland) Act 1948(**65**).

(9) In this paragraph and paragraph 30, “internal drainage board” has the meaning given by section 1(1) of the Land Drainage Act 1991(**66**) and, for the purposes of the definition of operational land, an internal drainage board shall be deemed to be a statutory undertaker.

(10) In this paragraph and paragraphs 8 and 10, “septic tank sludge” has the meaning given by regulation 2(1) of the Sludge (Use in Agriculture) Regulations 1989(**67**).

8.—(1) The storage, in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place) on land used for agriculture, of sludge which is to be used in accordance with the 1989 Regulations.

(2) The spreading of sludge on land which is not agricultural land within the meaning of the 1989 Regulations(**68**) if—

- (a) it results in ecological improvement; and
- (b) it does not cause the concentration in the soil of any of the elements listed in column 1 of the soil table set out in Schedule 2 to the 1989 Regulations to exceed the limit specified in column 2 of the table.

(3) The storage, in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place), of sludge intended to be spread in reliance upon the exemption conferred by sub-paragraph (2) above.

(4) In this paragraph, “the 1989 Regulations” means the Sludge (Use in Agriculture) Regulations 1989(**67**) and “used”, in relation to sludge, has the meaning given by regulation 2(1) of the 1989 Regulations.

(5) In this paragraph, and in paragraphs 9 and 10, “sludge” has the meaning given by regulation 2(1) of the 1989 Regulations.

9.—(1) Subject to sub-paragraph (3) below, the spreading of waste consisting of soil, rock, ash or sludge, or of waste from dredging any inland waters or arising from construction or demolition work, on any land in connection with the reclamation or improvement of that land if—

- (a) by reason of industrial or other development the land is incapable of beneficial use without treatment;
- (b) the spreading is carried out in accordance with a planning permission for the reclamation or improvement of the land and results in benefit to agriculture or ecological improvement; and
- (c) no more than 20,000 cubic metres per hectare of such waste is spread on the land.

(2) The storage, at the place where it is to be spread, of any such waste which is intended to be spread in reliance upon the exemption conferred by sub-paragraph (1) above.

(3) Sub-paragraph (1) above does not apply to the disposal of waste at a site designed or adapted for the final disposal of waste by landfill.

10.—(1) Any recovery operation carried on within the curtilage of a sewage treatment works in relation to sludge or septic tank sludge brought from another sewage treatment works if the total

(64) 1947 c. 48; see section 109(3).

(65) 1948 c. 45; see section 86(3).

(66) 1991 c. 59.

(67) S.I. 1989/1263, amended by S.I. 1990/880.

(68) See regulation 2(1) of the 1989 Regulations.

(67) S.I. 1989/1263, amended by S.I. 1990/880.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

quantity of such waste brought to the works in any period of twelve months does not exceed 10,000 cubic metres.

(2) The treatment within the curtilage of a water treatment works of waste arising at the works from water treatment if the total quantity of such waste which is treated at the works in any period of twelve months does not exceed 10,000 cubic metres.

(3) The storage of waste intended to be submitted to the activities mentioned in sub-paragraph (1) or (2) above if that storage is at the place where those activities are to be carried on.

11. Carrying on at any place, in respect of a kind of waste listed in Table 3, any of the activities specified in that Table in relation to that kind of waste where—

- (a) the activity is carried on with a view to the recovery or reuse of the waste (whether or not by the person carrying on the activity listed in that Table); and
- (b) the total quantity of any particular kind of waste dealt with at that place does not in any period of seven days exceed the limit specified in relation to that kind of waste in that Table.

Table 3

| Kind of waste | Activities | Limit (tonnes per week) |
|--|---|-------------------------|
| Waste paper or cardboard | Baling, sorting or shredding | 3,000 |
| Waste textiles | Baling, sorting or shredding | 100 |
| Waste plastic | Baling, sorting, shredding, densifying or washing | 100 |
| Waste glass | Sorting, crushing or washing | 1,000 |
| Waste steel cans, aluminium cans or aluminium foil | Sorting, crushing, pulverising, shredding, compacting or baling | 100 |
| Waste food or drink cartons | Sorting, crushing, pulverising, shredding, compacting or baling | 100 |

12.—(1) Composting biodegradable waste at the place where the waste is produced or where the compost is to be used, or at any other place occupied by the person producing the waste or using the compost, if the total quantity of waste being composted at that place at any time does not exceed—

- (a) in the case of waste composted or to be composted for the purposes of cultivating mushrooms, 10,000 cubic metres; and
- (b) in any other case, 1,000 cubic metres.

(2) The storage of biodegradable waste which is to be composted if that storage is at the place where the waste is produced or is to be composted.

(3) In this paragraph, “composting” includes any other biological transformation process that results in materials which may be spread on land for the benefit of agriculture or ecological improvement.

13.—(1) The manufacture from—

- (a) waste which arises from demolition or construction work or tunnelling or other excavations; or

(b) waste which consists of ash, slag, clinker, rock, wood, bark, paper, straw or gypsum, of timber products, straw board, plasterboard, bricks, blocks, roadstone or aggregate.

(2) The manufacture of soil or soil substitutes from any of the wastes listed in sub-paragraph (1) above if—

(a) the manufacture is carried out at the place where either the waste is produced or the manufactured product is to be applied to land; and

(b) the total amount manufactured at that place on any day does not exceed 500 tonnes.

(3) The treatment of waste soil or rock which, when treated, is to be spread on land under paragraph 7 or 9, if—

(a) it is carried out at the place where the waste is produced or the treated product is to be spread; and

(b) the total amount treated at that place in any day does not exceed 100 tonnes.

(4) The storage of waste which is to be submitted to any of the activities mentioned in sub-paragraphs (1) to (3) above if—

(a) the waste is stored at the place where the activity is to be carried on; and

(b) the total quantity of waste stored at that place does not exceed—

(i) in the case of the manufacture of roadstone from road planings, 50,000 tonnes; and

(ii) in any other case, 20,000 tonnes.

14.—(1) The manufacture of finished goods from any of the following kinds of waste, namely waste metal, plastic, glass, ceramics, rubber, textiles, wood, paper or cardboard.

(2) The storage of any such waste intended to be used in reliance upon the exemption conferred by sub-paragraph (1) above if—

(a) the waste is stored at the place of manufacture; and

(b) the total amount of any particular kind of waste stored at that place at any time does not exceed 15,000 tonnes.

15.—(1) The beneficial use of waste if—

(a) it is put to that use without further treatment; and

(b) that use of the waste does not involve its disposal.

(2) The storage of waste intended to be used in reliance upon the exemption conferred by sub-paragraph (1) above insofar as that storage does not amount to disposal of the waste.

(3) This paragraph does not apply to the use or storage of waste if that activity is covered by an exemption conferred by paragraph 7, 8, 9, 19 or 25, or would be so covered but for any condition or limitation to which that exemption is subject by virtue of any provision contained in the paragraph by which that exemption is conferred.

16. The carrying on, in accordance with the conditions and requirements of a licence granted under article 7 or 8 of the Diseases of Animals (Waste Food) Order 1973⁽⁶⁹⁾, of any activity authorised by the licence.

17.—(1) The storage in a secure place on any premises of waste of a kind described in Table 4 below if—

(a) the total quantity of that kind of waste stored on those premises at any time does not exceed the quantity specified in that Table;

⁽⁶⁹⁾ S.I. 1973/1936.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) the waste is to be reused, or used for the purposes of—
 - (i) an activity described in paragraph 11; or
 - (ii) any other recovery operation;
- (c) each kind of waste listed in the Table stored on the premises is kept separately; and
- (d) no waste is stored on the premises for longer than twelve months.

Table 4

| Kind of waste | Maximum total quantity |
|--|------------------------|
| Waste paper or cardboard | 15,000 tonnes |
| Waste textiles | 1,000 tonnes |
| Waste plastics | 500 tonnes |
| Waste glass | 5,000 tonnes |
| Waste steel cans, aluminium cans or aluminium foil | 500 tonnes |
| Waste food or drink cartons | 500 tonnes |
| Waste articles which are to be used for construction work which are capable of being so used in their existing state | 100 tonnes |
| Solvents (including solvents which are special waste) | 5 cubic metres |
| Refrigerants and halons (including refrigerants and halons which are special waste) | 18 tonnes |
| Tyres | 1,000 tyres |

(2) In this paragraph, “refrigerants” means dichlorodifluoromethane, chlorotrifluoromethane, dichlorotetrafluoroethane, chloropentafluoroethane, bromotrifluoromethane, chlorodifluoromethane, chlorotetrafluoroethane, trifluoromethane, difluoromethane, pentafluoroethane, tetrafluoroethane, chlorodifluoroethane, difluoroethane, trichlorofluoromethane, trichlorotrifluoroethane, dichlorotrifluoroethane, dichlorofluoroethane and mixtures containing any of those substances.

18.—(1) The storage on any premises in a secure container or containers of waste of a kind described in sub-paragraph (2) below if—

- (a) the storage capacity of the container or containers does not exceed 400 cubic metres in total;
- (b) in the case of waste oil, the storage capacity of any container or containers used for its storage does not exceed 3 cubic metres in total, and provision is made to prevent oil escaping into the ground or a drain;
- (c) there are no more than 20 containers on those premises;
- (d) the waste will be reused, or used for the purposes of—
 - (i) any activity described in paragraph 11 carried on at those premises; or
 - (ii) any other recovery activity;
- (e) each kind of waste described in sub-paragraph (2) below stored on the premises is kept separately;

- (f) no waste is stored on the premises for longer than twelve months; and
 - (g) the person storing the waste is the owner of the container or has the consent of the owner.
- (2) Sub-paragraph (1) above applies to the following kinds of waste—
- (a) any waste described in paragraph 17 other than waste solvents, refrigerants or halons;
 - (b) waste oil.

19.—(1) The storage on a site of waste which arises from demolition or construction work or tunnelling or other excavations or which consists of ash, slag, clinker, rock, wood or gypsum, if—

- (a) the waste in question is suitable for use for the purposes of relevant work which will be carried on at the site; and
- (b) in the case of waste which is not produced on the site, it is not stored there for longer than three months before relevant work starts.

(2) The use of waste of a kind mentioned in sub-paragraph (1) above for the purposes of relevant work if the waste is suitable for use for those purposes.

(3) The storage on a site of waste consisting of road planings which are to be used for the purposes of relevant work carried on elsewhere if—

- (a) no more than 50,000 tonnes of such waste are stored at the site; and
- (b) the waste is stored there for no longer than 3 months.

(4) In this paragraph, “relevant work” means construction work, including the deposit of waste on land in connection with—

- (a) the provision of recreational facilities on that land; or
- (b) the construction, maintenance or improvement of a building, highway, railway, airport, dock or other transport facility on that land,

but not including either any deposit of waste in any other circumstances or any work involving land reclamation.

20.—(1) Laundering or otherwise cleaning waste textiles with a view to their recovery or reuse.

(2) The storage of waste textiles at the place where they are to be so laundered or cleaned.

21.—(1) Chipping, shredding, cutting or pulverising waste plant matter (including wood or bark), or sorting and baling sawdust or wood shavings, on any premises if—

- (a) those activities are carried on for the purposes of recovery or reuse; and
- (b) no more than 1,000 tonnes of such waste are dealt with on those premises in any period of seven days.

(2) The storage of waste in connection with any activity mentioned in sub-paragraph (1) above at the premises where it is carried on if the total amount of waste stored at those premises does not at any time exceed 1,000 tonnes.

22.—(1) The recovery, at any premises, of silver from waste produced in connection with printing or photographic processing if no more than 50,000 litres of such waste are dealt with on those premises in any day.

(2) The storage, at those premises, of waste which is to be submitted to such a recovery operation as is mentioned in sub-paragraph (1) above.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

23.—(1) The keeping or treatment of animal by-products in accordance with the Animal By-Products Order 1992(70).

(2) In this paragraph, “animal by-products” has the same meaning as in article 3(1) of the Animal By-Products Order 1992.

24.—(1) Crushing, grinding or other size reduction of waste bricks, tiles or concrete, under an authorisation granted under Part I of the 1990 Act, to the extent that it is or forms part of a process within paragraph (c) of Part B of Section 3.4 (other mineral processes) of Schedule 1 to the 1991 Regulations.

(2) Where any such crushing, grinding or other size reduction is carried on otherwise than at the place where the waste is produced, the exemption conferred by sub-paragraph (1) above only applies if those activities are carried on with a view to recovery or reuse of the waste.

(3) The storage, at the place where the process is carried on, of any such waste which is intended to be so crushed, ground or otherwise reduced in size, if the total quantity of such waste so stored at that place at any one time does not exceed 20,000 tonnes.

25.—(1) Subject to sub-paragraphs (2) to (4) below, the deposit of waste arising from dredging inland waters, or from clearing plant matter from inland waters, if either—

(a) the waste is deposited along the bank or towpath of the waters where the dredging or clearing takes place; or

(b) the waste is deposited along the bank or towpath of any inland waters so as to result in benefit to agriculture or ecological improvement.

(2) The total amount of waste deposited along the bank or towpath under sub-paragraph (1) above on any day must not exceed 50 tonnes for each metre of the bank or towpath along which it is deposited.

(3) Sub-paragraph (1) above does not apply to waste deposited in a container or lagoon.

(4) Sub-paragraph (1)(a) above only applies to an establishment or undertaking where the waste deposited is the establishment or undertaking’s own waste.

(5) The treatment by screening or dewatering of such waste as is mentioned in sub-paragraph (1) above—

(a) on the bank or towpath of the waters where either the dredging or clearing takes place or the waste is to be deposited, prior to its being deposited in reliance upon the exemption conferred by the foregoing provisions of this paragraph;

(b) on the bank or towpath of the waters where the dredging or clearing takes place, or at a place where the waste is to be spread, prior to its being spread in reliance upon the exemption conferred by paragraph 7(1) or (2); or

(c) in the case of waste from dredging, on the bank or towpath of the waters where the dredging takes place, or at a place where the waste is to be spread, prior to its being spread in reliance upon the exemption conferred by paragraph 9(1).

26.—(1) The recovery or disposal of waste, at the place where it is produced, as an integral part of the process that produces it.

(2) The storage, at the place where it is produced, of waste which is intended to be so recovered or disposed of.

(3) Sub-paragraph (1) above does not apply to the final disposal of waste by deposit in or on land.

(70) S.I. 1992/3303.

27.—(1) Baling, compacting, crushing, shredding or pulverising waste at the place where it is produced.

(2) The storage, at the place where it is produced, of waste which is to be submitted to any of those operations.

28. The storage of returned goods that are waste, for a period not exceeding one month, by their manufacturer, distributor or retailer, where either—

- (a) they are intended for reuse or submission to a recovery operation; or
- (b) they are being stored, at the place where the intention to discard them was formed, pending their disposal.

29.—(1) The disposal of waste at the place where it is produced, by the person producing it, by burning it in an incinerator which is an exempt incinerator for the purposes of Section 5.1 (incineration) of Schedule 1 to the 1991 Regulations.

(2) The secure storage at that place of any such waste intended to be submitted to such burning.

30.—(1) Subject to sub-paragraph (2) below, burning waste on land in the open if—

- (a) the waste consists of wood, bark or other plant matter;
- (b) it is produced on land which is operational land of a railway, light railway, tramway, internal drainage board⁽⁷¹⁾ or the National Rivers Authority, or which is a forest, woodland, park, garden, verge, landscaped area, sports ground, recreation ground, churchyard or cemetery, or it is produced on other land as a result of demolition work;
- (c) it is burned on the land where it is produced; and
- (d) the total quantity burned in any period of 24 hours does not exceed 10 tonnes.

(2) Sub-paragraph (1) above only applies to the burning of waste by an establishment or undertaking where the waste burned is the establishment or undertaking's own waste.

(3) The storage pending its burning, on the land where it is to be burned, of waste which is to be burned in reliance upon the exemption conferred by sub-paragraph (1) above.

31. The discharge of waste onto the track of a railway from a sanitary convenience or sink forming part of a vehicle used for the carriage of passengers on the railway if the discharge in question does not exceed 25 litres.

32. The burial on premises of waste arising from the use on those premises of a sanitary convenience which is equipped with a removable receptacle if the total amount buried in any period of twelve months does not exceed 5 cubic metres.

33.—(1) The keeping or deposit of waste consisting of excavated materials arising from peatworking at the place where that activity takes place.

(2) Sub-paragraph (1) above only applies to the keeping or deposit of waste by an establishment or undertaking where the waste kept or deposited is the establishment or undertaking's own waste.

34.—(1) The keeping or deposit on land at the place where it is produced of spent ballast if the land is operational land of a railway, light railway or tramway and the total amount kept or deposited at that place does not exceed 10 tonnes for each metre of track from which the ballast derives.

(2) Sub-paragraph (1) above only applies to the keeping or deposit of waste by an establishment or undertaking where the waste kept or deposited is the establishment or undertaking's own waste.

(71) For the definition of "internal drainage board" see paragraph 7(9) above.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

35.—(1) The deposit of waste consisting of excavated material from a borehole or other excavation made for the purpose of mineral exploration if—

- (a) it is deposited in or on land at the place where it is excavated; and
- (b) the total quantity of waste so deposited over any period of 24 months does not exceed 45,000 cubic metres per hectare.

(2) Sub-paragraph (1) above only applies if—

- (a) the drilling of the borehole or the making of any other excavation is development for which planning permission is granted by article 3 of, and Class A or B of Part 22 of Schedule 2 to, the Town and Country Planning General Development Order 1988⁽⁷²⁾ or, in Scotland, which is permitted by Class 53, 54 or 61 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992⁽⁷³⁾; and
- (b) the conditions subject to which the development is permitted are observed.

(3) Expressions used in this paragraph which are also used in the Town and Country Planning General Development Order 1988 or, in Scotland, the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, shall have the same meaning as in the relevant Order.

36.—(1) The temporary storage of waste consisting of garbage, including any such waste which is special waste, at reception facilities provided within a harbour area in accordance with the Merchant Shipping (Reception Facilities for Garbage) Regulations 1988⁽⁷²⁾, where such storage is incidental to the collection or transport of the waste and so long as—

- (a) the amount of garbage so stored within a harbour area at any time does not exceed 20 cubic metres for each ship from which garbage has been landed; and
- (b) no garbage is so stored for more than seven days.

(2) The temporary storage of waste consisting of tank washings, including any such waste which is special waste, at reception facilities provided within a harbour area in accordance with the Prevention of Pollution (Reception Facilities) Order 1984⁽⁷³⁾, where such storage is incidental to the collection or transport of the waste and so long as—

- (a) the amount of tank washings consisting of dirty ballast so stored within a harbour area at any time does not exceed 30% of the total deadweight of the ships from which such washings have been landed;
- (b) the amount of tank washings consisting of waste mixtures containing oil so stored within a harbour area at any time does not exceed 1% of the total deadweight of the ships from which such washings have been landed.

(3) In this paragraph—

“garbage” has the same meaning as in the Merchant Shipping (Reception Facilities for Garbage) Regulations 1988;

“harbour area” has the same meaning as in the Dangerous Substances in Harbour Areas Regulations 1987⁽⁷⁴⁾;

“ship” means a vessel of any type whatsoever operating in the marine environment including submersible craft, floating craft and any structure which is a fixed or floating platform; and

⁽⁷²⁾ S.I. 1988/2293.

⁽⁷³⁾ S.I. 1984/862.

⁽⁷²⁾ S.I. 1988/2293.

⁽⁷³⁾ S.I. 1984/862.

⁽⁷⁴⁾ S.I. 1987/37.

“tank washings” means waste residues from the tanks (other than the fuel tanks) or holds of a ship or waste arising from the cleaning of such tanks or holds.

37.—(1) Subject to sub-paragraph (2) below, the burial of a dead domestic pet in the garden of a domestic property where the pet lived.

(2) This paragraph does not apply if—

- (a) the dead domestic pet may prove hazardous to anyone who may come into contact with it; or
- (b) the burial is carried out by an establishment or undertaking and the pet did not die at the property.

38. The deposit or storage of samples of waste, including samples of waste which is special waste, which are being or are to be subjected to testing and analysis, at any place where they are being or are to be tested or analysed, if the samples are taken—

- (a) in the exercise of any power under the Radioactive Substances Act 1993⁽⁷⁵⁾, the Sewerage (Scotland) Act 1968⁽⁷⁶⁾, the Control of Pollution Act 1974⁽⁷⁷⁾, the 1990 Act, the Water Industry Act 1991⁽⁷⁸⁾ or the Water Resources Act 1991⁽⁷⁹⁾;
- (b) by or on behalf of the holder of a waste management licence in pursuance of the conditions of that licence;
- (c) by or on behalf of a person carrying on in relation to the waste an activity described in this Schedule or in regulation 16(1);
- (d) by or on behalf of the owner or occupier of the land from which the samples are taken;
- (e) by or on behalf of any person to whom section 34 of the 1990 Act applies in connection with his duties under that section; or
- (f) for the purposes of research.

39.—(1) The secure storage at a pharmacy, pending their disposal there or elsewhere, of waste medicines (including those which are special waste) which have been returned to the pharmacy from households or by individuals if—

- (a) the total quantity of such returned waste medicines at the pharmacy does not exceed 5 cubic metres at any time; and
- (b) any waste medicine so returned to the pharmacy is not stored there for longer than six months.

(2) The storage at the premises of a medical, nursing or veterinary practice of waste (including special waste) produced in carrying on that practice if—

- (a) the total quantity of that waste at the premises does not at any time exceed 5 cubic metres; and
- (b) no such waste is stored at those premises for longer than three months.

40.—(1) The storage of non-liquid waste at any place other than the premises where it is produced if—

- (a) it is stored in a secure container or containers, does not at any time exceed 50 cubic metres in total and is not kept for a period longer than 3 months;

⁽⁷⁵⁾ 1993 c. 12.

⁽⁷⁶⁾ 1968 c. 47.

⁽⁷⁷⁾ 1974 c. 40.

⁽⁷⁸⁾ 1991 c. 56.

⁽⁷⁹⁾ 1991 c. 57.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) the person storing the waste is the owner of the container or has the consent of the owner;
- (c) the place where it is stored is not a site designed or adapted for the reception of waste with a view to its being disposed of or recovered elsewhere; and
- (d) such storage is incidental to the collection or transport of the waste.

(2) The temporary storage of scrap rails on operational land of a railway, light railway or tramway if the total quantity of that waste in any one place does not at any time exceed 10 tonnes and the storage is incidental to the collection or transport of the scrap rails.

41.—(1) The temporary storage of waste, pending its collection, on the site where it is produced.

(2) Sub-paragraph (1) above shall apply to special waste if—

- (a) it is stored on the site for no more than twelve months;
- (b) in the case of liquid waste, it is stored in a secure container and the total volume of that waste does not at any time exceed 23,000 litres; and
- (c) in any other case, either—
 - (i) it is stored in a secure container and the total volume of that waste does not at any time exceed 80 cubic metres; or
 - (ii) it is stored in a secure place and the total volume of that waste does not at any time exceed 50 cubic metres.

42.—(1) The treatment, keeping or disposal by any person at any premises of waste (including special waste) consisting of scrap metal or waste motor vehicles which are to be dismantled if—

- (a) he was carrying on the activity in question at those premises before 1st May 1994; and
- (b) he has applied, before that date, for a disposal licence under Part I of the Control of Pollution Act 1974⁽⁸⁰⁾ authorising that activity and that application is pending on that date.

(2) The exemption conferred by sub-paragraph (1) above, in relation to the carrying on of an activity at any premises, shall cease to have effect in relation to the carrying on of that activity at those premises on the date on which the licence applied for is granted or, if the application is (or is deemed to be) rejected, on the date on which—

- (a) the period for appealing expires without an appeal being made; or
- (b) any appeal is withdrawn or finally determined.

43.—(1) The treatment, keeping or disposal by any person at any premises of waste (including special waste) if—

- (a) he was carrying on the activity in question at those premises before 1st May 1994; and
- (b) before that date no disposal licence was required under Part I of the Control of Pollution Act 1974⁽⁸⁰⁾ for that activity.

(2) Subject to sub-paragraph (3) below, the exemption conferred by sub-paragraph (1) above, in relation to an activity carried on by a person at any premises, shall after 30th April 1995 cease to have effect in relation to the carrying on of that activity at those premises unless on or before that date he applies for a waste management licence in relation to the activity in question.

(3) Where a person makes such an application as is mentioned in sub-paragraph (2) above, the exemption conferred by sub-paragraph (1) above shall continue to have effect in relation to the

⁽⁸⁰⁾ 1974 c. 40; “disposal licence” has the meaning given by section 3(1).

⁽⁸⁰⁾ 1974 c. 40; “disposal licence” has the meaning given by section 3(1).

activity in question until the date on which the licence applied for is granted or, if the application is (or is deemed to be) rejected, until the date on which—

- (a) the period for appealing expires without an appeal being made; or
- (b) any appeal is withdrawn or finally determined.

SCHEDULE 4

Regulations 1(3) and 19

WASTE FRAMEWORK DIRECTIVE etc.

PART I

GENERAL

Interpretation of Schedule 4

1. In this Schedule, unless the context otherwise requires—

“competent authority” has the meaning given by paragraph 3;

“development”, “development plan”, “government department” and “planning permission” have the same meaning as in the Town and Country Planning Act 1990⁽⁸¹⁾ or, in Scotland, as in the Town and Country Planning (Scotland) Act 1972⁽⁸²⁾;

“licensing authority” and “the Ministers” have the meaning given by section 24(1) of the Food and Environment Protection Act 1985⁽⁸³⁾;

“local planning authority” and “the planning Acts” have the same meaning as in the Town and Country Planning Act 1990⁽⁸¹⁾;

“permit” means a waste management licence, a disposal licence, an authorisation under Part I of the 1990 Act, a resolution under section 54 of the 1990 Act, a licence under Part II of the Food and Environment Protection Act 1985 or a consent under Chapter II of Part III of the Water Resources Act 1991⁽⁸⁴⁾ or under Part II of the Control of Pollution Act 1974 (and, in relation to a permit, “grant” includes give, issue or pass, “modify” includes vary, and cognate expressions shall be construed accordingly);

“plan-making provisions” means paragraph 5 below, section 50 of the 1990 Act and Part II of the Town and Country Planning Act 1990 or, in Scotland, Part II of the Town and Country Planning (Scotland) Act 1972;

“planning authority” means the local planning authority, the person appointed under paragraph 1 of Schedule 6 to the Town and Country Planning Act 1990 or, as the case may be, the government department responsible for discharging a function under the planning Acts or, in Scotland, the planning authority (as defined in section 172 of the Local Government (Scotland) Act 1973)⁽⁸⁵⁾, the person appointed under paragraph 1 of Schedule 7 to the Town and Country Planning (Scotland) Act 1972, or, as the case may be, the government department responsible for discharging a function under the Town and Country Planning (Scotland) Act 1972⁽⁸⁶⁾, and

⁽⁸¹⁾ 1990 c. 8; see section 336(1).

⁽⁸²⁾ 1972 c. 52; see section 275(1).

⁽⁸³⁾ 1985 c. 48.

⁽⁸¹⁾ 1990 c. 8; see section 336(1).

⁽⁸⁴⁾ 1991 c. 57.

⁽⁸⁵⁾ 1973 c. 65; section 172(3) is amended by paragraph 22 of Schedule 3 to the Local Government and Planning (Scotland) Act 1982 (c. 43).

⁽⁸⁶⁾ 1972 c. 52.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

the Secretary of State shall be treated as a planning authority in respect of his functions under the planning Acts or, in Scotland, the Town and Country Planning (Scotland) Act 1972;

“pollution control authority” means any competent authority other than a planning authority;

“river purification authority” has the meaning given by section 17 of the Rivers (Prevention of Pollution) (Scotland) Act 1951(87);

“specified action” means any of the following—

- (a) determining—
 - (i) an application for planning permission; or
 - (ii) an appeal made under section 78 of the Town and Country Planning Act 1990(88) or, in Scotland, under section 33 of the Town and Country Planning (Scotland) Act 1972(89), in respect of such an application;
- (b) deciding whether to take any action under section 141(2) or (3) or 177(1)(a) or (b)(90) of the Town and Country Planning Act 1990, or under section 196(5) of that Act(91) as originally enacted, or under section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990(92) or, in Scotland, under section 85(5)(a), (b) or (c)(93), 91(3) (as enacted prior to its repeal)(94) or 172(2) or (3) of, or paragraph 2(6) of Schedule 17 to, the Town and Country Planning (Scotland) Act 1972;
- (c) deciding whether to direct under section 90(1), (2) or (2A) of the Town and Country Planning Act 1990(95) or, in Scotland, section 37(1) of the Town and Country Planning (Scotland) Act 1972(96) or paragraph 7(1) of Schedule 8 to the Electricity Act 1989(97), that planning permission shall be deemed to be granted;
- (d) deciding whether—
 - (i) in making or confirming a discontinuance order, to include in the order any grant of planning permission; or
 - (ii) to confirm (with or without modifications) a discontinuance order insofar as it grants planning permission,

and, for the purposes of this sub-paragraph, “discontinuance order” means an order under section 102 of the Town and Country Planning Act 1990(98) (including an order made under that section by virtue of section 104 of that Act), or under paragraph 1 of Schedule

-
- (87) 1951 c. 66; section 17 is amended by paragraph 5 of Schedule 16 to the Local Government (Scotland) Act 1973 (c. 65), paragraph 13 of Schedule 3 to the Control of Pollution Act 1974 (c. 40) and paragraph 1 of Schedule 10 to the Natural Heritage (Scotland) Act 1991 (c. 28).
 - (88) 1990 c. 8; section 78 is amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34).
 - (89) Section 33 is amended by section 172(2) of the Local Government (Scotland) Act 1973 (c. 65), by paragraph 11 of Schedule 2 to the Local Government and Planning (Scotland) Act 1982 (c. 43), by paragraphs 55 and 56 of Schedule 11 to the Housing and Planning Act 1986 (c. 63) and by paragraph 11 of Schedule 13 to the Planning and Compensation Act 1991 (c. 34).
 - (90) Section 177(1)(a) is substituted by paragraph 24(1)(a) of Schedule 7 to the Planning and Compensation Act 1991 (c. 34).
 - (91) Section 196(5) is repealed by paragraph 33(e) of Schedule 7 to the Planning and Compensation Act 1991 (c. 34), but that repeal does not apply to appeals arising out of applications made under section 192(1) (as originally enacted) before 27th July 1992.
 - (92) 1990 c. 9.
 - (93) Section 85(5) is amended by paragraph 20(c) of Schedule 2 to the Local Government and Planning (Scotland) Act 1982 (c. 43); extended by section 3(9) of the Town and Country Planning Act 1984 (c. 10); and amended by paragraph 20(c) of Schedule 13, and Part IV of Schedule 19, to the Planning and Compensation Act 1991 (c. 34).
 - (94) Section 91(3) is amended by section 172(2) of the Local Government (Scotland) Act 1973 (c. 65) and by Schedule 4 to the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23); section 91(3) is repealed by paragraph 26 of Schedule 13, and Part IV of Schedule 19, to the Planning and Compensation Act 1991 (c. 34), but that repeal does not apply to appeals arising out of applications made under section 90(2) before 25th September 1992.
 - (95) Section 90(2A) is inserted by section 16(1) of the Transport and Works Act 1992 (c. 42).
 - (96) Section 37(1) is amended by Part I of Schedule 4 to the Local Government and Planning (Scotland) Act 1982 (c. 43) and extended by paragraph 2(1)(xxv) of Schedule 7 to the Gas Act 1986 (c. 44).
 - (97) 1989 c. 29; paragraph 7 of Schedule 8 is repealed in England and Wales by Part II of Schedule 1 to the Planning (Consequential Provisions) Act 1990 (c. 11), and repealed (in part) in Scotland by Part III of that Schedule.
 - (98) Section 102 is amended by paragraph 6 of Schedule 1, and paragraph 21 of Schedule 7, to the Planning and Compensation Act 1991 (c. 34).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

9 to that Act⁽⁹⁹⁾ (including an order made under that paragraph by virtue of paragraph 11 of that Schedule), or, in Scotland, an order under section 49 of the Town and Country Planning (Scotland) Act 1972⁽¹⁰⁰⁾ (including an order made under that section by virtue of section 260 of that Act⁽¹⁰¹⁾);

- (e) discharging functions under Part II of the Town and Country Planning Act 1990 or, in Scotland, Part II of the Town and Country Planning (Scotland) Act 1972.

Duties of competent authorities

2.—(1) Subject to the following provisions of this paragraph, the competent authorities shall discharge their specified functions, insofar as they relate to the recovery or disposal of waste, with the relevant objectives.

(2) Nothing in sub-paragraph (1) above requires a planning authority to deal with any matter which the relevant pollution control authority has power to deal with.

(3) In a case where the recovery or disposal of waste is or forms part of a prescribed process designated for local control under Part I of the 1990 Act, and either requires a waste management licence or is covered by an exemption conferred by regulation 17(1) of, and Schedule 3 to, these Regulations, nothing in sub-paragraph (1) above shall require a competent authority to discharge its functions under—

- (a) Part I of the 1990 Act in order to control pollution of the environment due to the release of substances into any environmental medium other than the air; or
- (b) Part II of the 1990 Act in order to control pollution of the environment due to the release of substances into the air resulting from the carrying on of the prescribed process.

(4) In sub-paragraph (3) above, “prescribed process”, “designated for local control”, “pollution of the environment due to the release of substances into the air” and “pollution of the environment due to the release of substances into any environmental medium other than the air” have the meaning which they have in Part I of the 1990 Act⁽¹⁰²⁾.

Meaning of “competent authority” etc.

3.—(1) For the purposes of this Schedule, “competent authority” means any of the persons or bodies listed in column (1) of Table 5 below and, subject to sub-paragraph (2) below, in relation to a competent authority “specified function” means any function of that authority listed in column (2) of that Table opposite the entry for that authority.

Table 5

| Competent authorities (1) | Specified functions (2) |
|------------------------------|-------------------------------------|
| Any planning authority. | The taking of any specified action. |

⁽⁹⁹⁾ Paragraph 1 of Schedule 9 is amended by paragraph 15 of Schedule 1 to the Planning and Compensation Act 1991 (c. 34).

⁽¹⁰⁰⁾ Section 49 is amended by section 172(2) of the Local Government (Scotland) Act 1973 (c. 65), section 26 of the Town and Country Planning (Minerals) Act 1981 (c. 36), and paragraph 5 of Schedule 8, and paragraph 16 of Schedule 13, to the Planning and Compensation Act 1991 (c. 34).

⁽¹⁰¹⁾ Section 260 is amended by section 172(2) of, paragraph 31 of Schedule 23, paragraph 48 of Schedule 25 and Schedule 29 to the Local Government (Scotland) Act 1973 (c. 65), by Schedule 4 of the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), by paragraph 10 of Schedule 2 to the Town and Country Planning (Minerals) Act 1981 (c. 36) and by paragraph 51 of Schedule 11 to the Housing and Planning Act 1986 (c. 63).

⁽¹⁰²⁾ See section 2(4) for the meaning of “designated for local control”, and section 1 for the meaning of the other phrases.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

| Competent authorities (1) | Specified functions (2) |
|--|---|
| A waste regulation authority, the Secretary of State or a person appointed under section 43(2)(b) of the 1990 Act. | Their respective functions under Part II of the 1990 Act in relation to waste management licences, including preparing plans or modifications of them under section 50 of the 1990 Act. |
| A disposal authority or the Secretary of State. | Their respective functions under Part I of the Control of Pollution Act 1974 in relation to disposal licences and resolutions under section 11 of that Act. |
| A licensing authority or the Ministers. | Their respective functions under Part II of the Food and Environment Protection Act 1985, or under paragraph 5 below. |
| An enforcing authority, the Secretary of State or a person appointed under section 15(3)(b) of the 1990 Act. | Their respective functions under Part I of the 1990 Act in relation to prescribed processes except when— (a) the process is designated for local control; and (b) it is an exempt activity carried out subject to the conditions and limitations specified in Schedule 3. |
| The National Rivers Authority or the Secretary of State. | Their respective functions in relation to the giving of consents under Chapter II of Part III of the Water Resources Act 1991 (offences in relation to pollution of water resources) for any discharge of waste in liquid form other than waste waters. |
| In Scotland, a river purification authority or the Secretary of State. | Their respective functions in relation to the giving of consents under Part II of the Control of Pollution Act 1974 (pollution of water) for any discharge of waste in liquid form other than waste waters. |

(2) In Table 5 above, references to functions do not include functions of making, revoking, amending, revising or re-enacting orders, regulations or schemes where those functions are required to be discharged by statutory instrument.

Relevant objectives

4.—(1) For the purposes of this Schedule, the following objectives are relevant objectives in relation to the disposal or recovery of waste—

- (a) ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without—
 - (i) risk to water, air, soil, plants or animals; or
 - (ii) causing nuisance through noise or odours; or
 - (iii) adversely affecting the countryside or places of special interest;
- (b) implementing, so far as material, any plan made under the plan-making provisions.

(2) The following additional objectives are relevant objectives in relation to the disposal of waste—

- (a) establishing an integrated and adequate network of waste disposal installations, taking account of the best available technology not involving excessive costs; and
 - (b) ensuring that the network referred to at paragraph (a) above enables—
 - (i) the European Community as a whole to become self-sufficient in waste disposal, and the Member States individually to move towards that aim, taking into account geographical circumstances or the need for specialized installations for certain types of waste; and
 - (ii) waste to be disposed of in one of the nearest appropriate installations, by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health.
- (3) The following further objectives are relevant objectives in relation to functions under the plan-making provisions—
- (a) encouraging the prevention or reduction of waste production and its harmfulness, in particular by—
 - (i) the development of clean technologies more sparing in their use of natural resources;
 - (ii) the technical development and marketing of products designed so as to make no contribution or to make the smallest possible contribution, by the nature of their manufacture, use or final disposal, to increasing the amount or harmfulness of waste and pollution hazards; and
 - (iii) the development of appropriate techniques for the final disposal of dangerous substances contained in waste destined for recovery; and
 - (b) encouraging—
 - (i) the recovery of waste by means of recycling, reuse or reclamation or any other process with a view to extracting secondary raw materials; and
 - (ii) the use of waste as a source of energy.

Preparation of offshore waste management plan

5.—(1) Subject to sub-paragraph (2) below, it shall be the duty of a licensing authority to prepare a statement (“the plan”) containing the authority’s policies in relation to the recovery or disposal of waste for attaining the relevant objectives in those parts of United Kingdom waters and United Kingdom controlled waters for which the authority is the licensing authority.

(2) Two or more licensing authorities may join together to prepare a single statement covering the several parts of United Kingdom waters and United Kingdom controlled waters for which they are the licensing authorities.

(3) The plan shall relate in particular to—

- (a) the type, quantity and origin of waste to be recovered or disposed of;
- (b) general technical requirements;
- (c) any special arrangements for particular wastes; and
- (d) suitable disposal sites or installations.

(4) The licensing authority shall make copies of the plan available to the public on payment of reasonable charges.

(5) In this paragraph, “United Kingdom waters” and “United Kingdom controlled waters” have the meaning given by section 24(1) of the Food and Environment Protection Act 1985(103).

(103) 1985 c. 48; the definition of “United Kingdom controlled waters” is inserted by section 146(7) of the 1990 Act.34

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Matters to be covered by permits

6. When a pollution control authority grants or modifies a permit, and the activities authorised by the permit include the disposal of waste, the pollution control authority shall ensure that the permit covers—

- (a) the types and quantities of waste,
- (b) the technical requirements,
- (c) the security precautions to be taken,
- (d) the disposal site, and
- (e) the treatment method.

Modifications of provisions relating to development plans

7.—(1) Subject to sub-paragraph (2) below, sections 12(3A), 31(3) and 36(3) of the Town and Country Planning Act 1990(**104**) or, in Scotland, sections 5(3)(a) and 9(3)(a) of the Town and Country Planning (Scotland) Act 1972(**105**), shall have effect as if the policies referred to in those sections also included policies in respect of suitable waste disposal sites or installations.

(2) In the case of the policies referred to in section 36(3) of the Town and Country Planning Act 1990, sub-paragraph (1) above shall have effect subject to the provisions of section 36(5) of that Act(**106**).

(3) Section 38(1) of the Town and Country Planning Act 1990(**107**) shall have effect as if the definition of waste policies included detailed policies in respect of suitable disposal sites or installations for the carrying on of such development as is referred to in that definition.

Modifications of Part I of the Environmental Protection Act 1990

8.—(1) Subject to section 28(1) of the 1990 Act, Part I of the 1990 Act shall have effect in relation to prescribed processes involving the disposal or recovery of waste with such modifications as are needed to allow an enforcing authority to exercise its functions under that Part for the purpose of achieving the relevant objectives.

(2) Nothing in sub-paragraph (1) above requires an enforcing authority granting an authorisation in relation to such a process to take account of the relevant objectives insofar as they relate to the prevention of detriment to the amenities of the locality in which the process is (or is to be) carried on if planning permission, resulting from the taking of a specified action by a planning authority after 30th April 1994, is or, before the process is carried on, will be in force.

Modifications of Part II of the Environmental Protection Act 1990

9.—(1) Part II of the 1990 Act shall have effect subject to the following modifications.

(2) Any reference to waste shall include a reference to Directive waste.

(3) In sections 33(1)(a) and (5), 54(1)(a), (2), (3) and (4)(d) and 69(2), any reference to the deposit of waste in or on land shall include a reference to any operation listed in Part III or IV of this Schedule involving such a deposit.

(104) 1990 c. 8; sections 12(3A), 31(3) and 36(3) are substituted by paragraphs 2(1), 16 and 17 respectively of Schedule 4 to the Planning and Compensation Act 1991 (c. 34).

(105) 1972 c. 52; sections 5(3)(a) and 9(3)(a) are amended by paragraphs 3 and 4 of Schedule 13 to the Planning and Compensation Act 1991 (c. 34).

(106) Section 36(5) is inserted by paragraph 17 of Schedule 4 to the Planning and Compensation Act 1991 (c. 34).

(107) Section 38 is inserted by paragraph 17 of Schedule 4 to the Planning and Compensation Act 1991 (c. 34).

(4) In sections 33(1)(b), 54(1)(b), (2), (3) and (4)(d) and 69(2), any reference to the treatment or disposal, or to the treatment, keeping or disposal, of controlled waste shall be taken to be a reference to submitting controlled waste to any of the operations listed in Part III or IV of this Schedule other than an operation mentioned in sub-paragraph (3) above.

(5) In sections 33(1)(c) and 35, any reference to the treatment or disposal, or to the treatment, keeping or disposal, of controlled waste shall include a reference to submitting controlled waste to any of the operations listed in Part III or Part IV of this Schedule.

(6) Section 33(2) shall not apply to the treatment, keeping or disposal of household waste by an establishment or undertaking.

(7) In section 36(3), the reference to planning permission shall be taken to be a reference to planning permission resulting from the taking of a specified action by a planning authority after 30th April 1994.

(8) In section 50(3), any reference to the disposal of waste shall include a reference to the recovery of waste.

Modifications of Part I of the Control of Pollution Act 1974

10.—(1) Part I of the Control of Pollution Act 1974 shall have effect, in a case where the planning permission referred to in section 5(3) of that Act does not result from the taking of a specified action by a planning authority after 30th April 1994, as if the duty imposed upon the disposal authority by that subsection was a duty not to reject the application unless the authority is satisfied that its rejection is necessary for the purpose of preventing—

- (a) pollution of the environment;
- (b) danger to public health; or
- (c) serious detriment to the amenities of the locality.

(2) In sub-paragraph (1) above, “pollution of the environment” has the same meaning as in Part II of the 1990 Act⁽¹⁰⁸⁾.

(3) Part I of the Control of Pollution Act 1974 shall have effect as if any reference in that Part to waste included a reference to Directive waste.

References to “waste” in Planning and Water legislation

11. In the Town and Country Planning Act 1990, the Town and Country Planning (Scotland) Act 1972, Part II of the Control of Pollution Act 1974 and Chapter II of Part III of the Water Resources Act 1991, any reference to “waste” shall include a reference to Directive waste.

Registration by professional collectors and transporters of waste, and by dealers and brokers

12.—(1) Subject to sub-paragraph (3) below, it shall be an offence for an establishment or undertaking falling within sub-paragraph (a), (c), (f) or (g) of regulation 2(1) of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991⁽¹⁰⁹⁾ after 31st December 1994 to collect or transport waste on a professional basis unless it is registered in accordance with the provisions of this paragraph.

(2) Subject to sub-paragraph (3) below, it shall be an offence for an establishment or undertaking falling within sub-paragraph (a), (b) or (c) of regulation 20(4) after 31st December 1994 to arrange

⁽¹⁰⁸⁾ See section 29.

⁽¹⁰⁹⁾ S.I.1991/1624; regulation 2(1)(c) is amended by regulation 24(2) of these Regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

for the recovery or disposal of waste on behalf of another person unless it is registered in accordance with the provisions of this paragraph.

(3) Sub-paragraphs (1) and (2) above do not apply in cases where the establishment or undertaking is carrying on the activities therein mentioned pursuant to, and in accordance with the terms and conditions of, a permit.

(4) An establishment or undertaking shall register with the waste regulation authority in whose area its principal place of business in Great Britain is located or, where it has no place of business in Great Britain, with any waste regulation authority.

(5) Each waste regulation authority shall establish and maintain a register of establishments and undertakings registering with it under the provisions of this paragraph.

(6) The register shall contain the following particulars in relation to each such establishment or undertaking—

- (a) the name of the establishment or undertaking;
- (b) the address of its principal place of business; and
- (c) the address of any place at or from which it carries on its business.

(7) The waste regulation authority shall enter the relevant particulars in the register in relation to an establishment or undertaking if it receives notice of them in writing or otherwise becomes aware of those particulars.

(8) A person guilty of an offence under sub-paragraph (1) or (2) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(9) Each waste regulation authority shall secure that any register maintained by it under this paragraph is open to inspection at its principal office by members of the public free of charge at all reasonable hours and shall afford to members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

(10) Registers under this paragraph may be kept in any form.

(11) In this paragraph, “registered carrier” and “controlled waste” have the same meaning as they have in the Control of Pollution (Amendment) Act 1989⁽¹¹⁰⁾, “registered broker” has the same meaning as in regulation 20 and Schedule 5, and “collect” and “transport” have the same meaning as they have in Article 12 of the Directive.

Duty to carry out appropriate periodic inspections

13.—(1) Any establishment or undertaking which carries out the recovery or disposal of controlled waste, or which collects or transports controlled waste on a professional basis, or which arranges for the recovery or disposal of controlled waste on behalf of others (dealers or brokers), shall be subject to appropriate periodic inspections by the competent authorities.

(2) Sections 68(3) to (5), 69 and 71(2) and (3) of the 1990 Act (power to appoint inspectors, powers of entry and power to obtain information) shall have effect as if the provisions of this paragraph were provisions of Part II of that Act and as if, in those sections, references to a waste regulation authority were references to a competent authority.

Record keeping

14.—(1) Subject to sub-paragraph (2) below, an establishment or undertaking which carries out the disposal or recovery of controlled waste shall—

⁽¹¹⁰⁾ 1989 c. 14.

- (a) keep a record of the quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method of any waste which is disposed of or recovered; and
 - (b) make that information available, on request, to the competent authorities.
- (2) Sub-paragraph (1) above does not apply where the disposal or recovery of the waste is covered by an exemption conferred by—
- (a) regulation 17(1) of, and Schedule 3 to, these Regulations; or
 - (b) article 3 of the Deposits in the Sea (Exemptions) Order 1985(111).

PART II

SUBSTANCES OR OBJECTS WHICH ARE WASTE WHEN DISCARDED etc.

1. Production or consumption residues not otherwise specified in this Part of this Schedule (Q1).
2. Off-specification products (Q2).
3. Products whose date for appropriate use has expired (Q3).
4. Materials spilled, lost or having undergone other mishap, including any materials, equipment, etc., contaminated as a result of the mishap (Q4).
5. Materials contaminated or soiled as a result of planned actions (e. g. residues from cleaning operations, packing materials, containers, etc.) (Q5).
6. Unusable parts (e. g. reject batteries, exhausted catalysts, etc.) (Q6).
7. Substances which no longer perform satisfactorily (e. g. contaminated acids, contaminated solvents, exhausted tempering salts, etc.) (Q7).
8. Residues of industrial processes (e. g. slags, still bottoms, etc.) (Q8).
9. Residues from pollution abatement processes (e. g. scrubber sludges, baghouse dusts, spent filters, etc.) (Q9).
10. Machining or finishing residues (e. g. lathe turnings, mill scales, etc.) (Q10).
11. Residues from raw materials extraction and processing (e. g. mining residues, oil field slops, etc.) (Q11).
12. Adulterated materials (e. g. oils contaminated with PCBs, etc.) (Q12).
13. Any materials, substances or products whose use has been banned by law (Q13).
14. Products for which the holder has no further use (e. g. agricultural, household, office, commercial and shop discards, etc.) (Q14).
15. Contaminated materials, substances or products resulting from remedial action with respect to land (Q15).
16. Any materials, substances or products which are not contained in the above categories (Q16).

(Note:— the reference in brackets at the end of each paragraph of this Part of this Schedule is the number of the corresponding paragraph in Annex I to the Directive.)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART III

WASTE DISPOSAL OPERATIONS

1. Tipping of waste above or underground (e. g. landfill, etc.) (D1).
2. Land treatment of waste (e. g. biodegradation of liquid or sludge discards in soils, etc.) (D2).
3. Deep injection of waste (e. g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.) (D3).
4. Surface impoundment of waste (e. g. placement of liquid or sludge discards into pits, ponds or lagoons, etc.) (D4).
5. Specially engineered landfill of waste (e. g. placement of waste into lined discrete cells which are capped and isolated from one another and the environment, etc.) (D5).
6. Release of solid waste into a water body except seas or oceans (D6).
7. Release of waste into seas or oceans including seabed insertion (D7).
8. Biological treatment of waste not listed elsewhere in this Part of this Schedule which results in final compounds or mixtures which are disposed of by means of any of the operations listed in this Part of this Schedule (D8).
9. Physico-chemical treatment of waste not listed elsewhere in this Part of this Schedule which results in final compounds or mixtures which are disposed of by means of any of the operations listed in this Part of this Schedule (e. g. evaporation, drying, calcination, etc.) (D9).
10. Incineration of waste on land (D10).
11. Incineration of waste at sea (D11).
12. Permanent storage of waste (e. g. emplacement of containers in a mine, etc.) (D12).
13. Blending or mixture of waste prior to the waste being submitted to any of the operations listed in this Part of this Schedule (D13).
14. Repackaging of waste prior to the waste being submitted to any of the operations listed in this Part of this Schedule (D14).
15. Storage of waste pending any of the operations listed in this Part of this Schedule, but excluding temporary storage, pending collection, on the site where the waste is produced (D15).

(Note:— the reference in brackets at the end of each paragraph of this Part of this Schedule is the number of the corresponding paragraph in Annex IIA to the Directive.)

PART IV

WASTE RECOVERY OPERATIONS

1. Reclamation or regeneration of solvents (R1).
2. Recycling or reclamation of organic substances which are not used as solvents (R2).
3. Recycling or reclamation of metals and metal compounds (R3).
4. Recycling or reclamation of other inorganic materials (R4).
5. Regeneration of acids or bases (R5).
6. Recovery of components used for pollution abatement (R6).

7. Recovery of components from catalysts (R7).
 8. Re-refining, or other reuses, of oil which is waste (R8).
 9. Use of waste principally as a fuel or for other means of generating energy (R9).
 10. Spreading of waste on land resulting in benefit to agriculture or ecological improvement, including composting and other biological transformation processes, except in the case of waste excluded under Article 2(1)(b)(iii) of the Directive (R10).
 11. Use of wastes obtained from any of the operations listed in paragraphs 1 to 10 of this Part of this Schedule (R11).
 12. Exchange of wastes for submission to any of the operations listed in paragraphs 1 to 11 of this Part of this Schedule (R12).
 13. Storage of waste consisting of materials intended for submission to any operation listed in this Part of this Schedule, but excluding temporary storage, pending collection, on the site where it is produced (R13).
- (Note:— the reference in brackets at the end of each paragraph of this Part of this Schedule is the number of the corresponding paragraph in Annex IIB to the Directive.)

SCHEDULE 5

Regulation 20(7)

REGISTRATION OF BROKERS OF CONTROLLED WASTE

PART I GENERAL

Interpretation

1.—(1) In this Schedule—

“the Carriers Regulations” means the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 (**112**);

“date of expiry”, in relation to a broker’s registration, in a case to which sub-paragraph (2) or (3) of paragraph 7 applies, has the meaning given by that sub-paragraph, and in any other case means the date on which the period of three years mentioned in paragraph 7(1) expires;

“notice” means notice in writing;

“relevant offence” means an offence under any of the enactments listed in regulation 3; and

“relevant period” means two months or, except in the case of an application for the renewal of his registration by a person who is already registered, longer period as may be agreed between the applicant and the waste regulation authority.

(2) In determining for the purposes of paragraph 3(13) or 5(1) whether it is desirable for any individual to be or to continue to be authorised to arrange (as dealer or broker) for the disposal or recovery of controlled waste on behalf of other persons, a waste regulation authority shall have regard, in a case in which a person other than the individual has been convicted of a relevant offence,

(112) S.I. 1991/1624; regulation 2(2) is amended by regulation 10 of the Controlled Waste Regulations 1992 (S.I. 1992/588).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

to whether that individual has been a party to the carrying on of a business in a manner involving the commission of relevant offences.

(3) In relation to any applicant for registration or registered broker, another relevant person shall be treated for the purposes of paragraph 3(13) or 5(1) as having been convicted of a relevant offence if—

- (a) any person has been convicted of a relevant offence committed by him in the course of his employment by the applicant or registered broker or in the course of the carrying on of any business by a partnership one of the members of which was the applicant or registered broker;
- (b) a body corporate has been convicted of a relevant offence committed at a time when the applicant or registered broker was a director, manager, secretary or other similar officer of that body corporate; or
- (c) where the applicant or registered broker is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate—
 - (i) has been convicted of a relevant offence; or
 - (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a relevant offence for which that other body corporate has been convicted was committed.

(4) For the purposes of this Schedule, an application for registration or for the renewal of a registration as a broker of controlled waste shall be treated as pending—

- (a) whilst it is being considered by the waste regulation authority; or
- (b) if it has been refused or the relevant period from the making of the application has expired without the applicant having been registered, whilst either—
 - (i) the period for appealing in relation to that application has not expired; or
 - (ii) the application is the subject of an appeal which has not been disposed of.

(5) For the purposes of this Schedule, an appeal is disposed of when any of the following occurs—

- (a) the appeal is withdrawn;
- (b) the appellant is notified by the Secretary of State or the waste regulation authority in question that his appeal has been dismissed; or
- (c) the waste regulation authority complies with any direction of the Secretary of State to renew the appellant's registration or to cancel the revocation.

(6) Any notice or other document required by this Schedule to be served on or given to a person may be served or given in accordance with section 160 of the 1990 Act.

Registers

2.—(1) It shall be the duty of each waste regulation authority to establish and maintain a register of brokers of controlled waste and—

- (a) to secure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable hours; and
- (b) to afford to members of the public reasonable facilities for obtaining copies of entries in the register on payment of reasonable charges.

(2) A register under this paragraph may be kept in any form.

Applications for registration

3.—(1) An application for registration or for the renewal of a registration as a broker of controlled waste shall be made to the waste regulation authority for the area in which the applicant has or proposes to have his principal place of business in Great Britain; but if the applicant does not have or propose to have a place of business in Great Britain, the applicant may apply to any waste regulation authority.

(2) Subject to sub-paragraphs (3) to (5) below, a person shall not make an application for registration or for the renewal of a registration whilst—

- (a) a previous application of his is pending; or
- (b) he is registered.

(3) Sub-paragraph (2) above shall not prevent a person from applying for the renewal of a registration where his application is made within the period of six months mentioned in paragraph 7(5).

(4) An application for registration or for the renewal of a registration in respect of a business which is or is to be carried on by a partnership shall be made by all of the partners or prospective partners.

(5) A prospective partner in a business carried on by a partnership whose members are already registered may make an application for registration as a partner in that business to the waste regulation authority with whom the business is registered.

(6) An application for registration shall be made on a form corresponding to the form in Part II of this Schedule, or on a form substantially to the like effect, and shall contain the information required by that form.

(7) An application for the renewal of a registration shall be made on a form corresponding to the form in Part III of this Schedule, or on a form substantially to the like effect, and shall contain the information required by that form.

(8) Where an applicant wishes to apply to be registered both as a carrier and as a broker of controlled waste, he may, instead of making the application on the forms provided for by regulation 4(6) of the Carriers Regulations and sub-paragraph (6) above, make a combined application on a form containing the information required by those forms.

(9) Where an applicant wishes to apply both for the renewal of his registration as a carrier of controlled waste and for the renewal of his registration as a broker of controlled waste, he may, instead of making an application on the forms provided for by regulation 4(7) of the Carriers Regulations and sub-paragraph (7) above, make a combined application on a form containing the information required by those forms.

(10) A waste regulation authority shall provide a copy of the appropriate application form free of charge to any person requesting one.

(11) A waste regulation authority shall charge an applicant in respect of its consideration of his application—

- (a) subject to paragraph (c) below, in the case of either an application for registration as a broker of controlled waste or a combined application for registration as both a carrier and broker of controlled waste, £95;
- (b) in the case of either an application for the renewal of a registration as a broker of controlled waste or a combined application for renewal of registration both as a carrier and as a broker of controlled waste, £65;
- (c) in the case of an application by a registered carrier of controlled waste for registration as a broker of controlled waste, £25,

and the applicant shall pay the charge when he makes his application.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(12) A waste regulation authority shall, on receipt of an application for registration or for the renewal of a registration, ensure that the register contains a copy of the application.

(13) A waste regulation authority may refuse an application for registration or for the renewal of a registration if, and only if—

- (a) there has, in relation to that application, been a contravention of any of the requirements of the preceding provisions of this paragraph; or
- (b) the applicant or another relevant person has been convicted of a relevant offence and, in the opinion of the authority, it is undesirable for the applicant to be authorised to arrange (as dealer or broker) for the disposal or recovery of controlled waste on behalf of other persons.

(14) Where a waste regulation authority decides to refuse an application for registration or for the renewal of a registration, the authority shall give notice to the applicant informing him that his application is refused and of the reasons for its decision.

(15) If an appeal is made under and in accordance with paragraph 6, the waste regulation authority shall, as soon as reasonably practicable, make appropriate entries in its register indicating when the appeal was made and the result of the appeal.

(16) If no such appeal is made, the waste regulation authority shall, as soon as reasonably practicable, make an appropriate entry in its register indicating that the application has not been accepted and that no appeal has been made.

(17) A waste regulation authority may remove from its register—

- (a) a copy of an application included under sub-paragraph (12) above; or
- (b) an entry made under sub-paragraph (15) or (16) above,

at any time more than six years after the application in question was made.

Registration as a broker and amendment of entries

4.—(1) On accepting a person's application for registration or on being directed under paragraph 6(9) to register a person following an appeal in respect of such an application, the waste regulation authority shall make an entry in its register—

- (a) showing that person as a registered broker of controlled waste and allocating him a registration number (which may include any letter);
- (b) specifying the date on which the registration takes effect and its date of expiry;
- (c) stating any business name of his and the address of his principal place of business (together with any telephone, telex or fax number of his) and, in the case of an individual, his date of birth;
- (d) in the case of a body corporate, listing the names of each director, manager, secretary or other similar officer of that body and their respective dates of birth;
- (e) in the case of a company registered under the Companies Acts, specifying its registered number and, in the case of a company incorporated outside Great Britain, the country in which it was incorporated;
- (f) in a case where the person who is registered or another relevant person has been convicted of a relevant offence, giving the person's name, details of the offence, the date of conviction, the penalty imposed, the name of the Court and, in the case of an individual, his date of birth; and
- (g) in a case where the person who is registered or any company in the same group of companies as that person is the holder of a waste management licence, stating the name of the holder of the licence and the name of the authority which granted it.

(2) In the case of a business which is, or is to be, carried on by a partnership, all the partners shall be registered under one entry and only one registration number shall be allocated to the partnership.

(3) On making an entry in its register under sub-paragraph (1) above the waste regulation authority shall provide the registered person or partnership free of charge with a copy of the entry in the register.

(4) On accepting a person's application for the renewal of a registration or on being directed under paragraph 6(9) to register a person following an appeal in respect of such an application, the waste regulation authority shall amend the relevant entry in the register—

- (a) to show the date on which the renewal takes effect and the revised date of expiry of the registration;
- (b) to record any other change disclosed as a result of the application; and
- (c) to note in the register the date on which the amendments are made.

(5) The waste regulation authority shall at the same time as amending the register under sub-paragraph (4) above provide the registered person or partnership free of charge with a copy of the amended entry in the register.

(6) A person who is registered shall notify the waste regulation authority which maintains the relevant register of any change of circumstances affecting information in the register relating to him.

(7) On—

- (a) being notified of any change of circumstances in accordance with sub-paragraph (6) above;
- (b) accepting a prospective partner's application for registration in relation to a business carried on by a partnership whose members are already registered; or
- (c) being directed under paragraph 6(9) to register a prospective partner,

the waste regulation authority shall—

- (i) amend the relevant entry to reflect the change of circumstances or the registration of the prospective partner;
- (ii) note in the register the date on which the amendment is made;
- (iii) provide the registered person or partnership free of charge with a copy of the amended entry in the register.

(8) In this regulation—

- “Companies Acts” has the meaning given by section 744 of the Companies Act 1985(113);
- “business name” means a name under which a person carries on business and by virtue of which the Business Names Act 1985(114) applies; and
- “group” has the meaning given by section 53(1) of the Companies Act 1989(115).

Revocation of registration

5.—(1) A waste regulation authority may revoke a person's registration as a broker of controlled waste if, and only if—

- (a) that person or another relevant person has been convicted of a relevant offence; and
- (b) in the opinion of the authority, it is undesirable for the registered broker to continue to be authorised to arrange (as dealer or broker) for the disposal or recovery of controlled waste on behalf of other persons.

(113) 1985 c. 6.

(114) 1985 c. 7.

(115) 1989 c. 40.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Where a waste regulation authority decides to revoke a person's registration as a broker of controlled waste, it shall give notice to the broker informing him of the revocation and the reasons for its decision.

Appeals

6.—(1) Where a person has applied to a waste regulation authority to be registered as a broker of controlled waste in accordance with paragraph 3, he may appeal to the Secretary of State if—

- (a) his application is refused; or
- (b) the relevant period from the making of the application has expired without his having been registered.

(2) A person whose registration as a broker of controlled waste has been revoked may appeal against the revocation to the Secretary of State.

(3) Notice of an appeal to the Secretary of State under sub-paragraph (1) or (2) above shall be given by the appellant to the Secretary of State.

(4) The notice of appeal shall be accompanied by the following—

- (a) a statement of the grounds of appeal;
- (b) in the case of an appeal under sub-paragraph (1) above, a copy of the relevant application;
- (c) in the case of an appeal under sub-paragraph (2) above, a copy of the appellant's entry in the register;
- (d) a copy of any relevant correspondence between the appellant and the waste regulation authority;
- (e) a copy of any notice given to the appellant under paragraph 3(14) or 5(2);
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

(5) The appellant shall at the same time as giving notice of appeal to the Secretary of State serve on the waste regulation authority a copy of the notice and a copy of the documents referred to in sub-paragraph (4)(a) and (f) above.

(6) Notice of appeal is to be given before the expiry of the period of 28 days beginning with—

- (a) in the case of an appeal under sub-paragraph (1)(a) above, the date on which the appellant is given notice by the waste regulation authority that his application has been refused;
- (b) in the case of an appeal under sub-paragraph (1)(b) above, the date on which the relevant period from the making of the application expired without the appellant having been registered; or
- (c) in the case of an appeal under sub-paragraph (2) above, the date on which the appellant is given notice by the waste regulation authority that his registration as a broker of controlled waste has been revoked,

or before such later date as the Secretary of State may at any time allow.

(7) If either party to an appeal requests a hearing or the Secretary of State so decides, the appeal shall be or continue in the form of a hearing before a person appointed for the purpose by the Secretary of State.

(8) The person holding such a hearing shall after its conclusion make a written report to the Secretary of State which shall include his conclusions and recommendations or his reasons for not making any recommendations.

(9) On an appeal under this paragraph the Secretary of State may, as he thinks fit, either dismiss the appeal or give the waste regulation authority in question a direction to register the appellant or, as the case may be, to cancel the revocation.

(10) The Secretary of State shall—

(a) notify the appellant in writing of his determination of the appeal and of his reasons for it and, if a hearing is held, shall also provide him with a copy of the report of the person who conducted the hearing; and

(b) at the same time send a copy of those documents to the waste regulation authority.

(11) Where on an appeal made by virtue of sub-paragraph (1)(b) above the Secretary of State dismisses an appeal, he shall direct the waste regulation authority in question not to register the appellant.

(12) It shall be the duty of a waste regulation authority to comply with any direction under this paragraph.

Duration of registration

7.—(1) Subject to the following provisions of this paragraph, a person's registration as a broker of controlled waste shall cease to have effect on the expiry of the period of three years beginning with the date of the registration or, if it has been renewed, beginning with the date on which it was renewed or, as the case may be, last renewed.

(2) Where a registered carrier of controlled waste is registered as a broker of controlled waste otherwise than by way of renewal of an existing registration as a broker, and his registration as a carrier will expire within three years of the date of his registration as a broker, if at the time of making his application for registration as a broker he so requests, his registration as a broker shall expire on the same date as his registration as a carrier.

(3) Where a registered broker of controlled waste is registered as a carrier of controlled waste otherwise than by way of renewal of an existing registration as a carrier, and his registration as a broker will expire within three years of the date of his registration as a carrier, if on the next application for renewal of his registration as a broker which he makes after having been registered as a carrier he so requests, his renewed registration as a broker shall expire on the same date as his registration as a carrier.

(4) Registration as a registered broker shall cease to have effect if the registered broker gives notice requiring the removal of his name from the register.

(5) The waste regulation authority shall, no later than six months before the date of expiry of a broker's registration, serve on a registered broker—

(a) a notice informing him of the date of expiry and of the effect of sub-paragraph (6) below; and

(b) an application form for the renewal of his registration and a copy of his current entry in the register.

(6) Where an application for the renewal of a registration is made within the last six months prior to its date of expiry, the registration shall, notwithstanding the passing of the expiry date, continue in force—

(a) until the application is withdrawn or accepted; or

(b) if the waste regulation authority refuse the application or the relevant period from the making of the application has expired without the applicant having been registered, until—

(i) the expiry of the period for appealing; or

(ii) where the applicant indicates within that period that he does not intend to make or continue with an appeal, the date on which such an indication is given.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(7) Where a waste regulation authority revokes a broker's registration, the registration shall, notwithstanding the revocation, continue in force until—

- (a) the expiry of the period for appealing against the revocation; or
- (b) where that person indicates within that period that he does not intend to make or continue with an appeal, the date on which such an indication is given.

(8) Where an appeal is made under and in accordance with the provisions of paragraph 6—

- (a) by a person whose appeal is in respect of such an application for the renewal of his registration as was made, in accordance with paragraph 3, at a time when he was already registered; or
- (b) by a person whose registration has been revoked,

that registration shall continue in force after its date of expiry or, as the case may be, notwithstanding the revocation, until the appeal is disposed of.

(9) A registration in respect of a business which is carried on by a partnership shall cease to have effect if any of the partners ceases to be registered or if any person who is not registered becomes a partner.

(10) The duration of a registration in respect of a business which is carried on by a partnership shall not be affected if a person ceases to be a partner or if a prospective partner is registered under paragraph 4(7) in relation to the partnership.

(11) Where a waste regulation authority accepts an application for the renewal of a broker's registration before the expiry date, the renewal shall for the purposes of this Schedule take effect from the expiry date.

Cessation of registration

8. Where by virtue of paragraph 6(11) or 7 a registration ceases to have effect, the waste regulation authority—

- (a) shall record this fact in the appropriate entry in its register and the date on which it occurred;
- (b) may remove the appropriate entry from its register at any time more than six years after the registration ceases to have effect.

PART II

FORM OF APPLICATION FOR REGISTRATION AS A BROKER OF CONTROLLED WASTE

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Please read the guidance notes before completing this form

1. Full name of applicant (*note 1*)
Former name (if applicable)
Date of birth (if applicable)

2. Name under which applicant carries on business (if different from 1)

3. Address for correspondence

4. Address of principal place of business (if different from 3)

5. Telephone/Telex/Fax number

6. If applicant has previously been a registered broker give:
(a) registration number or numbers
(b) name of waste regulation authority or authorities

7. If applicant is a company registered under the Companies Act, give:
(a) company's registered number
(b) address of registered office
(c) in the case of a company incorporated outside Great Britain, the country in which it was incorporated

8. If applicant is a registered company or other body corporate, for each director, manager, secretary or other similar officer, give:

| Full name | Position held | Address | Date of birth |
|-----------|---------------|---------|---------------|
| | | | |
| | | | |
| | | | |
| | | | |

9. If applicant is a prospective partner in a business carried on by a partnership whose members are already registered brokers, give:
(a) full name of partnership
(b) registration number of partnership

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

10. Has the applicant or another relevant person (*note 2*) been convicted of any offence listed in regulation 3 of the Waste Management Licensing Regulations 1994 (*notes 3 and 4*)?

Yes No

If Yes, give full details of each offence—

| <i>Full name of person convicted</i> | <i>Position held</i> | <i>Name of Court</i> | <i>Date of conviction</i> | <i>Offence and penalty imposed</i> |
|--------------------------------------|----------------------|----------------------|---------------------------|------------------------------------|
| | | | | |

If details of any conviction have been given, use the following space to provide the waste regulation authority with any additional information which you wish the authority to take into account in determining whether or not it is undesirable for the applicant to be authorised to arrange (as dealer or broker) for the disposal or recovery of controlled waste on behalf of other persons

11. If the applicant is already a registered carrier of controlled waste, does he want his registration as a broker to expire on the same date as that on which his registration as a carrier expires (instead of lasting for 3 years)?

Yes No

12. Is the applicant or another company in the same group (within the meaning of section 53(1) of the Companies Act 1989) the holder of a waste management licence?

Yes No

If Yes, give details of licence:

| <i>Full name of holder of licence</i> | <i>Date of birth (if applicable)</i> | <i>Date of issue of licence</i> | <i>Name of authority which issued the licence</i> |
|---------------------------------------|--------------------------------------|---------------------------------|---|
| | | | |

Declaration

I declare that I have personally checked the information given in this application form and that it is true to the best of my knowledge, information and belief. I understand that registration may be refused if false or incomplete information is given and that untrue statements may result in prosecution and could lead to revocation of registration.

Signature:

Date:

Position held:

Have you enclosed the fee of £95 (or where you are already a registered carrier of controlled waste, £25)? (*note 5*) Yes

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

GUIDANCE NOTES

1. In the case of a partnership or proposed partnership, each partner must apply for registration and his details must be included in this application form.

2. Details of an offence listed in regulation 3 of the Waste Management Licensing Regulations 1994 must be given if the applicant was convicted of the offence or if the person convicted of the offence ("the relevant person")–

- (a) committed it in the course of his employment by the applicant;
- (b) committed it in the course of the carrying on of any business by a partnership one of the members of which was the applicant;
- (c) was a body corporate and at the time when the offence was committed the applicant was a director, manager, secretary or other similar officer of that body;
- (d) was a director, manager, secretary or other similar officer of the applicant (where the applicant is a body corporate);
- (e) was a body corporate and at the time when the offence was committed a director, manager, secretary or other similar officer of the applicant held such an office in the body corporate which committed the offence.

3. The offences listed in regulation 3 of the Waste Management Licensing Regulations 1994 are offences under any of the following provisions–

- section 22 of the Public Health (Scotland) Act 1897;
- section 95(1) of the Public Health Act 1936;
- section 3, 5(6), 16(4), 18(2), 31(1), 32(1), 34(5), 78, 92(6) or 93(3) of the Control of Pollution Act 1974;
- section 2 of the Refuse Disposal (Amenity) Act 1978;
- the Control of Pollution (Special Waste) Regulations 1980;
- section 9(1) of the Food and Environment Protection Act 1985;
- the Transfrontier Shipment of Hazardous Waste Regulations 1988;
- the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988;
- section 1, 5, 6(9) or 7(3) of the Control of Pollution (Amendment) Act 1989;
- section 107, 118(4) or 175(1) of the Water Act 1989;
- section 23(1), 33, 34(6), 44, 47(6), 57(5), 59(5), 63(2), 69(9), 70(4), 71(3) or 80(4) of the Environmental Protection Act 1990;
- section 85, 202 or 206 of the Water Resources Act 1991;
- section 33 of the Clean Air Act 1993.

4. Details of a conviction need not be given where under the terms of the Rehabilitation of Offenders Act 1974 the conviction is spent.

5. The fee of £95 (or, if you are already a registered carrier of controlled waste, £25) must be sent with the application. The regulation authority may refuse the application if the fee is not enclosed.

PART III

FORM OF APPLICATION FOR RENEWAL OF REGISTRATION AS A BROKER OF CONTROLLED WASTE

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Please read the guidance notes before completing this form

1. Full name of applicant (*note 1*)
 Former name (if applicable)
 Date of birth (if applicable)

2. Address for correspondence

3. Telephone/Telex/Fax number

4. Registration number as broker

5. Has the applicant or another relevant person (*note 2*) been convicted of any offence listed in regulation 3 of the Waste Management Licensing Regulations 1994 (*notes 3 and 4*)?

Yes No

If Yes, give full details of each offence

| <i>Full name of person convicted</i> | <i>Position held</i> | <i>Name of Court</i> | <i>Date of conviction</i> | <i>Offence and penalty imposed</i> |
|--------------------------------------|----------------------|----------------------|---------------------------|------------------------------------|
| | | | | |

If details of any convictions have been given, use the following space to provide the waste regulation authority with any additional information which you wish the authority to take into account in determining whether or not it is undesirable for the applicant to be authorised to arrange (as dealer or broker) for the disposal or recovery of controlled waste on behalf of others—

6. Give details of any changes in any other information in the applicant's existing entry in the register (*note 5*)—

7. If the applicant has been registered as a carrier of controlled waste since the commencement of his current registration as a broker, does he want his renewed registration as a broker to expire when his registration as a carrier expires (instead of it lasting for 3 years)?

Yes No

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Declaration

I declare that I have personally checked the information given in this application form and that it is true to the best of my knowledge, information and belief. I understand that registration may be refused if false or incomplete information is given and that untrue statements may result in prosecution and could lead to revocation of registration.

Signature:

Date:

Position held:

Have you enclosed the fee of £65? (note 6) Yes

GUIDANCE NOTES

1. In the case of a partnership, each partner must apply for registration and his details must be included in this application form.

2. Details of an offence listed in regulation 3 of the Waste Management Licensing Regulations 1994 must be given if the applicant was convicted of the offence or if the person convicted of the offence ("the relevant person")—

- (a) committed it in the course of his employment by the applicant;
- (b) committed it in the course of the carrying on of any business by a partnership one of the members of which was the applicant;
- (c) was a body corporate and at the time when the offence was committed the applicant was a director, manager, secretary or other similar officer of that body;
- (d) was a director, manager, secretary or other similar officer of the applicant (where the applicant is a body corporate);
- (e) was a body corporate and at the time when the offence was committed a director, manager, secretary or other similar officer of the applicant held such an office in the body corporate which committed the offence.

3. The offences listed in regulation 3 of the Waste Management Licensing Regulations 1994 are offences under any of the following provisions

- section 22 of the Public Health (Scotland) Act 1897;
- section 95(1) of the Public Health Act 1936;
- section 3, 5(6), 16(4), 18(2), 31(1), 32(1), 34(5), 78, 92(6) or 93(3) of the Control of Pollution Act 1974;
- section 2 of the Refuse Disposal (Amenity) Act 1978;
- the Control of Pollution (Special Waste) Regulations 1980;
- section 9(1) of the Food and Environment Protection Act 1985;
- the Transfrontier Shipment of Hazardous Waste Regulations 1988;
- the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988;
- section 1, 5, 6(9) or 7(3) of the Control of Pollution (Amendment) Act 1989;
- section 107, 118(4) or 175(1) of the Water Act 1989;
- section 23(1), 33, 34(6), 44, 47(6), 57(5), 59(5), 63(2), 69(9), 70(4), 71(3) or 80(4) of the Environmental Protection Act 1990;
- section 85, 202 or 206 of the Water Resources Act 1991;
- section 33 of the Clean Air Act 1993.

4. Details of a conviction need not be given where under the terms of the Rehabilitation of Offenders Act 1974 the conviction is spent.

5. Check the information in the copy of the current entry in the register sent with the regulation authority's reminder that registration needs to be renewed or, if no such copy has been received, ask the authority for one.

6. The fee of £65 must be sent with the application. The regulation authority may refuse the application if the fee is not enclosed.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision related to the bringing into force of the waste management licensing system under Part II of the Environmental Protection Act 1990 (“the 1990 Act”) and for the purpose of implementing certain Council Directives relating to waste.

Regulation 2, and Schedules 1 and 2, provide for the form and contents of applications both for waste management licences and for their surrender or transfer. Regulations 3 to 5 make provision in connection with determining whether an applicant for a licence is a fit and proper person. Regulations 6 to 9 contain procedural provisions in relation to appeals under sections 43 and 66 of the 1990 Act.

Regulations 10 and 11 make provision in relation to the contents of public registers maintained under section 64 of the 1990 Act. Regulation 12 prescribes what is to be treated as mobile plant for the purposes of Part II of the 1990 Act.

Regulation 13 prohibits the imposition of conditions in waste management licences for the purpose of securing the health of persons at work. Regulation 14 makes provision, pursuant to Council Directive [75/439/EEC](#) on the disposal of waste oils (OJNo. L 194, 25.7.1975, p. 23, as amended by Council Directive [87/101/EEC](#), OJ No. L 42, 12.2.1987, p. 43) as to conditions which are to be included in a licence which relates to waste oil. Regulation 15, for the purpose of implementing Council Directive [80/68/EEC](#) on the protection of groundwater against pollution caused by certain dangerous substances, makes provision for the method of dealing with applications for licences in respect of waste activities which could lead to the discharge into groundwater of the substances in lists I and II of that Directive.

Regulations 16 and 17 exempt certain activities from the need to have a waste management licence. Regulation 16 disapplies section 33(1) of the 1990 Act in the case of certain waste activities controlled by other systems. Regulation 17 disapplies section 33(1)(a) and (b) of the 1990 Act in the case of the activities set out in Schedule 3. Regulation 18 provides a system of registration for the activities exempted by regulation 17.

Regulation 19 and Schedule 4 contain provisions which implement Council Directive [75/442/EEC](#) on waste (as amended) (“the Waste Framework Directive”). Part I of Schedule 4 modifies Parts I and II of the 1990 Act, Parts I and II of the Control of Pollution Act 1974, Part II of the Food and Environment Protection Act 1985, Chapter II of Part III of the Water Resources Act 1991 and the Town and Country Planning legislation, and requires certain functions under those enactments to be discharged with the objectives set out in the Waste Framework Directive. Part I of that Schedule also provides for the preparation of offshore waste management plans, registration of waste collectors, transporters, brokers and dealers who would otherwise not be subject to registration, and the inspection of, and record keeping by, establishments or undertakings carrying out waste disposal or recovery. Part II of Schedule 4 lists objects or substances which are waste when discarded, and Parts III and IV of that Schedule list waste disposal and recovery operations.

Regulation 20 and Schedule 5 provide for the registration of waste brokers and dealers in respect of their activities on or after 1st January 1995. Schedule 5 makes provision as to the keeping of registers, and in respect of applications for registration, the duration and revocation of registration, and related appeals.

Regulations 21 to 24 amend the Deposits in the Sea (Exemptions) Order 1985, the Collection and Disposal of Waste Regulations 1988, the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 and the Controlled Waste Regulations 1992.

Document Generated: 2023-04-27

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

An assessment of the cost to business of complying with these Regulations has been prepared and copies may be obtained from the Department of the Environment, Room A2.22, Romney House, 43 Marsham Street, London SW1P 3PY. A copy has been placed in the library of each of the Houses of Parliament.