

2014 No. 861

ENVIRONMENTAL PROTECTION

CUSTOMS

**The Transfrontier Shipment of Waste (Amendment) Regulations
2014**

<i>Made</i> - - - -	<i>26th March 2014</i>
<i>Laid before Parliament</i>	<i>3rd April 2014</i>
<i>Coming into force</i> - -	<i>1st May 2014</i>

The Secretary of State, who is designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the environment(b), the prevention, reduction and elimination of pollution caused by waste(c) and the control of the import and export of goods(d), makes these Regulations in exercise of the powers conferred by that section.

Citation and commencement

1. These Regulations may be cited as the Transfrontier Shipment of Waste (Amendment) Regulations 2014 and come into force on 1st May 2014.

Amendment of the Transfrontier Shipment of Waste Regulations 2007

2. The Transfrontier Shipment of Waste Regulations 2007(e) are amended in accordance with regulations 3 to 21 of these Regulations.

Regulation 2

3. Regulation 2 (application) is revoked.

Regulation 4

4.—(1) Regulation 4 (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) in the definition of “authorised person”, for “50(2)” substitute “50A(1)”;

(a) 1972 c.68. Section 2(2) is amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a), and the European Union (Amendment) Act 2008 (c.7), Part 1 of the Schedule.
(b) S.I. 2008/301.
(c) S.I. 1992/2870, to which there are amendments not relevant to these Regulations.
(d) S.I. 1983/1706.
(e) S.I. 2007/1711, amended by S.I. 2007/3538, 2008/9, 2010/265, 675 and 1159 and 2011/988.

- (b) after the definition of “the Community Regulation” insert—
- “competent authority” means a competent authority within the meaning of regulation 6 or 7;
- “the English area” means that part of the marine area which is not the Northern Irish area, the Scottish area or the Welsh area;”;
- (c) for the definition of “the marine area” substitute—
- ““the marine area” means—
- (a) the area of sea within the seaward limits of the territorial sea adjacent to the United Kingdom, including—
- (i) any area submerged at mean high water spring tide, and
- (ii) the waters of every estuary, bay, river or channel, so far as the tide flows at mean high water spring tide,
- (b) the seabed and the subsoil within any area designated under subsection (7) of section 1 of the Continental Shelf Act 1964(a) (exploration and exploitation of continental shelf), and
- (c) waters superjacent to the seabed and the seabed and its subsoil within any area designated under subsection (4) of section 84 of the Energy Act 2004(b) (exploitation of areas outside the territorial sea for energy production);”;
- (d) after the definition of “the marine area” insert—
- ““the Northern Irish area” means such of the marine area adjacent to Northern Ireland which lies to the west of the Northern Irish border;”;
- (e) after the definition of “notifiable waste” insert—
- ““the Scottish area” means such of the marine area adjacent to Scotland which lies to the north of the Scottish border and east of the Northern Irish border;”;
- (f) after the definition of “waste vessel” insert—
- ““the Welsh area” means such of the marine area adjacent to Wales which lies within the Welsh border;
- “working day” means any day except a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(c) in any part of the United Kingdom.”.
- (3) After paragraph (1) insert—
- “(1A) In these Regulations—
- (a) any reference to England, Wales, Scotland or Northern Ireland excludes any part of the marine area; and
- (b) except in the case of any reference to the territorial sea adjacent to the United Kingdom and in the definition of “Dividing Line” in regulation 4A(4), any reference to the United Kingdom includes the marine area.”.

Regulations 4A and 4B

5. After regulation 4 insert—

(a) 1964 c.29; section 1(7) is amended by the Oil and Gas (Enterprise) Act 1982 (c.23), paragraph 1 of Schedule 3. Areas have been designated under section 1(7) by S.I. 1987/1265, 2000/3062 and 2001/3670.

(b) 2004 c.20. An area has been designated under section 84(4) by S.I. 2004/2668.

(c) 1971 c.80; see section 1 and Schedule 1.

“The Northern Irish border, the Scottish border and the Welsh border

4A.—(1) In these Regulations, “the Northern Irish border” means a line joining the co-ordinates numbered 1 to 12 in Part 1 of Schedule A1.

(2) In these Regulations, “the Scottish border” means—

- (a) in the North Sea, a line—
 - (i) joining the co-ordinates numbered 1 to 7 in Part 2 of Schedule A1,
 - (ii) then following, in a south easterly direction, the seaward limits of the territorial sea adjacent to the United Kingdom until the co-ordinate 55° 50' 00" N; 1° 27' 31" W, and
 - (iii) then following, in an easterly direction, the parallel of latitude 55° 50' 00" N until its intersection with the Dividing Line; and
- (b) in the Irish Sea, a line—
 - (i) joining the co-ordinates numbered 1 to 8 in Table 1 of Part 3 of Schedule A1,
 - (ii) then following the seaward limits of the territorial sea adjacent to the United Kingdom until the co-ordinate numbered 1 in Table 2 of Part 3 of Schedule A1, and
 - (iii) then joining the co-ordinates numbered 1 to 3 in Table 2 of Part 3 of Schedule A1.

(3) In these Regulations, “the Welsh border” means a line—

- (a) joining the co-ordinates numbered 1 to 8 in Table 1 of Part 4 of Schedule A1,
- (b) then following the seaward limits of the territorial sea adjacent to Wales until the co-ordinate numbered 15 in Table 2 of Part 4 of Schedule A1, and
- (c) then joining the co-ordinates numbered 15 to 1 in Table 2 of Part 4 of Schedule A1.

(4) In this regulation—

“co-ordinate” means a co-ordinate of latitude and longitude on the World Geodetic System 1984;

“Dividing Line” means the dividing line as defined in Article 1 of the Agreement between the United Kingdom and the Federal Republic of Germany relating to the Delimitation of the Continental Shelf under the North Sea between the two countries, signed in London on 25th November 1971(a);

“line” means a loxodromic line.

Offshore installations

4B.—(1) In these Regulations, “offshore installation” means an installation or structure, other than a ship, situated in the waters of, or on or under the seabed in, the marine area and used for carrying on any of the following activities—

- (a) the exploitation, or the exploration with a view to exploitation, of mineral resources in or under the shore or bed of waters in the marine area;
- (b) the exploration of a place in, under or over such waters with a view to the storage of gas;
- (c) the conversion of a place under the shore or bed of such waters for the purpose of storing gas;
- (d) the storage of gas in, under or over such waters or the recovery of gas so stored;
- (e) the unloading of gas at a place in, under or over such waters;

(a) Treaty Series No. 7 (1973) Cmnd. 5192.

- (f) the conveyance of things by means of a pipe, or system of pipes, constructed or placed on, in or under the shore or bed of such waters;
 - (g) the provision of accommodation for persons who work on or from an installation which is or has been maintained, or is intended to be established, for the carrying on of an activity in this paragraph.
- (2) In paragraph (1)—
- (a) “gas” means—
 - (i) gas as defined in section 2(4) of the Energy Act 2008(a), or
 - (ii) carbon dioxide;
 - (b) “installation” includes an installation as defined in section 16 of the Energy Act 2008;
 - (c) “ship” includes a hovercraft, submersible craft and any other floating craft but not a vessel which—
 - (i) permanently rests on or is permanently attached to the seabed, or
 - (ii) is an installation as defined in section 16 of the Energy Act 2008;
 - (d) references to storing gas include storing gas with a view to its permanent disposal.”.

Regulation 6

6. For regulation 6 (competent authorities of destination and dispatch) substitute—

“Competent authorities of destination and dispatch

6. The competent authorities of destination and dispatch for the purposes of the Community Regulation are—

- (a) in England and the English area, the Environment Agency;
- (b) in Wales and the Welsh area, the Natural Resources Body for Wales;
- (c) in Scotland and the Scottish area, the Scottish Environment Protection Agency;
- (d) in Northern Ireland and the Northern Irish area, the Department of the Environment in Northern Ireland.”.

Regulation 7

7. For regulation 7 (competent authority of transit) substitute—

“Competent authority of transit

7.—(1) The Environment Agency is the competent authority of transit for the United Kingdom for the purposes of the Community Regulation.

(2) The Natural Resources Body for Wales, the Scottish Environment Protection Agency and the Department of the Environment in Northern Ireland must supply the Environment Agency with any information which the Environment Agency may require in connection with its functions as the competent authority of transit.”.

Regulation 10

8. In regulation 10 (transitional provisions) omit “Latvia, Poland, Slovakia,”.

(a) 2008 c.32.

Regulation 14

9. In regulation 14 (provision of the plan to competent authorities) after paragraph (a) insert—
“(aa) the Natural Resources Body for Wales;”.

Regulation 46

10. In regulation 46 (fees) omit paragraph (2)(a).

Regulation 49A

11. After regulation 49 insert—

“Power to share information

49A.—(1) Officers of Revenue and Customs may disclose any information in their possession to the following for the purposes of the enforcement of the Community Regulation or these Regulations—

- (a) the Environment Agency;
- (b) the Natural Resources Body for Wales;
- (c) the Scottish Environment Protection Agency; and
- (d) the Department of the Environment in Northern Ireland.

(2) Paragraph (1) is without prejudice to any other power of officers of Revenue and Customs to disclose information.

(3) Nothing in paragraph (1) authorises the making of a disclosure which contravenes the Data Protection Act 1998(a).

(4) Paragraph (5) applies to information—

- (a) which was obtained by means of a disclosure authorised by paragraph (1); and
- (b) which relates to a person whose identity is specified in the disclosure or can be deduced from it.

(5) No person, including a servant of the Crown, may disclose any information to which this paragraph applies unless—

- (a) the disclosure is for a purpose specified in paragraph (1); and
- (b) the Commissioners for Her Majesty’s Revenue and Customs have given their consent to the disclosure.

(6) Consent for the purposes of paragraph (5)(b) may be given in relation to a particular disclosure or in relation to disclosures made in such circumstances as may be specified or described in the consent.

(7) A person who breaches paragraph (5) is guilty of an offence.

(8) It is a defence for a person charged with an offence under paragraph (7) to prove a reasonable belief—

- (a) that the disclosure was lawful; or
- (b) that the information had previously been made available to the public lawfully.”.

Regulation 50

12. For regulation 50 (enforcement bodies) substitute—

(a) 1998 c.29.

“Enforcement

50.—(1) The Community Regulation and these Regulations are enforced by—

- (a) in relation to England and the English area, the Environment Agency;
- (b) in relation to Wales and the Welsh area, the Natural Resources Body for Wales;
- (c) in relation to Scotland and the Scottish area, the Scottish Environment Protection Agency;
- (d) in relation to Northern Ireland and the Northern Irish area, the Department of the Environment in Northern Ireland.

(2) Nothing in this regulation authorises a competent authority to bring proceedings in Scotland for an offence.

Authorised persons

50A.—(1) A competent authority may authorise persons in writing for the purposes of enforcing the Community Regulation and these Regulations.

(2) An authorisation under either of the following is an authorisation for the purposes of paragraph (1), unless the body which issued the authorisation specifies to the contrary—

- (a) section 108 of the Environment Act 1995(a);
- (b) Article 72 of the Waste and Contaminated Land (Northern Ireland) Order 1997(b).

Assistance by the Secretary of State in relation to offshore installations

50B.—(1) The Secretary of State may assist a competent authority in its enforcement of the Community Regulation and these Regulations on or in relation to offshore installations, in particular by inspecting such installations and providing a competent authority with information to facilitate the effective enforcement of the Community Regulation and these Regulations.

(2) The Secretary of State may authorise persons in writing for the purposes of exercising the function described in paragraph (1).

(3) An authorisation under either of the following is an authorisation for the purposes of paragraph (2), unless the Secretary of State specifies to the contrary—

- (a) regulation 16 of the Offshore Chemicals Regulations 2002(c);
- (b) regulation 12 of the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005(d).”.

Regulation 59

13. In regulation 59 (fixed penalties)—

- (a) in paragraph (1), after “Regulations” insert “(except an offence under regulation 49A(7))”;
- (b) for paragraph (6) substitute—

“(6) The amount of fixed penalty payable in pursuance of a notice under this regulation is £300 which is to be paid in the case of a notice served by an authorised person from—

(a) 1995 c.25; section 108 is amended by the Anti-social Behaviour Act 2003 (c.38), section 55(6), (7), (8) and (9); the Clean Neighbourhoods and Environment Act 2005 (c.16), section 53; the Protection of Freedoms Act 2012 (c.9), paragraph 3(1), (2), (3) and (4) of Schedule 2; S.I. 2000/1973 and 2010/675; S.S.I. 2000/323 and 2006/181; and S.I. 2013/755 (W.90).

(b) S.I. 1997/2778 (N.I. 19); article 72 is amended by S.I. 2007/2611 (N.I. 3), article 18(1) and the Waste and Contaminated Land (Amendment) Act (Northern Ireland) 2011 (c.5), sections 5(1) and 6.

(c) S.I. 2002/1355; relevant amending instruments are S.I. 2005/2055 and 2011/982.

(d) S.I. 2005/2055, amended by S.I. 2011/983.

- (a) the Environment Agency or the Scottish Environment Protection Agency, to the Secretary of State;
 - (b) the Natural Resources Body for Wales, to the Welsh Ministers;
 - (c) the Department of the Environment in Northern Ireland, to that Department.”; and
- (c) in paragraph (7)(a) after “officer” insert “in England and Scotland, in Wales the principal accounting officer”.

Regulation 59A

14. In regulation 59A(a)—

- (1) in the heading, after “Civil sanctions” insert “, England”;
- (2) in paragraph (4), for “marine area adjacent to England” substitute “English area”.

Regulations 59B and 59C

15. After regulation 59A insert—

“Civil sanctions, Wales

59B.—(1) The Natural Resources Body for Wales may impose a variable monetary penalty, or accept an enforcement undertaking, in relation to an offence specified in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (Wales) Order 2010**(b)**.

Table of civil sanctions

<i>Offence under these Regulations</i>	<i>Variable monetary penalty</i>	<i>Enforcement undertaking</i>
regulation 17	Yes	Yes
regulation 18	Yes	Yes
regulation 19(2)	Yes	Yes
regulation 19(3)	Yes	Yes
regulation 20(2)	Yes	Yes
regulation 21	Yes	Yes
regulation 22(2)	Yes	Yes
regulation 23	Yes	Yes
regulation 24(2)	Yes	Yes
regulation 25	Yes	Yes
regulation 26	Yes	Yes
regulation 27(2)	Yes	Yes
regulation 28	Yes	Yes
regulation 29(2)	Yes	Yes
regulation 30(2)	Yes	Yes
regulation 31	Yes	Yes
regulation 32(2)	Yes	Yes
regulation 33(2)	Yes	Yes
regulation 34(2)	Yes	Yes
regulation 35(2)	Yes	Yes
regulation 36	Yes	Yes

(a) Regulation 59A is inserted by S.I. 2010/1159.

(b) S.I. 2010/1821 (W178), amended by S.I. 2013/755 (W90).

regulation 37(2)	Yes	Yes
regulation 38(2)	Yes	Yes
regulation 38(3)	Yes	Yes
regulation 38(4)	Yes	Yes
regulation 39(2)	Yes	Yes
regulation 40(2)	Yes	Yes
regulation 41(2)	Yes	Yes
regulation 42(2)	Yes	Yes
regulation 43	Yes	Yes
regulation 44(2)	Yes	Yes
regulation 52(1)	Yes	No
regulation 53(a)	Yes	No
regulation 53(b)	Yes	No
regulation 53(c)	Yes	No
regulation 54(a)	Yes	No
regulation 54(b)	Yes	No

(2) The terms used in this regulation have the same meaning as in that Order.

(3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.

(4) This regulation applies only in Wales and the Welsh area.

Review

59C.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(3) The first report under this regulation must be published before the end of the period of five years beginning with 1st May 2014.

(4) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Schedule A1

16. Before Schedule 1 insert the Schedule set out in the Schedule to these Regulations.

Schedule 1

17. In Schedule 1 (transitional provisions for shipments to Latvia, Poland, Slovakia, Bulgaria or Romania)—

- (a) in the heading, omit “Latvia, Poland, Slovakia,”; and
- (b) omit paragraphs 1 to 3.

Schedule 2

18. Schedule 2 (transitional fees in Great Britain) is omitted.

Schedule 3

19. In Schedule 3 (fees in Northern Ireland), for paragraphs 2 and 3 substitute the following Table—

“Notification type	General notification				
	1 to 5 shipments	6 to 20 shipments	21 to 100 shipments	101 to 500 shipments	More than 500 shipments
Shipment from Northern Ireland	£1,090	£2,025	£3,050	£5,940	£10,785
Shipment to Northern Ireland	£940	£2,025	£3,675	£7,950	£14,625”.

Schedule 4

20. In Schedule 4 (application for approval of a financial guarantee), omit paragraph 1.

Schedule 5

21.—(1) Schedule 5 (enforcement powers) is amended as follows.

(2) In Part 1—

(a) for paragraph 1 substitute—

“Powers under the Environment Act 1995

1. For the purposes of enforcing the Community Regulation and these Regulations, a person on whom the powers in section 108 of the Environment Act 1995 are conferred may exercise those powers in the English area, the Welsh area and the Scottish area.

Powers under the Waste and Contaminated Land (Northern Ireland) Order 1997

1A. For the purposes of enforcing the Community Regulation and these Regulations, a person on whom the powers in Article 72 of the Waste and Contaminated Land (Northern Ireland) Order 1997 are conferred may exercise those powers in the Northern Irish area.”;

(b) for paragraph 5(2) substitute—

“(2) An authorised person—

- (a) may take any or all of the actions specified in sub-paragraph (2A), (2B) or (2C) in relation to that waste;
- (b) where the action specified in sub-paragraph (2C) is taken, may take either or both of the actions specified in sub-paragraph (2D).

(2A) The authorised person may seize the waste.

(2B) The authorised person may serve a notice on any person appearing to be in control of the waste prohibiting or restricting the movement of the waste.

(2C) The authorised person may serve a notice on any person appearing to be in control of the waste requiring that person to send the waste to a place specified in the notice (referred to in sub-paragraph (2D) as “the specified place”).

(2D) The authorised person may serve a notice on any person appearing to be in control of the specified place and involved in the shipment of the waste—

- (a) requiring that person to accept the waste at that place;
- (b) prohibiting or restricting the movement of the waste from that place.”; and
- (c) in paragraph 6(4)(b), for “23” substitute “24”.

(3) For Part 2 substitute—

“PART 2

Powers of general customs officials

Powers of general customs officials

8.—(1) A general customs official may seize and detain any waste that has been brought into the United Kingdom or is to be dispatched from the United Kingdom—

- (a) if requested to do so by a competent authority in the United Kingdom; or
- (b) if that official suspects that, in respect of that waste, there is or is likely to be a breach of any provision of the Community Regulation or of these Regulations.

(2) A general customs official who seizes and detains any waste under sub-paragraph (1)(b) must inform the competent authority as soon as possible.

(3) Waste seized and detained under this paragraph may be detained for no more than 5 working days and must be dealt with during the period of its detention in such manner as the Secretary of State may direct under section 5 of the Borders, Citizenship and Immigration Act 2009(a).

(4) In this paragraph—

- (a) “general customs official” means a general customs official designated under section 3(1) of the Borders, Citizenship and Immigration Act 2009; and
- (b) “waste” includes—
 - (i) any thing that the competent authority or general customs official has reasonable grounds to suspect is waste, and
 - (ii) the container in which the waste or thing is carried.”.

(4) After Part 2 insert—

“PART 2A

Powers of persons authorised by the Secretary of State

Powers of entry etc.

8A.—(1) A person authorised by the Secretary of State under regulation 50B(2) (“P”) may, for the purposes of assisting a competent authority in its enforcement of the Community Regulation and these Regulations—

- (a) at any reasonable time board an offshore installation;
- (b) be accompanied by an authorised person and take any equipment or materials that P thinks may be required;
- (c) make such examination or investigation as P considers necessary (“a necessary examination or investigation”);

(a) 2009 c.11.

- (d) give a direction requiring that any part of the offshore installation be left undisturbed (whether generally or in particular respects) for so long as reasonably necessary for the purposes of a necessary examination or investigation;
 - (e) take such measurements and photographs and make such recordings as P considers necessary for the purpose of a necessary examination or investigation;
 - (f) take samples of any thing found on the offshore installation or in the atmosphere or any land, seabed (including its subsoil) or water in the vicinity of the offshore installation;
 - (g) require any person who P has reasonable cause to believe is able to give any information relevant to a necessary examination or investigation—
 - (i) to attend at a place and time specified by P,
 - (ii) to answer (in the absence of any person other than persons whom P may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as P thinks fit to ask, and
 - (iii) to sign a declaration of truth of that person's answers;
 - (h) require the production of, and inspect and take copies of or of any entry in, any records which P considers it necessary to see for the purposes of a necessary examination or investigation;
 - (i) require any person to afford P such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as P considers are necessary to enable P to exercise any of the powers conferred on P by this Part.
- (2) P must, if requested to do so, produce a duly authenticated authorisation document.

Supplementary

8B.—(1) An answer given by a person in compliance with a requirement imposed under paragraph 8A(1)(g) is admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings or, in Scotland, against that person in criminal proceedings.

(2) In criminal proceedings in which a person mentioned in sub-paragraph (1) is charged with an offence to which this sub-paragraph applies, no evidence relating to that person's answer may be adduced and no question relating to it may be asked by or on behalf of the prosecution unless evidence relating to it is adduced by or on behalf of that person.

(3) Sub-paragraph (2) applies to any offence other than one under—

- (a) section 5 of the Perjury Act 1911^(a) (false statutory declarations and other false statements without oath);
- (b) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995^(b) (false statements and declarations not on oath); or
- (c) Article 10 of the Perjury (Northern Ireland) Order 1979^(c) (false statutory declarations and other false unsworn statements).

(4) Nothing in this Part compels the production by a person of a document which—

- (a) except in relation to Scotland, that person would on grounds of legal professional privilege be entitled to withhold on an order for discovery in an action in the County Court or High Court; or
- (b) in relation to Scotland, contains confidential information made by or to an advocate or solicitor in that capacity and which that person would be entitled to

(a) 1911 c.6.
 (b) 1995 c.39.
 (c) 1979/1714 (N.I.19).

withhold on an order for the production of documents in an action in the Court of Session.”.

Amendment of section 41 of the Environment Act 1995

22. In section 41 of the Environment Act 1995(a) (power to make schemes imposing charges), in subsection (1)(d), for “each of the new Agencies” substitute “the Agency, the Natural Resources Body for Wales or SEPA”.

Transitional provisions

23.—(1) Anything which on the commencement date is in the process of being done by or in relation to the Environment Agency in exercise of its functions under the Transfrontier Shipment of Waste Regulations 2007 or under section 41(1)(d) of the Environment Act 1995 may, so far as it relates to Wales or the Welsh area, be continued by or in relation to the Natural Resources Body for Wales.

(2) Anything which on the commencement date is in the process of being done by or in relation to the Secretary of State in exercise of the Secretary of State’s functions as competent authority of destination and dispatch under the Transfrontier Shipment of Waste Regulations 2007 may—

- (a) so far as it relates to the English area, be continued by or in relation to the Environment Agency;
- (b) so far as it relates to the Welsh area, be continued by or in relation to the Natural Resources Body for Wales;
- (c) so far as it relates to the Scottish area, be continued by or in relation to the Scottish Environment Protection Agency;
- (d) so far as it relates to the Northern Irish area, be continued by or in relation to the Department of the Environment in Northern Ireland.

(3) Anything done by or in relation to the Environment Agency before the commencement date in exercise of its functions under the Transfrontier Shipment of Waste Regulations 2007 or under section 41(1)(d) of the Environment Act 1995 is, so far as it relates to Wales or the Welsh area and is required for continuing its effect on and after that date, to have effect as if done by or in relation to the Natural Resources Body for Wales.

(4) Anything done by or in relation to the Secretary of State before the commencement date in exercise of the Secretary of State’s functions as competent authority of destination and dispatch under the Transfrontier Shipment of Waste Regulations 2007 is—

- (a) so far as it relates to the English area and is required for continuing its effect on and after that date, to have effect as if done by or in relation to the Environment Agency;
- (b) so far as it relates to the Welsh area and is required for continuing its effect on and after that date, to have effect as if done by or in relation to the Natural Resources Body for Wales;
- (c) so far as it relates to the Scottish area and is required for continuing its effect on and after that date, to have effect as if done by or in relation to the Scottish Environment Protection Agency;
- (d) so far as it relates to the Northern Irish area and is required for continuing its effect on and after that date, to have effect as if done by or in relation to the Department of the Environment in Northern Ireland.

(5) Any reference to the Environment Agency in any document relating to anything to which paragraph (1) or (3) applies is, so far as is required for giving effect to either of those paragraphs, to be treated as a reference to the Natural Resources Body for Wales.

(a) 1995 c. 25. Subsection (1)(d) of section 41 was inserted by S.I. 2007/1711. Subsections (1) and (6) are amended, and subsection (9)(a) was inserted, by S.I. 2013/755 (W.90). There are other amendments but none is relevant.

(6) Any reference to the Secretary of State in any document relating to anything to which paragraph (2) or (4) applies is—

- (a) so far as is required for giving effect to paragraph (2)(a) or (4)(a), to be treated as a reference to the Environment Agency;
- (b) so far as is required for giving effect to paragraph (2)(b) or (4)(b), to be treated as a reference to the Natural Resources Body for Wales.
- (c) so far as is required for giving effect to paragraph (2)(c) or (4)(c), to be treated as a reference to the Scottish Environment Protection Agency.
- (d) so far as is required for giving effect to paragraph (2)(d) or (4)(d), to be treated as a reference to the Department of the Environment in Northern Ireland.

(7) A direction given to the Environment Agency before the commencement date under section 40 of the Environment Act 1995(a) is, to the extent that it applies to the exercise of functions under the Transfrontier Shipment of Waste Regulations 2007 in relation to Wales or the Welsh area, to be treated on and after that date as a direction given to the Natural Resources Body for Wales under article 11(1) of the Natural Resources Body for Wales (Establishment) Order 2012(b).

(8) In this regulation—

“the commencement date” means 1st May 2014;

“the English area”, “the Northern Irish area”, “the Scottish area” and the “Welsh area” have the meanings given in regulation 4(1) of the Transfrontier Shipment of Waste Regulations 2007(c).

26th March 2014

Dan Rogerson
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULE

Regulation 16

Schedule A1 to the Transfrontier Shipment of Waste Regulations 2007

“SCHEDULE A1

Regulation 4A

The Northern Irish border, the Scottish border and the Welsh border

PART 1

The Northern Irish border

Points	Latitude		Longitude
1	55° 26' 40" N	:	6° 34' 37" W
2	55° 23' 36" N	:	6° 04' 16" W
3	55° 20' 00" N	:	6° 00' 00" W
4	55° 10' 00" N	:	5° 48' 00" W

(a) Subsections (2)(a) and (4)(a) of section 40 are amended by S.I. 2011/1043 and subsections (9) to (11) were inserted by SI 2013/755 (W.90).

(b) S.I. 2012/1903 (W.230) as amended by S.I. 2013/755 (W 90).

(c) See regulation 4(2) of these Regulations.

5	55° 00' 00" N	:	5° 36' 00" W
6	54° 50' 00" N	:	5° 24' 00" W
7	54° 40' 00" N	:	5° 12' 00" W
8	54° 30' 00" N	:	5° 00' 00" W
9	54° 26' 54" N	:	5° 00' 00" W
10	54° 20' 00" N	:	5° 00' 00" W
11	54° 10' 00" N	:	5° 12' 00" W
12	54° 00' 00" N	:	5° 24' 00" W

PART 2

The Scottish border: the North Sea

Points	Latitude		Longitude
1	55° 48' 45" N	:	2° 01' 54" W
2	55° 49' 50" N	:	1° 59' 58" W
3	55° 50' 43" N	:	1° 58' 09" W
4	55° 50' 47" N	:	1° 57' 55" W
5	55° 53' 20" N	:	1° 48' 28" W
6	55° 53' 29" N	:	1° 47' 54" W
7	55° 55' 04" N	:	1° 43' 32" W

PART 3

The Scottish border: the Irish Sea

TABLE 1

Points	Latitude		Longitude
1	54° 37' 54" N	:	3° 50' 46" W
2	54° 37' 37" N	:	3° 51' 04" W
3	54° 37' 00" N	:	3° 52' 04" W
4	54° 36' 11" N	:	3° 53' 51" W
5	54° 33' 17" N	:	4° 00' 10" W
6	54° 32' 51" N	:	4° 01' 06" W
7	54° 31' 55" N	:	4° 03' 08" W
8	54° 30' 03" N	:	4° 04' 24" W

TABLE 2

Points	Latitude		Longitude
1	54° 30' 22" N	:	4° 04' 50" W
2	54° 30' 00" N	:	4° 05' 29" W
3	54° 30' 00" N	:	5° 00' 00" W

PART 4
The Welsh border

TABLE 1

Points	Latitude		Longitude
1	53° 20' 30" N	:	3° 13' 01" W
2	53° 20' 35" N	:	3° 13' 46" W
3	53° 21' 08" N	:	3° 14' 76" W
4	53° 24' 23" N	:	3° 17' 81" W
5	53° 25' 52" N	:	3° 21' 36" W
6	53° 27' 13" N	:	3° 24' 58" W
7	53° 31' 58" N	:	3° 31' 94" W
8	53° 33' 31" N	:	3° 34' 23" W

TABLE 2

Points	Latitude		Longitude
1	51° 34' 18" N	:	2° 41' 63" W
2	51° 33' 88" N	:	2° 42' 53" W
3	51° 32' 53" N	:	2° 42' 95" W
4	51° 31' 58" N	:	2° 47' 15" W
5	51° 27' 35" N	:	2° 59' 54" W
6	51° 25' 53" N	:	3° 01' 63" W
7	51° 21' 51" N	:	3° 06' 29" W
8	51° 21' 43" N	:	3° 06' 93" W
9	51° 21' 00" N	:	3° 11' 11" W
10	51° 17' 75" N	:	3° 14' 59" W
11	51° 17' 18" N	:	3° 18' 38" W
12	51° 19' 31" N	:	3° 38' 84" W
13	51° 23' 85" N	:	3° 57' 57" W
14	51° 21' 66" N	:	4° 26' 57" W
15	51° 24' 30" N	:	4° 37' 12" W."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Transfrontier Shipment of Waste Regulations 2007 (S.I. 2007/1711) ("the principal Regulations"), which enforce Regulation (EC) No 1013/2006 on shipments of waste (OJ No L 190, 12.7.2006, p.1) ("the EU Regulation"). They extend to the United Kingdom.

Regulations 6 and 7 make changes to the competent authorities designated for the purposes of the EU Regulation. The Environment Agency, the Natural Resources Body for Wales, the Scottish Environment Protection Agency and the Department of the Environment in Northern Ireland are made competent authorities of destination and dispatch for the relevant part of the marine area as well as on land, and the Environment Agency is designated as the competent authority of transit. The division of the marine area is provided for by the insertion of regulation 4A of and Schedule A1 to the principal Regulations (regulation 5 and the Schedule).

Regulation 11 provides for an information gateway between Her Majesty's Revenue and Customs and the competent authorities designated in the principal Regulations, and contains an offence for unlawful disclosure of information.

Regulation 12 makes amendments with regard to enforcing authorities, including provision for the Secretary of State to assist enforcing authorities in relation to offshore installations. Regulation 15 contains a review clause.

Regulation 19 provides for revised fees payable to the Department of the Environment in Northern Ireland in relation to waste shipments. Under the previous fee structure, the fee for each notification of a shipment or shipments of waste to or from Northern Ireland was £450 and there was an additional £25 fee in respect of each shipment to which that notification related. That additional fee is abolished. Higher fees now apply for imports of fewer than 300 and more than 500 shipments and for exports of fewer than 220 shipments. Lower fees now apply for imports of 301 to 500 shipments and for exports of 220 shipments or more. The same fee applies for an import of 300 shipments.

Regulation 21 amends Schedule 5 to the principal Regulations, providing that enforcement powers under the Environment Act 1995 (c.25) and the Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)) extend to the marine area, and conferring powers on persons authorised by the Secretary of State in relation to offshore installations. Schedule 5 is also amended to give additional powers to customs officials to detain waste shipments.

Regulation 22 amends section 41(1)(d) of the Environment Act 1995 to include the Natural Resources Body for Wales as one of the bodies that may require payment to it of charges as a means of recovering its costs in performing functions conferred by the EU Regulation. Regulation 23 makes transitional provisions.

A full impact assessment of the effect that this instrument will have on the costs of business is available at www.gov.uk/defra from the Department for Environment, Food and Rural Affairs, EU and International Waste Unit, Area 2B, Nobel House, 17 Smith Square, London SW1P 3JRL and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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