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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 2(2) of the European Communities Act 1972. They implement, in relation to England, Article 8 of Council Directive [75/442/EEC](#) on waste<sup>(1)</sup> (the “Waste Framework Directive”) as respects an occupier of domestic property in relation to the household waste produced on the property.

Regulation 1 (citation, commencement, extent and interpretation) provides that these Regulations extend only to England and Wales and that they come into force on 21st November 2005.

Regulation 2 amends section 34 of the Environmental Protection Act 1990 (the “1990 Act”). Regulation 2(2) inserts a new section 34(2A) into the 1990 Act so as to impose a duty on an occupier of domestic property as respects the household waste produced on the property. The duty imposed is to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes.

The amendments in regulations 2(3) to (6) are consequential on the amendment in regulation 2(2). In particular, the amendment in regulation 2(6) makes it a criminal offence for any person to fail to comply with the new duty imposed by the amendment in regulation 2(2). On summary conviction, the penalty for the offence will be a fine not exceeding the statutory maximum (at the date of these Regulations £5000) and, on conviction on indictment, a fine.

The amendments in regulations 3, 4 and 5 are also consequential on the amendment in regulation 2(2). In particular, the amendments in regulation 3 ensure that section 34B of the 1990 Act (power to search and seize vehicles etc), which is not in force at the date of these Regulations, will not apply where an offence has been committed as a result of a failure to comply with the duty imposed by the amendment in regulation 2(2). Section 34B is to be inserted into the 1990 Act by section 46 of the Clean Neighbourhoods and Environment Act 2005 (in accordance with a commencement order under that Act).

A transposition note has been prepared, explaining the transposition into law by the Government of Article 8 of the Waste Framework Directive as respects an occupier of domestic property in England in relation to the household waste produced on the property.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business has also been prepared.

Copies of the transposition note and the regulatory impact assessment are available in the libraries of both Houses of Parliament, and from WM Licensing and Enforcement Unit, Department for Environment, Food and Rural Affairs, Zone 7/H11, Ashdown House, 123 Victoria Street, London SW1E 6DE.

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(1) O.J. No. L194, 25.7.1975, p. 39 (as amended by Council Directives [91/156/EEC](#) (O.J. No. L78, 26.3.1991, p. 32), [91/692/EEC](#) (O.J. No. L377, 31.12.1991, p. 48 (as corrected by Corrigendum, O.J. No. L146, 13.6.2003, p. 52)), Commission Decision [96/350/EC](#) (O.J. No. L135, 6.6.1996, p. 32) and Regulation (EC) No. [1882/2003](#) (O.J. No. L284, 31.10.2003, p. 1)).

**Changes to legislation:**

There are currently no known outstanding effects for the The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005.