
STATUTORY INSTRUMENTS

2011 No. 988

The Waste (England and Wales) Regulations 2011

PART 8

Registration of carriers, brokers and dealers

Interpretation

24.—(1) The regulations in this Part, to the extent that they relate to carriers of controlled waste, have effect as if they were made in exercise of the powers in sections 1(3), 2 and 4(6) of the Control of Pollution (Amendment) Act 1989 ^{M1}.

(2) Sections 3 and 4 of the Control of Pollution (Amendment) Act 1989 ^{M2} have effect as if—

- (a) references to carriers of controlled waste in those sections included references to brokers of and to dealers in controlled waste;
- (b) references to the transport of controlled waste included references to acting as a broker of or dealer in controlled waste; and
- (c) regulations 26 and 28 to 34, to the extent that they relate to brokers and dealers, were made in exercise of the powers in sections 2 and 4(6) of that Act.

(3) Section 3(5) and (6) of the Control of Pollution (Amendment) Act 1989 (in its application to carriers, brokers and dealers) has effect as if—

- (a) references to provision made by virtue of subsection (1) or (2) include a reference to regulations 29(5) and 32(1); and

[^{F1}(b) references to a prescribed offence include a relevant offence within the meaning of regulation 29]

(4) Section 7(1) of the Control of Pollution (Amendment) Act 1989 has effect as if the words “the provisions of this Act” included a reference to regulation 25.

(5) In this Part—

“the relevant time” means immediately before the coming into force of these Regulations;

“specified person” means—

- (a) a charity or voluntary organisation;
- (b) a waste collection authority;
- (c) an authority which is a waste disposal authority for the purposes of Part 2 of the Environmental Protection Act 1990 ^{M3};
- (d) an authority which is a waste regulation authority for the purposes of Part 2 of the Environmental Protection Act 1990 ^{M4};
- (e) a carrier which only transports waste produced by the carrier itself, except where it is construction or demolition waste (and “construction” includes improvement, repair and alteration);

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- (f) a carrier which only transports, a broker which only arranges for the recovery or disposal of, or a dealer which only deals in—
- (i) animal by-products;
 - (ii) waste from a mine or quarry; or
 - (iii) waste from premises used for agriculture.

Textual Amendments

- F1** Reg. 24(3)(b) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), 3

Marginal Citations

- M1** 1989 c.14. Section 2 was amended by the [Environmental Protection Act 1990 \(c. 43\)](#), [section 162](#) and paragraph 31 of Schedule 15, by the [Environment Act 1995 \(c. 25\)](#), [section 120](#) and paragraph 37 of Schedule 22, and by the [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [sections 36](#) and 107 and Part 4 of Schedule 5.
- M2** Section 3 was amended by the [Environmental Protection Act 1990 \(c. 43\)](#), [section 162](#) and paragraph 31 of Schedule 15 and by the [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [section 36](#). Section 4 was also amended by those provisions of the Environmental Protection Act 1990, and by the Environment Act 1995, section 120 and paragraph 37 of Schedule 22. Section 7(1) was amended by those provisions of the Environmental Protection Act 1990 and the Environment Act 1995, and by the Anti-social [Behaviour Act 2003 \(c. 38\)](#), [section 55](#).
- M3** 1990 c. 43. See section 30(2), which was amended by the Local Government (Wales) Act 1994, section 22(3) and paragraph 17(2) of Schedule 9.
- M4** 1990 c. 43. See section 30(1), which was substituted by the Environment Act 1995, section 120 and paragraph 62(2) of Schedule 22.

Registration of brokers and dealers in controlled waste

25. No person may act as a broker of or dealer in controlled waste unless registered with the [^{F2}appropriate body].

Textual Amendments

- F2** Words in reg. 25 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 405](#) (with Sch. 7)

Exemptions in relation to carriers

26.—(1) The following are not required to be a registered carrier of controlled waste for the purposes of section 1 of the Control of Pollution (Amendment) Act 1989—

- (a) a carrier who is a specified person and who does not normally and regularly transport controlled waste;
- (b) the operator of a vessel, aircraft, hovercraft, floating container or vehicle, in relation to its use, after it has been loaded with waste in circumstances in which a marine licence is required or would be required but for a marine exemption order for transporting the waste in order to carry out a specified marine operation.

- (2) In paragraph (1)(b)—
“marine licence” means—

- (a) a licence under Part 2 of the Food and Environment Protection Act 1985; or
 - (b) a marine licence under Part 4 of the Marine and Coastal Access Act 2009;
- “marine exemption order” means an order under—
- (a) section 7 of the Food and Environment Protection Act 1985 (exemptions from licensing)^{M5}; or
 - (b) section 74 of the Marine and Coastal Access Act 2009 (which provides for exemptions from marine licensing);
- “specified marine operation” means an operation mentioned in—
- (a) section 5 or 6 of the Food and Environment Protection Act 1985 (deposits in the sea or incineration)^{M6}; or
 - (b) an item numbered 1 to 6 or 11 to 13 in section 66(1) of the Marine and Coastal Access Act 2009 (which specifies licensable marine activities).

Marginal Citations

M5 Section 7(1) was amended by [S.I. 1999/1756](#), [article 2](#) and paragraph 10 of the Schedule.

M6 Sections 5 and 6 were amended by the [Environmental Protection Act 1990 \(c. 43\)](#), [sections 146](#) and 162 and Part 8 of Schedule 16. Section 5 was also amended by section 1(1) and Part 2 of Schedule 1 to the Statute Law (Repeals) Act 1993 .

Transitional exemptions

27.—(1) Until the end of 2013, a transitionally exempt carrier is not required to be registered as a carrier of controlled waste for the purposes of section 1 of the Control of Pollution (Amendment) Act 1989.

(2) Until the end of 2013, a transitionally exempt broker is not required to be registered as a broker of controlled waste for the purposes of regulation 25.

(3) In this regulation—

“transitionally exempt carrier” means a carrier who—

- (a) at the relevant time was not required to be registered as a carrier of controlled waste for the purposes of—
 - (i) section 1 of the Control of Pollution (Amendment) Act 1989, and
 - (ii) paragraph 12(1) of Schedule 4 to the Waste Management Licensing Regulations 1994^{M7}; or
- (b) had they been a carrier of controlled waste at the relevant time, would not have been required to be registered for those purposes;

“transitionally exempt broker” means a broker who—

- (a) at the relevant time was not required to be registered as a broker of controlled waste for the purposes of—
 - (i) regulation 20(1) of the Waste Management Licensing Regulations 1994, and
 - (ii) paragraph 12(2) of Schedule 4 to those Regulations, or
- (b) had they been a broker of controlled waste at the relevant time, would not have been required to be registered for those purposes.

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Marginal Citations

M7 [S.I. 1994/1056](#), amended by [S.I. 2000/1973](#), 2006/937, 2007/3538. There are other amendments but none is relevant. The Regulations are revoked by Schedule 5 to these Regulations.

The register

28.—(1) The [^{F3}appropriate body] must establish and maintain a register of carriers, brokers and dealers.

(2) A register of carriers or brokers held at the relevant time for the purposes of the Control of Pollution (Amendment) Act 1989 or the Waste Management Licensing Regulations 1994 is a register for the purposes of these Regulations.

Textual Amendments

F3 Words in reg. 28(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 405](#) (with [Sch. 7](#))

Procedure for registration

[^{F4}29.—(1) This regulation applies to—

- (a) registration of a carrier for the purposes of the Control of Pollution (Amendment) Act 1989; and
- (b) registration of a broker or dealer for the purposes of regulation 25.

(2) An application for registration must be made to the appropriate body, using the form provided by that body.

(3) All the information required by the form must be provided, together with any fee prescribed in a charging scheme made by the appropriate body under section 41 of the Environment Act 1995.

(4) The appropriate body may require additional information to be provided.

(5) Registration may be refused if, in the opinion of the appropriate body—

- (a) it is undesirable for the applicant to be authorised to transport controlled waste or to act as a broker or dealer of controlled waste (as the case may be); and
- (b) [^{F5}the applicant or another relevant person has been convicted of a relevant offence]

[^{F6}(5A) A “relevant offence” means an offence under—

- (a) the Scrap Metal Dealers Act 1964,
- (b) section 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the offence relates to scrap metal or is an environment-related offence,
- (c) section 170 or 170B of the Customs and Excise Management Act 1979, where the offence relates to scrap metal,
- (d) section 9 of the Food and Environment Protection Act 1985,
- (e) section 1, 5 or 7 of the Control of Pollution (Amendment) Act 1989,
- (f) section 33, 34 or 34B of the Environmental Protection Act 1990,
- (g) section 85, 202 or 206 of the Water Resources Act 1991,
- (h) the Transfrontier Shipment of Waste Regulations 1994,

- (i) section 110 of the Environment Act 1995,
- (j) the Control of Major Accident Hazards Regulations 1999,
- (k) the Pollution Prevention and Control (England and Wales) Regulations 2000,
- (l) Part 1 of the Vehicles (Crimes) Act 2001,
- (m) regulation 17(1) of the Landfill (England and Wales) Regulations 2002,
- (n) section 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002 ,
- (o) the Hazardous Waste (England and Wales) Regulations 2005,
- (p) the Hazardous Waste (Wales) Regulations 2005,
- (q) section 1 of the Fraud Act 2006, where the offence relates to scrap metal or is an environment-related offence,
- (r) the Waste Electrical and Electronic Equipment Regulations 2006,
- (s) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007,
- (t) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007,
- (u) the Transfrontier Shipment of Waste Regulations 2007,
- (v) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010,
- (w) regulation 42 of these Regulations,
- (x) section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,
- (y) the Waste Electrical and Electronic Equipment Regulations 2013,
- (z) the Scrap Metal Dealers Act 2013.]

[^{F6}(5B) A relevant offence also includes—

- (a) attempting or conspiring to commit a relevant offence;
- (b) inciting or aiding, abetting, counselling or procuring the commission of a relevant offence; and
- (c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) committed in relation to a relevant offence.]

[^{F6}(5C) For the purposes of paragraph (5A)—

“environment-related offence” means an offence which relates to the transportation, shipment or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water or land which may give rise to any harm;

“harm” means—

- (a) harm to the health of human beings or other living organisms;
- (b) harm to the quality of the environment;
- (c) offence to the senses of human beings;
- (d) damage to property; or
- (e) impairment of, or interference with, amenities or other legitimate uses of the environment.]

(6) On registration the appropriate body must provide a certificate of registration to the applicant.

[^{F7}(6A) The appropriate body must, on payment of a reasonable charge, provide any person who has been provided with a certificate of registration under paragraph (6) with a copy of the certificate if requested.]

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[^{F7}(6B) The appropriate body must ensure that any copy is numbered and marked so as to show that it is a copy of the certificate and that it has been provided by the appropriate body under this regulation.]

(7) If registration is refused the appropriate body must notify the applicant and give written reasons for the refusal.

(8) For the purposes of an application under paragraph (2) the appropriate body is—

- (a) in the case of a carrier, broker or dealer whose registered office or principal place of business is in England, the Environment Agency;
- (b) in the case of a carrier, broker or dealer whose registered office or principal place of business is in Wales, the Natural Resources Body for Wales.]

Textual Amendments

- F4** Reg. 29 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 406** (with Sch. 7)
- F5** Reg. 29(5)(b) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **4(a)**
- F6** Reg. 29(5A)-(5C) inserted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **4(b)**
- F7** Reg. 29(6A)(6B) inserted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **4(c)**

Updating the register

30.—(1) A registered carrier, broker or dealer must within 28 days inform the [^{F8}appropriate body] of any change of circumstance affecting information in the entry relating to that carrier, broker or dealer.

(2) If the [^{F9}appropriate body] becomes aware that the information held on the register is incorrect in respect of any carrier, broker or dealer, it may remove that person from the register where it is reasonable to do so.

(3) Where the [^{F9}appropriate body] has the person's address, it must notify them of the removal and request the correct information.

(4) The [^{F9}appropriate body] must restore the person to the register if the correct information comes to its notice.

Textual Amendments

- F8** Words in reg. 30(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 407(2)** (with Sch. 7)
- F9** Words in reg. 30(2)-(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 407(3)** (with Sch. 7)

Duration of a registration

31.—(1) Unless revoked, registration of a specified person is indefinite.

(2) For other persons registration is for three years unless revoked.

(3) But registration is not valid during any period of removal from the register under regulation 30(2).

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Revocation of registration

32.—(1) A registration may be revoked if—

- [^{F10}(a) the registered person or another relevant person has been convicted of a relevant offence within the meaning of regulation 29;]
- (b) in the opinion of the [^{F11}appropriate body], it is undesirable for the registered carrier, broker or dealer to continue to be authorised to act as a carrier or broker of, or a dealer in, controlled waste (as the case may be).

(2) If a registration is revoked the [^{F12}appropriate body] must notify the registered person and give written reasons for the revocation.

(3) A revocation comes into force—

- (a) where no appeal is made, 28 days after the date the notification is received; or
- (b) where an appeal is made, when it is withdrawn or refused.

Textual Amendments

F10 Reg. 32(1)(a) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **5**

F11 Words in reg. 32(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 408** (with Sch. 7)

F12 Words in reg. 32(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 408** (with Sch. 7)

Appeals

33. An appeal under section 4 of the Control of Pollution (Amendment) Act 1989 must be received by the Secretary of State or the Welsh Ministers (as the case may be) within 28 days of the refusal or revocation that is the subject of the appeal.

Inspections

34.—(1) The [^{F13}appropriate body] must ensure that appropriate periodic inspections of registered carriers, brokers and dealers are made ^{M8}.

(2) If the inspection relates to collection or transport of controlled waste, the [^{F13}appropriate body] must ensure that it covers the origin, nature, quantity and destination of that waste.

(3) In paragraph (2), “collection or transport” includes an operation where waste is transported following transfer between different carriers.

Textual Amendments

F13 Words in reg. 34 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 409** (with Sch. 7)

Marginal Citations

M8 Section 108 of the [Environment Act 1995 \(c. 25\)](#) provides for powers relevant to inspection. That section was amended by the [Anti-social Behaviour Act 2003 \(c. 38\)](#), the [Clean Neighbourhoods and Environment Act 2005 \(c.16\)](#) and [S.I. 2000/1973](#).

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