

## SCHEDULE 10

Regulation 35(1)

### Landfill

#### Application

1. This Schedule applies in relation to every landfill except a landfill which finally ceased to accept waste for disposal before 16th July 2001.

#### Interpretation: general

2.—(1) In this Schedule—

- (a) unless otherwise provided, an expression that is defined in the Landfill Directive has the meaning given in that Directive,
- (b) “the Decision” means Council Decision [2003/33/EC](#)<sup>M1</sup>,
- (c) “the Decision Annex” means the Annex to the Decision, and
- (d) “landfill” has the meaning given in Article 2(g) of the Landfill Directive, but does not include any operation excluded from the scope of that Directive by Article 3(2) [<sup>F1</sup>or (3)].

(2) When interpreting <sup>F2</sup>... the Decision for the purposes of this Schedule—

- (a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part,

<sup>F3</sup>(b) .....

<sup>F3</sup>(c) .....

- (d) “PAHs (polycyclic aromatic hydrocarbons)” means Naphthalene, Acenaphthylene, Acenaphthene, Anthracene, Benzo(a)anthracene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(g,h,i)perylene, Benzo(a)pyrene, Chrysene, Coronene, Dibenzo(a,h)anthracene, Fluorene, Fluoranthene, Indeno(1,2,3-c,d)pyrene, Phenanthrene and Pyrene,
- (e) “permit” means environmental permit,
- (f) “SIC code” means the UK Standard Industrial Classification of Economic Activities 2007 (SIC 2007) published by the Office for National Statistics on 14th December 2007 and implemented on 1st January 2008 <sup>M2</sup>, and
- (g) the competent authority is the regulator.

#### Textual Amendments

- F1** Words in Sch. 10 para. 2(1)(d) inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **21(6)(a)**
- F2** Words in Sch. 10 para. 2(2) omitted (31.12.2020) by virtue of [The Environmental Permitting \(England and Wales\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/39\)](#), regs. 1, **2(14)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Sch. 10 para. 2(2)(b)(c) omitted (31.12.2020) by virtue of [The Environmental Permitting \(England and Wales\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/39\)](#), regs. 1, **2(14)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M1** OJ No L 11, 16.1.2003, p 27.

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**Changes to legislation:** The Environmental Permitting (England and Wales) Regulations 2016, SCHEDULE 10 is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**M2** See <http://www.ons.gov.uk/ons/guide-method/classifications/current-standard-classifications/standard-industrial-classification/index.html>. A copy may be obtained from the Waste Regulation Team, the Department for Environment, Food and Rural Affairs, Area 2B, Nobel House, 17 Smith Square, London SW1P 3JR.

**Applications for the grant of an environmental permit**

3. The regulator must require that every application for the grant of an environmental permit includes the information specified in Article 7 of the Landfill Directive.

**Inspection prior to operation**

4. The regulator must inspect every landfill site so as to comply with the requirements in Article 8(c) of the Landfill Directive.

**Exercise of relevant functions**

5.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of the Landfill Directive—

- (a) Article 4;
- (b) Article 5(3) and (4);
- (c) Article 6;
- (d) Article 8, but not in respect of nuisances and hazards arising from traffic beyond the site of a landfill;
- (e) Article 9;
- (f) Article 10;
- (g) Article 11(1);
- (h) Article 12;
- (i) Article 13;
- (j) Article 14.

(2) The regulator must exercise those relevant functions having regard to Article 1 of the Landfill Directive.

(3) The regulator must exercise those relevant functions so as to ensure compliance with the requirements imposed <sup>F4</sup>... by the following provisions of the Decision—

- (a) Article 2;
- (b) Article 3;
- (c) Article 4.

(4) The regulator may exercise those relevant functions so as to permit the storage of metallic mercury in accordance with [<sup>F5</sup>Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury].

<sup>F6</sup>(5) .....

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#### Textual Amendments

- F4** Words in Sch. 10 para. 5(3) omitted (31.12.2020) by virtue of [The Environmental Permitting \(England and Wales\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/39\)](#), regs. 1, **2(14)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Sch. 10 para. 5(4) substituted (E.) (1.6.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments\) \(England\) Regulations 2018 \(S.I. 2018/575\)](#), art. 1(2), **reg. 12(3)(a)** and words in Sch. 10 para. 5(4) substituted (W.) (17.12.2018) by [The Environment, Planning and Rural Affairs \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/1216\)](#), regs. 1(3), **14(a)**
- F6** Sch. 10 para. 5(5) omitted (E.) (1.6.2018) by virtue of [The Environment, Food and Rural Affairs \(Miscellaneous Amendments\) \(England\) Regulations 2018 \(S.I. 2018/575\)](#), art. 1(2), **reg. 12(3)(b)** and Sch. 10 para. 5(5) omitted (W.) (17.12.2018) by virtue of [The Environment, Planning and Rural Affairs \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/1216\)](#), regs. 1(3), **14(b)**

#### [<sup>F7</sup>Waste separately collected for preparing for re-use and recycling not to be landfilled

**5A.**—(1) Every environmental permit which authorises a landfill is deemed to contain the following condition, unless such a condition to the same effect is included in the permit.

(2) The condition is that the operator must not accept—

- (a) any waste paper, metal, plastic or glass for landfill if that waste has been separately collected for the purpose of preparing for re-use or recycling; or
- (b) any waste for landfill that results from the treatment of waste referred to in paragraph (a), unless—
  - (i) the relevant permit authorises the operator to accept that type of waste for landfill; and
  - (ii) landfill of that waste delivers the best environmental outcome in accordance with regulation 12 of the Waste (England and Wales) Regulations 2011.]

#### Textual Amendments

- F7** Sch. 10 para. 5A inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **21(6)(b)**

#### Interpretation of the Landfill Directive for the exercise of relevant functions

<sup>F8</sup>6. ....

#### Textual Amendments

- F8** Sch. 10 para. 6 omitted (31.12.2020) by virtue of [The Environmental Permitting \(England and Wales\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/39\)](#), regs. 1, **2(14)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Interpretation of the Decision Annex for the exercise of relevant functions: general

7. When interpreting the Decision Annex for the purposes of paragraph 5(3)—

- (a) in points 1.1.1 and 1.2, the periods referred to as to be defined or determined by the [<sup>F9</sup>appropriate authority] are in each case 2 years,

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- (b) point 1.1.2(b) is to be read as requiring the SIC code of the process producing the waste to be part of the information referred to,
- (c) in point 1.1.2(g), ignore the words “in case of mirror entries”,
- (d) ignore the third sentence of section 2,
- (e) in points 2.1.2.1, 2.2.2, 2.3.1 and 2.4.1 the table columns headed “L/S = 10 l/kg” must be used to determine limit values,
- (f) in the table in point 2.1.2.2, the limit value for PAHs (polycyclic aromatic hydrocarbons) is set at 100mg/kg,
- (g) in point 2.2.3, the first reference to “gypsum-based materials” is to be read as “gypsum-based and other high sulphate-bearing materials”,
- (h) in point 2.3.3, the first reference to “suitable asbestos waste” is to be read as “suitable materials”, and
- (i) in the table in point 2.4.1, the limit values are subject to the qualification that the regulator may include conditions in an environmental permit authorising limit values for specific parameters (other than Dissolved Organic Carbon) up to 3 times higher than those listed for specified wastes accepted at a landfill, taking into account the characteristics of the landfill and its surroundings and provided a risk assessment demonstrates that emissions (including leachate) from the landfill will present no additional risk to the environment.

#### Textual Amendments

- F9** Words in [Sch. 10 para. 7\(a\)](#) substituted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/620\)](#), regs. 1(2)(b), **22(2)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### **Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria relating to physical stability and bearing capacity of granular waste**

- 8.** When interpreting the Decision Annex for the purposes of paragraph 5(3)—
- (a) in point 2.3.2, the criteria to ensure that granular waste will have sufficient physical stability and bearing capacity are that it has either—
    - (i) if it is cohesive waste, a mean in situ shear strength of at least 50kPa, or
    - (ii) if it is non-cohesive waste, an in situ bearing ratio of at least 5%;
  - (b) point 2.4.2 is to be read as if, in addition to the criteria listed, it requires the satisfaction of the criteria in paragraph (a)(i) and (a)(ii).

#### **Interpretation of the Decision Annex for the exercise of relevant functions: additional acceptance criteria in relating to monolithic waste**

- 9.** When interpreting the Decision Annex for the purposes of paragraph 5(3)—
- (a) point 2.3.1 is to be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to stable, non-reactive monolithic hazardous waste and non-hazardous waste which is to be landfilled in the same cell with such waste—
    - (i) it meets either—
      - (aa) the limit values for leaching set out in the table in point 2.3.1, or
      - (bb) the limit values for leaching set out in the following table—
    - (ii) it meets the additional criteria set out in the following table—

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<i>Parameter</i>	<i>Value</i>
pH of the eluate from the monolith or crushed monolith	Must be evaluated
Electrical conductivity ( $\mu$ S.cm-1m-2) of the eluate from the monolith or crushed monolith	Must be evaluated
Acid Neutralisation Capacity (ANC) of the crushed monolith	Must be evaluated

(iii) it has a mean unconfined compressive strength of at least 1Mpa after 28 days' curing,

(iv) it has either—

(aa) dimensions of greater than 40cm along each side, or

(bb) a depth and fracture spacing when hardened of greater than 40cm, and

(v) where the waste was subjected to treatment to render it monolithic, prior to such treatment it met the following limit value—

(aa) loss on ignition of 10%, or

(bb) total organic carbon of 6%;

(b) point 2.4.1 in the Decision Annex is to be read as if, in addition to the criteria listed, it requires the satisfaction of the following criteria in relation to monolithic waste to be accepted at a landfill for hazardous waste—

(i) it complies with paragraphs (a)(ii) to (a)(v), and

(ii) it meets either—

(aa) the limit values for leaching set out in the table in point 2.4.1, or

(bb) the limit values for leaching set out in the following table—

### Closure of a landfill

**10.**—(1) The regulator must set out any reasoned decision under Article 13(a)(iii) of the Landfill Directive in a closure notice served on the operator.

(2) A closure notice must, in addition to stating the regulator's reasons for requiring initiation of the closure procedure, specify—

- (a) the steps the operator is required to take to initiate the procedure, and
- (b) the period within which they must be taken.

(3) The regulator may withdraw a closure notice at any time by further notice served on the operator.

(4) Closure of a landfill does not relieve the operator of liability under the conditions of the environmental permit.

### Surrender applications

**11.** When determining an application for the surrender, in whole or in part, of an environmental permit, the regulator must exercise its functions so as to ensure the operator complies with the requirements in Article 13(d) of the Landfill Directive.

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