
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement (in part), in relation to England and Wales, Council Directive [75/442/EEC](#) on waste⁽¹⁾ (“the Waste Framework Directive”) and Council Directive [1999/31/EC](#) on the landfill of waste⁽²⁾ (“the Landfill Directive”).

Regulation 2 amends sections 33, 33B, 33C, 63 and 75 of the Environment Act 1990 (“the 1990 Act”).

The amendments to section 33 mean that, in relation to household waste, establishments and undertakings must comply with all the requirements of section 33(1) of the 1990 Act, but that persons who are not establishments or undertakings must only comply with the requirements of section 33(1) (c).

Section 33B of the 1990 Act is amended so that a person who is not an establishment or undertaking and who commits a relevant offence shall not be ordered by a magistrates' court to pay more than £5000 in clean-up costs (regulation 2(3)). Section 33C of the 1990 Act is disapplied where a person who is not an establishment or undertaking is convicted of a relevant offence (regulation 2(4)). “Relevant offence” for these purposes is defined in section 33(10) of the 1990 Act (regulation 2(2) (c)).

Regulation 3 amends the Environment Act 1995 so that, in respect of agricultural waste, no charges may be imposed under a charging scheme in relation to a relevant environmental licence.

Regulation 4 amends the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 so that the registration requirements of the Control of Pollution (Amendment) Act 1989 do not apply to those who only transport animal by-products waste, mines or quarries waste, or agricultural waste on a professional basis. Instead the registration requirements of paragraph 12 of Schedule 4 to the Waste Management Licensing Regulations 1994 (“the 1994 Regulations”) will apply in these circumstances (see regulation 6(10)(d)).

Regulation 5 amends the Controlled Waste Regulations 1992. The amendment in regulation 5(4) provides that section 34 of the 1990 Act (duty of care etc. as respects waste) does not apply to waste which comprises animal by-products collected and transported in accordance with the Community Regulation (as defined in Regulation 5(4)). The amendment in regulation 5(5) provides that any Directive waste is to be classified as industrial waste if it is not otherwise classified as household or commercial waste.

Regulation 6 amends the 1994 Regulations in a number of respects. These include: (a) inserting a new regulation 18A which sets out certain record-keeping requirements in relation to activities which are exempt from waste management licensing (regulation 6(6)); and (b) inserting new paragraphs into Schedule 3 of the 1994 Regulations to provide for exemptions from waste management licensing for activities involving— the recovery of animal by-products (regulation 6(9)(b)), the treatment of land with liquid milk (regulation 6(9)(e)), and the deposit of plant tissue (regulation 6(9)(e)).

Regulations 8 to 12 make minor amendments to secondary legislation.

(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)).

(2) O.J. No. L182, 16.7.1999, p.1 (as amended by Regulation [\(EC\) No. 1882/2003](#) (O.J. No. L284, 31.10.2003, p. 1)).

Status: *This is the original version (as it was originally made).*

Regulation 13 contains transitional provisions which apply to the deposit, disposal or recovery of agricultural waste, or mines or quarries waste, for a period of 12 months after the Regulations come into force.

A transposition note has been prepared, explaining the transposition into law by the Government of the provisions of the Waste Framework Directive and the Landfill Directive transposed by these Regulations. 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 Waste Management Division, Waste Framework Directive Unit, Department for Environment, Food and Rural Affairs, Zone 6/F6, Ashdown House, 123 Victoria Street, London SW1E 6DE.