

---

WELSH STATUTORY INSTRUMENTS

---

**2005 No. 1806**

**The Hazardous Waste (Wales) Regulations 2005**

**PART 2**

**HAZARDOUS AND NON-HAZARDOUS WASTE**

**Hazardous waste**

6. Subject to regulation 9, a waste is a hazardous waste if it is—
- (a) listed as a hazardous waste in the List of Wastes <sup>M1</sup>;
  - (b) listed in regulations made under section [F162A(2)] of the 1990 Act; or
  - (c) a specific batch of waste which is determined pursuant to regulation 8 to be a hazardous waste,

and the term “hazardous” and cognate expressions are to be construed accordingly.

**Textual Amendments**

- F1** Word in reg. 6(b) substituted (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), 3(5)

**Marginal Citations**

- M1** Wastes listed as hazardous in the List of Wastes are considered hazardous pursuant to the first indent of Article 1.4 of the Hazardous Waste Directive.

**Non-hazardous waste**

7. The following are non-hazardous waste—
- (a) a waste which is not a hazardous waste pursuant to regulation 6; or
  - (b) a specific batch of waste which is determined pursuant to regulation 9 to be a non-hazardous waste,

and the expression “non-hazardous” and cognate expressions are to be construed accordingly.

**Specific waste to be treated as hazardous**

8.—(1) The Assembly, having regard to [F2Annex III] and the limit values of concentration in the List of Wastes, may determine, in exceptional cases, that a specific batch of waste in Wales which—

- (a) is not listed in the List of Wastes;
- (b) is not listed in regulations made under section [F362A(2)] of the 1990 Act; or
- (c) though of a type listed as a hazardous waste in the List of Wastes, is treated as non-hazardous pursuant to regulation 9(2),

*Status: Point in time view as at 20/07/2015.*

*Changes to legislation: There are currently no known outstanding effects for the The Hazardous Waste (Wales) Regulations 2005, PART 2 . (See end of Document for details)*

displays one or more of the hazardous properties, and accordingly that it is to be treated for all purposes as hazardous waste.

(2) A specific batch of waste produced in England, Scotland or Northern Ireland and not listed as hazardous in the List of Wastes and which is for the time being determined by the Secretary of State, the Scottish Executive or the Northern Ireland Department of the Environment, as the case may be, to be hazardous pursuant to [<sup>F4</sup>Article 7(2) of the Waste Directive], is to be treated for all purposes as hazardous waste in Wales.

#### Textual Amendments

- F2** Words in reg. 8(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 6**
- F3** Word in reg. 8(1)(b) substituted (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), **3(6)(a)**
- F4** Words in reg. 8(2) substituted (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), **3(6)(b)**

#### Specific waste to be treated as non-hazardous

9.—(1) The Assembly may decide, in exceptional cases, on the basis of documentary evidence provided by the holder, and having regard to [<sup>F5</sup>Annex III] and the limit values of concentration in the List of Wastes, that a specific batch of waste in Wales which—

- (a) is listed as hazardous waste in the List of Wastes;
- (b) is listed in regulations made under section [<sup>F6</sup>62A(2) ] of the 1990 Act; or
- (c) through of a type not listed as a hazardous waste in the List of Wastes, is treated as hazardous pursuant to regulation 8(2),

does not display any of the properties listed in Annex III <sup>F7</sup>...and accordingly that it is to be treated for all purposes as non-hazardous in Wales.

[<sup>F8</sup>1A) The power at paragraph (1) to decide that waste be treated as non-hazardous does not apply to waste which has been diluted or mixed with the aim of lowering the initial concentrations of hazardous substances to a level below the thresholds for defining waste as hazardous.]

(2) A specific batch of waste produced in England, Scotland or Northern Ireland and listed as a hazardous waste in the List of Wastes and which is for the time being determined by the Secretary of State, the Scottish Executive, or the Northern Ireland Department of the Environment, as the case may be, to be non-hazardous pursuant to [<sup>F9</sup>Article 7(3) of the Waste Directive], is, subject to any determination made under regulation 8, to be treated for all purposes as non-hazardous in Wales.

#### Textual Amendments

- F5** Words in reg. 9(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(a)(i)**
- F6** Word in reg. 9(1)(b) substituted (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), **3(7)(a)**
- F7** Words in reg. 9(1) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(a)(ii)**
- F8** Reg. 9(1A) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(b)**

**F9** Words in reg. 9(2) substituted (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), **3(7)(b)**

### Provisions common to regulations 8 and 9

**10.**—(1) The Assembly may revoke a determination made under regulation 8 or 9.

(2) The Assembly must, before making a determination under regulation 8 or 9 or revoking such a determination, except where it considers it inappropriate to do so on account of the nature of any emergency or grave danger, consult—

- (a) the requisite bodies;
- (b) the holder of the specific batch of waste; and
- (c) any other person appearing to it—
  - (i) to have an interest in the specific waste; or
  - (ii) to be otherwise directly affected by the determination.

(3) The Assembly must give notice of any determination made under regulation 8 or 9 or revocation made under regulation 8 or 9 to—

- (a) the requisite bodies;
- (b) the holder of the batch of waste concerned; and
- (c) any person it has consulted pursuant to paragraph (2)(c).

(4) The notice must give reasons for the determination or revocation, as the case may be.

### Requisite bodies

**11.** For the purposes of this Part, the “requisite bodies” are—

- (a) the Agency;
- [<sup>F10</sup>(aa) the NRBW;]
- (b) SEPA;
- (c) The Secretary of State;
- (d) the Scottish Executive;
- (e) the Northern Ireland Department of the Environment <sup>M2</sup>;
- (f) the Health and Safety Executive; and
- (g) any organisation appearing to the Assembly to be representative of persons likely to be affected by the relevant determination, or revocation of a determination, as the case may be.

#### Textual Amendments

**F10** [Reg. 11\(aa\)](#) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 29** (with Sch. 7)

#### Marginal Citations

**M2** The Northern Ireland Department of the Environment includes its executive agency the Environmental Heritage Service.

**Status:**

Point in time view as at 20/07/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the The Hazardous Waste (Wales) Regulations 2005, PART 2 .