STATUTORY INSTRUMENTS

# 2005 No. 894

# ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

## The Hazardous Waste (England and Wales) Regulations 2005

*Made - - - -* *23rd March 2005*

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*Coming into force in accordance with regulation 1(1)*

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The Secretary of State, being a Minister designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste, in exercise of the powers conferred on her by section 2(2) of that Act and section 156 of the Environmental Protection Act 1990(**c**), makes the following Regulations:

# PART 1

## GENERAL

**Citation, commencement, extent and territorial application**

**1.—**(1) These Regulations may be cited as the Hazardous Waste (England and Wales) Regulations 2005 and come into force as follows—

(a) Parts 1, 2, paragraph 1 of Part 1 of Schedule 12 and, for the purposes of that paragraph only, Part 5, regulation 59(3) and Schedule 9 and regulation 78 on 16th April 2005; and

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(**a**) S.I. 1992/2870. The National Assembly for Wales is designated in relation to the controlled management of hazardous waste in Wales (see S.I. 2001/3495). The designations in relation to waste for National Assembly for Wales are shortly to be brought into line with those of the Secretary of State.

(**b**) 1972 c.68.

(**c**) 1990 c. 43. The relevant functions of the Secretary of State in so far as they relate to Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(b) the remainder, on 16th July 2005.

(2) These Regulations extend to England and Wales only.

(3) Nothing in these Regulations applies to Wales except this regulation, Part 11, and regulation 5 so far as relating to that Part.

**The Waste Directive and the meaning of waste**

**2.**—(1) For the purposes of these Regulations—

(a) "the Waste Directive" means Council Directive 75/442/EEC(**a**) on waste as amended by—

(i) Council Directives 91/156/EEC**(b)** and 91/692/EEC**(c)**;

(ii) Commission Decision 96/350/EC**(d)**; and

(iii) Regulation (EC) No 1882/2003(**e**); and

(b) "waste" means anything that—

(i) is waste(**f**) for the purposes of the Waste Directive; and

(ii) subject to regulation 15, is not excluded from the scope of that Directive by Article 2 of that Directive.

(2) In these Regulations, a reference to the Waste Directive conditions is a reference to the conditions laid down in Article 4 of that Directive, that is to say, to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular—

(a) without risk to water, air, soil and plants and animals;

(b) without causing a nuisance through noise or odours; and

(c) without adversely affecting the countryside or places of special interest.

**The Hazardous Waste Directive**

**3.**—(1) In these Regulations, "the Hazardous Waste Directive" means Council Directive 91/689/EEC**(g)** on hazardous waste, as amended by Council Directive 94/31/EC**(h)**

(2) A reference in these Regulations to—

(a) Annex I, Annex II or Annex III is a reference to the annex to the Hazardous Waste Directive so numbered, as that annex is set out in these Regulations as follows—

(i) Schedule 1, which sets out Annex I (Categories or generic types of hazardous waste listed according to their nature or the activity which generated them);

(ii) Schedule 2, which sets out Annex II (Constituents of the wastes in Annex I.B which render them hazardous when they have the properties described in Annex III); and

(iii) Schedule 3, which sets out Annex III (Properties of wastes which render them hazardous);

(b) hazardous properties is a reference to the properties in Annex III as so set out.

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(**a**) OJ No. L 194, 25.7.1975, p. 39.
**(b)** OJ No. L 78, 26.3.1991, p.32.
**(c)** OJ No. L 377, 31.12.1991, p.48 (as corrected by Corrigendum, OJ No. L 146, 13.6.2003, p. 52).
**(d)** OJ No. L 135, 6.6.1996, p.32.
(**e**) OJ No. L 284, 31.10.2003 p.1.
(**f**) Article 1(a) of the Waste Directive defines waste as any substance or object in the categories set out in Annex I (Categories of Waste) to that Directive which the holder discards or intends or is required to discard.
**(g)** OJ No. L 377, 31.12.1991, p.20 (as corrected by Corrigendum to Directive 91/689/EC (OJ No. L23 30.1.1998 p.39).
(**h**) OJ No. L 168, 2.7.1994, p.28.

**The List of Wastes**

**4.**—(1) In these Regulations—

"the List of Wastes Decision" means Commission Decision 2000/532/EC(**a**)of 3rd May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste, as amended by amendments thereto which have effect from time to time in relation to England pursuant to the List of Wastes Regulations;

"the List of Wastes Regulations" means the List of Wastes (England) Regulations 2005(**b**); and

"the List of Wastes" means the list of wastes set out in the List of Wastes Decision as it is from time to time set out in the List of Wastes Regulations, being the list referred to in the first indent of Article 1(4) of the Hazardous Waste Directive drawn up on the basis of Annexes I and II, having one or more of the properties listed in Annex III, taking account of the origin and composition of the waste and, where necessary, limit values of concentration.

(2) A reference in these Regulations in relation to any waste to—

(a) being "listed as a waste" and "listed as a hazardous waste" refers to that waste being listed as a waste, or as a hazardous waste, as the case may be, in the List of Wastes, provided, in the case of a waste to which a limit value of concentration applies, it shall only be considered to be listed as a hazardous waste where the relevant limit value of concentration is satisfied;

(b) being "not listed as hazardous" refers to that waste being not listed as a hazardous waste in the List of Wastes, whether or not it is listed as a waste, and whether or not it is otherwise a hazardous waste pursuant to these Regulations;

and cognate expressions shall be construed accordingly.

**General Interpretation**

**5.**—(1) In these Regulations—

"the 1990 Act" means the Environmental Protection Act 1990(**c**);

"the 1995 Act" means the Environment Act 1995(**d**);

"the 1994 Regulations" means the Waste Management Licensing Regulations 1994**(e)**;

"the 1996 Regulations" means the Special Waste Regulations 1996**(f)**;

"the Agency" means the Environment Agency;

"asbestos waste" means waste which contains or is contaminated by asbestos;

"authorised person" has the meaning given by section 108(15) of the 1995 Act;

"business day" means any day other than any—

(a) Saturday or Sunday;

(b) Good Friday or Christmas Day;

(c) day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(**g**); or

(d) other public holiday;

"carrier", in relation to a consignment of hazardous waste, means a person who takes one or more of the following actions, that is to say, collects the consignment from the premises at

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(**a**) OJ No. L 226, 6.9.2000, p. 3.
(**b**) S.I. 2005/895.
(**c**) 1990 c.43.
(**d**) 1995 c. 25.
**(e)** S.I. 1994/1056; relevant amending instruments are S.I. 1995/288, 1996/672, 2000/1973 and 2003/2635.
(**f**) S.I. 1996/972 as amended by S.I. 1996/2019, 1997/251, 2001/3148.
(**g**) 1971 c. 80.

which it was produced or premises at which it is being held, delivers it to the consignee, or transports it in the course of its transfer from those premises to the consignee;

"consignee", in relation to a consignment of hazardous waste, means the person to whom the waste is or is to be transferred for recovery or disposal;

"consignment code" shall be construed in accordance with regulation 34(1);

"consignment note", in relation to a consignment of hazardous waste, means the identification form which is required to accompany the hazardous waste when it is transferred pursuant to Article 5(3)(**a**) of the Hazardous Waste Directive;

"consignor", in relation to a consignment of hazardous waste, means the person who causes that waste to be removed from the premises at which it was produced or is being held;

"emergency or grave danger" has the meaning given by regulation 61;

"emergency services" means those police, fire and ambulance services who are liable to be required to respond to an emergency;

"harbour area" has the same meaning as in the Dangerous Substances in Harbour Areas Regulations 1987**(b)**;

"hazardous waste" has the meaning given by regulation 6;

"mixing" shall be construed in accordance with regulation 18;

"mobile service" means a service operated from premises which consists of any one or more of the following activities, that is to say, the construction, maintenance or repair of any other premises, or of any fixtures, fittings or equipment located on those other premises, being a service in the course of which the operator of the service produces hazardous waste at those other premises;

"multiple collection" has the meaning given by regulation 38;

"multiple collection consignment note" means the form of consignment note set out in Schedule 6 and required to be used in relation to multiple collections;

"non-hazardous waste" has the meaning given by regulation 7;

"premises" includes any ship and any other means of transport from which a mobile service is operated;

"quarter" means any period of three months ending on 31st March, 30th June, 30th September or 31st December;

"registered exemption" means an activity set out in Schedule 3 to the 1994 Regulations which is registered with the appropriate registration authority in accordance with those Regulations;

"schedule of carriers" means the form of schedule set out in Schedule 5 and required to be completed where more than one carrier transports, or is to transport, the consignment;

"SEPA" means the Scottish Environment Protection Agency;

"ship" means a vessel of any type whatsoever including submersible craft, floating craft and any structure which is a fixed or floating platform;

"six digit code" means the six digit code referable to a type of waste in accordance with the List of Wastes, and in relation to hazardous waste, includes the asterisk;

"SIC" means the publication entitled "the UK Standard Industrial Classification of Economic Activities 2003" prepared by the Office of National Statistics and published by Her Majesty's Stationery Office on 31st December 2002 and implemented on 1st January 2003(**c**);

"United Kingdom ship" has the meaning given by section 1 of the Merchant Shipping Act 1995(**d**);

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(**a**) The consignment note is required by Article 5(3) to contain the details specified in Commission Decision 94/774/EC (OJ No. L 310 , 3/12/1994 p. 7; this decision is expected to be replaced in June 2005). The relevant requirements are contained in Schedule 4 to these Regulations.

(**b**) S.I. 1987/37, to which there are amendments not relevant to these Regulations.

(**c**) ISBN 0-11-62-11-16417.

(**d**) 1995 c. 21.

"waste management licence" has the meaning given by section 35(1) of the 1990 Act; and

"waste permit" has the same meaning as in Schedule 4 to the 1994 Regulations.

(2) In these Regulations, the following expressions (being the expressions defined in Article 1(b) to (g) of the Waste Directive) have the same meaning as they have in that directive, that is to say—

"producer" means anyone whose activities produce waste ("original producer") or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

"holder" means the producer of the waste or the person who is in possession of it;

"management" means the collection, transport, recovery and disposal of waste, including the supervision of such operations and after-care of disposal sites;

"disposal" means any of the operations provided for in Annex IIA of the Waste Directive;

"recovery" means any of the operations provided for in Annex IIB of the Waste Directive (**a**);

"collection" means the gathering, sorting or mixing of waste or any one or more of those operations, for the purpose of transport,

and expressions cognate to these expressions shall be construed accordingly.

(3) In these Regulations—

(a) any document which is to be provided or given to any person (other than a fixed penalty notice under Part 10) may be provided or given to that person in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;

(b) any requirement to make, keep or retain a record or to maintain a register may be satisfied in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;

(c) any requirement for a signature on a notification, consignment note, schedule of carriers or multiple collection consignment note, may be satisfied by an electronic signature incorporated into the document; and

(d) "electronic signature" means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

# 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(**b**);

(b) listed in regulations made under section 62A(1) 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 shall be construed accordingly.

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(**a**) The meaning of "disposal" and "recovery" has been interpreted by the European Court of Justice in C-6/00. The Court held (at paragraph 60 of the judgment) "…the intention of Annexes II A and II B to the Directive is to list the most common disposal and recovery operations and not precisely and exhaustively to specify all the disposal and recovery operations covered by the Directive.".

(**b**) 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 shall be construed accordingly.

**Specific waste to be treated as hazardous**

**8.**—(1) The Secretary of State, having regard to Annexes I, II and III and the limit values of concentration in the List of Wastes, may determine, in exceptional cases, that a specific batch of waste in England which—

(a) is not listed as a hazardous waste in the List of Wastes;

(b) is not listed in regulations made under section 62A(1) 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),

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

(2) A specific batch of waste produced in Wales, Scotland or Northern Ireland and not listed as hazardous in the List of Wastes and which is for the time being determined by the Welsh Assembly Government, the Scottish Executive or the Northern Ireland Department of the Environment, as the case may be, to be hazardous pursuant to Article 3 of the List of Wastes Decision, shall, subject to any determination made under regulation 9, be treated for all purposes as hazardous waste in England.

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

**9.**—(1) The Secretary of State may decide, in exceptional cases, on the basis of documentary evidence provided by the holder, and having regard to Annexes I, II and III and the limit values of concentration in the List of Wastes, that a specific batch of waste in England which—

(a) is listed as hazardous waste in the List of Wastes;

(b) is listed in regulations made under section 62A(1) of the 1990 Act; or

(c) though 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 to the Hazardous Waste Directive and accordingly that it shall be treated for all purposes as non-hazardous in England.

(2) A specific batch of waste produced in Wales, 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 Welsh Assembly Government, the Scottish Executive or the Northern Ireland Department of the Environment, as the case may be, to be non-hazardous pursuant to Article 3 of the List of Wastes Decision, shall, subject to any determination made under regulation 8, be treated for all purposes as non-hazardous in England.

**Provisions common to regulations 8 and 9**

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

(2) The Secretary of State shall, before making a determination under regulation 8 or 9 or revoking such a determination, except where she 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 her—

(i) to have an interest in the specific waste; or

(ii) to be otherwise directly affected by the determination.

(3) The Secretary of State shall give notice of any determination made under regulation 8 or 9 or revocation of such a determination to—

(a) the requisite bodies;

(b) the holder of the specific batch of waste concerned; and

(c) any person she has consulted pursuant to paragraph (2)(c).

(4) The notice shall 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;

(b) SEPA;

(c) the National Assembly for Wales;

(d) the Scottish Executive;

(e) the Northern Ireland Department of the Environment(**a**);

(f) the Health and Safety Executive; and

(g) any organisation appearing to the Secretary of State to be representative of persons likely to be affected by the relevant determination or revocation of a determination, as the case may be.

# PART 3

## APPLICATION OF PARTS 4 TO 11

**General application of Parts 4 to 11**

**12.**—(1) Subject to paragraphs (2) to (4), these Regulations apply to hazardous waste.

(2) Except as provided in regulations 13 (application to asbestos waste) and 14 (application to separately collected fractions), these Regulations do not apply to domestic waste(**b**).

(3) Nothing in Part 6 of these Regulations (movement of hazardous waste) shall apply in relation to shipments of waste to which the provisions of Council Regulation 259/93/EEC**(c)**, other than Title III of that Regulation, apply.

(4) These Regulations apply to hazardous waste in England notwithstanding that the waste—

(a) was produced on or removed from premises in Scotland, Wales, Northern Ireland or Gibraltar; or

(b) is, or is to be, transported from premises in England to premises located in one of those places.

(5) For the avoidance of doubt, in their application to—

(a) ships' waste, these Regulations apply to any ship;

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

(**b**) Article 1(5) of the Hazardous Waste Directive made provision for specific rules to be made by the European Community taking into consideration the particular nature of domestic waste; no such rules have, at the date of making these Regulations, been adopted.

(**c**) OJ No. L 30, 6.2.1993, p.1.

(b) the internal waters and the territorial sea of the United Kingdom adjacent to England, these Regulations apply, without prejudice to paragraph (3), to a consignment of waste transported in any ship,

in each case (whether the ship is a United Kingdom ship or otherwise and, if a United Kingdom ship, whether registered in England or otherwise).

**Asbestos waste**

**13.**—(1) These Regulations apply to asbestos waste which is domestic waste except in so far as they would, apart from this paragraph, impose obligations on a person to whom paragraph (2) applies.

(2) This paragraph applies to a person who is both the original producer of the domestic waste and either—

(a) a person who resides at the domestic premises at which the asbestos waste arises; or

(b) a person who is acting on behalf of such a person without reward.

(3) These Regulations operate in relation to asbestos waste not being domestic waste which is produced in the course of any of the activities of construction, modification, repair and maintenance (including structural works) or demolition of domestic premises or any part thereof, so as to treat any contractor engaged by a domestic occupier—

(a) as the producer; and

(b) where the contractor does not engage another person as consignor, as the consignor,

of the asbestos waste to the exclusion of the occupier.

**Separately collected domestic fractions**

**14.**—(1) This regulation applies to separately collected domestic fractions, that is to say, hazardous waste which is—

(a) domestic waste; and

(b) collected from the premises on which it is produced separately from the collection of other waste from those premises.

(2) For the purposes of paragraph (1), hazardous waste may be considered to be collected separately from the collection of other waste notwithstanding that it is collected at the same time or on the same vehicle or both, provided that the hazardous waste is not mixed with the other waste.

(3) Subject to paragraph (4), these Regulations apply to separately collected fractions.

(4) Nothing in these Regulations shall apply to separately collected fractions until such waste has been removed from the premises at which it was produced and taken to premises for collection, disposal or recovery.

(5) The establishment or undertaking which accepts such waste at those premises shall be treated as producer of the waste for the purposes of these Regulations.

**Radioactive waste**

**15.**—(1) This regulation applies where radioactive waste within the meaning of section 2 of the Radioactive Substances Act 1993(**a**)—

(a) is exempt for the time being from the requirements of—

(i) section 13 (disposal of radioactive waste); or

(ii) section 14 (accumulation of radioactive waste),

of that Act by or pursuant to section 15 of that Act; and

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(**a**) 1993. c 12.

(b) has one or more hazardous properties arising other than from its radioactive nature.

(2) Notwithstanding regulation 2(1)(b)(ii), radioactive waste to which this regulation applies is treated as waste for the purposes of these Regulations, and accordingly it is treated as hazardous waste and these Regulations apply to that waste.

**Agricultural waste**

**16.**—(1) These Regulations do not apply to agricultural waste before 1st September 2006, but apply on and after that date to agricultural waste whenever it became waste.

(2) For the purpose of this regulation, "agricultural waste" means waste from premises used for agriculture within the meaning of the Agriculture Act 1947(**a**).

**Mines and quarries waste**

**17.** These Regulations do not apply to waste from a mine or quarry before 1st September 2006, but apply on and after that date to such waste whenever it became waste.

# PART 4

## MIXING HAZARDOUS WASTE

**Meaning of mixing hazardous waste**

**18.** For the purposes of these Regulations, hazardous waste of any description shall be considered to have been mixed if it has been mixed with—

(a) a different category of hazardous waste;

(b) a non-hazardous waste; or

(c) any other substance or material.

**Prohibition on mixing hazardous waste without a permit**

**19.**—(1) Subject to paragraphs (2) and (3), no establishment or undertaking which carries out the disposal or recovery of hazardous waste, or which produces, collects or transports hazardous waste, shall mix any hazardous waste.

(2) Paragraph (1) does not apply so as to prohibit a process by which waste is produced and which results in the production of mixed wastes, being a process other than one which mixes a waste with any other waste, substance or material, resulting in—

(a) a change in the nature or composition of that waste;

(b) or the production of another waste.

(3) Paragraph (1) does not apply to the extent that the mixing is part of a disposal or recovery operation and is authorised by, and is conducted in accordance with, the requirements (howsoever expressed) of a waste permit or a registered exemption.

**Duty to separate mixed wastes**

**20.**—(1) This regulation applies to the holder where—

(a) the hazardous waste has been mixed other than under and in accordance with a waste permit or a registered exemption, whether by the holder or a previous holder; and

(b) separation is both—

(i) technically and economically feasible; and

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(**a**) 1947 c.48 (see section 109(3)).

(ii) necessary in order to comply with the Waste Directive conditions.

(2) The holder must make arrangements for separation of the waste to be carried out in accordance with a waste permit or registered exemption as soon as reasonably practicable.

(3) In this Regulation "separation" means separation of a waste from any other waste, substance or material with which it has been mixed.

# PART 5

## NOTIFICATION OF PREMISES

### Requirement to notify premises

**21.**—(1) Where hazardous waste is produced at, or removed from, any premises other than exempt premises, the premises must be notified to the Agency in accordance with the requirements of this Part.

(2) Premises duly notified to the Agency in accordance with this Part are notified premises for the purposes of these Regulations for the period of twelve months ("the period of notification") commencing at the effective time and ending at the end of the last day of that twelve month period.

(3) It is the duty of a hazardous waste producer to notify the relevant premises in accordance with regulations 24 and 26 if they have not otherwise already been notified.

(4) Without prejudice to paragraph (3), a consignor may, in the circumstances described in regulation 25, notify the site premises in accordance with that regulation and regulation 26.

### Prohibition on removal of hazardous waste from premises unless notified or exempt

**22.**—(1) Subject to paragraph (2), no person shall remove, or cause to be removed, or transport, hazardous waste from any premises unless those premises are, at the time of removal of the waste, notified premises or exempt premises.

(2) Paragraph (1) does not apply to the removal or transport of hazardous waste from any premises if the waste was deposited at those premises in contravention of section 33 of the 1990 Act other than in purported compliance with a waste management licence or registered exemption.

### Exemption from the requirement to notify

**23.**—(1) Exempt premises need not be notified to the Agency pursuant to this Part.

(2) Premises of a description referred to in paragraph (3) are, to the extent specified in that paragraph, exempt premises for the time being if—

(a) (other than in relation to a ship), the qualifying limitation is observed; and

(b) no hazardous waste is removed from the premises by any person other than—

(i) a registered carrier; or

(ii) a carrier exempt from the requirement to register as a registered carrier pursuant to the Control of Pollution (Amendment) Act 1989(**a**).

(3) The descriptions of premises are—

(a) office premises, to the extent that the hazardous waste arises from the use of the premises as an office;

(b) shop premises, to the extent that the hazardous waste arises from the use of the premises as a shop;

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(**a**) 1989 c. 14.

(c) premises used for agriculture within the meaning of the Agriculture Act 1947(**a**), to the extent that the hazardous waste arises from the use of the premises for agriculture;

(d) premises of a description listed in—

(i) paragraphs (a) to (e) of section 75(5) of the 1990 Act; or

(ii) Schedule 1 to the Controlled Waste Regulations 1992(**b**);

(e) premises at which waste electrical and electronic equipment is collected, to the extent that the premises are used for that purpose;

(f) premises used by a dental, veterinary or medical practice, to the extent that the premises are used for that purpose; and

(g) any ship.

**Notification by producer**

**24.**—(1) Subject to paragraph (2), a hazardous waste producer shall notify to the Agency the site premises or, where he operates a mobile service and elects to treat service premises as the relevant premises in relation to any related premises, the service premises—

(a) before the first occasion on which he produces hazardous waste on the site premises, or, in the case of notification of service premises, on any of the related premises, as the case may require;

(b) where the relevant premises have previously been notified premises, but the period of notification has expired, before the next occasion on which he produces hazardous waste on the site premises or any of the related premises, as the case may require;

(c) where the premises cease to be exempt premises, before the next occasion on which he produces hazardous waste on those premises; or

(d) where the notified premises cease to be service premises in relation to any related premises on account of the qualifying limitation provided for in regulation 30 being exceeded in relation to those related premises, before those limitations are exceeded.

(2) Where it is not reasonably foreseeable that the producer's activities will produce hazardous waste, paragraph (1) applies as if for "before" on each occasion that it occurs, there were substituted "as soon as reasonably practicable after".

**Notification by consignor**

**25.**—(1) A consignor who proposes to remove, or cause to be removed, any hazardous waste from any premises may notify those premises to the Agency if—

(a) they are the site premises and the producer is not known or cannot be located without unreasonable inconvenience or expense; or

(b) the waste was not produced at those premises.

**Common provisions on notifications**

**26.**—(1) This regulation applies whether notification is given by or on behalf of the producer or consignor.

(2) Notification of the relevant premises may be given in writing or by telephone.

(3) Notification may not without the consent of the Agency be given more than one month in advance of the effective time.

(4) The person giving notification shall provide to the Agency the following information—

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(**a**) 1947 c. 48.
(**b**) S.I. 1992/588; amended by S.I. 1994/1056.; there are other amending instruments but none are relevant.

(a) his name and address and details of how he can be contacted, and where he is giving notification on behalf of another person, the name and address of that person and details of how that person can be contacted;

(b) the address of the premises being notified;

(c) the classification of the premises in accordance with the SIC; and

(d) such other information as the Agency may reasonably require in connection with its functions of monitoring the movement of hazardous waste, or carrying out inspections pursuant to regulation 56 of these Regulations or paragraph 13 of Schedule 4 to the 1994 Regulations.

(5) If there are any changes in the information provided pursuant to paragraph (4) during the period of notification, the premises shall not be treated as notified until the Agency have received the updated information such that the requirements of paragraph (4) are met.

(6) The Agency may prescribe a model format for notifications of premises in writing and, where for the time being a format is prescribed pursuant to this paragraph—

(a) the Agency shall publish the model format on its website and in such other manner as it may consider appropriate for informing persons required to notify premises of its content; and

(b) the Agency shall not be obliged to consider any notification unless it is made in that model format, or in a format substantially to like effect.

(7) The person giving notification shall pay to the Agency the relevant fee payable in respect of the notification of premises at the same time as giving notification (but no fees are payable in relation to information provided pursuant to paragraph (5)).

(8) The Agency shall inform on request a person who is the holder of hazardous waste or who carries on the business of consigning or collecting hazardous waste whether any premises from which that person proposes to remove, cause to be removed or transport any hazardous waste are notified premises, and if so, the particulars held by the Agency concerning the person who notified the premises and the effective time of notification.

**Premises Code**

**27.**—(1) When notification of relevant premises is duly made to and the relevant fee received by the Agency, it shall on receipt thereof issue to the person making the notification a registration code, being a code unique to those premises (a "premises code").

(2) The premises code may consist of letters, numbers or symbols, or any combination of letters, numbers and symbols.

**Effective time**

**28.**—(1) Subject to paragraph (2) of this regulation and without prejudice to regulation 26(3), the time at which notification takes effect ("the effective time") is—

(a) where a previous period of notification remains in force, on the expiration of that period;

(b) where the person giving notification requests a date for commencement, at the beginning of the date so requested;

(c) in any other case, at the beginning of the fourth business day following the day on which notification is given.

(2) A notification cannot take effect before the time at which the Agency issues the premises code for the period covered by the notification.

**Mobile Services**

**29.**—(1) Where the producer of the hazardous waste operates a mobile service, premises to which paragraph (2) applies ("service premises") are the relevant premises in relation to any

related premises whilst that mobile service is operated within the qualifying limitation and the tenure restriction is observed in relation to each related premises.

(2) The premises to which this paragraph applies are—

(a) the premises from which the mobile service is operated; or

(b) where the mobile service is operated from more than one set of premises, the producer's principal place of business.

(3) Where any premises are both—

(a) site premises apart from the mobile service; and

(b) service premises in relation to the mobile service,

a single notification may be made.

**The qualifying limitation**

**30.**—(1) The qualifying limitation for—

(a) a mobile service is that the total quantity of hazardous waste produced in the course of that service at any one set of related premises is less than 200kg in any period of twelve months; and

(b) any exempt premises is that the total quantity of hazardous waste produced at the premises is less than 200kg in any period of twelve months.

(2) Hazardous waste produced at shop premises by customers of the occupier shall be treated as being produced by the occupier for the purposes of this regulation.

**The tenure restriction**

**31.** The tenure restriction is that the operator of the mobile service neither owns nor occupies those related premises.

**General interpretation of Part 5**

**32.** In this Part—

"the 1963 Act" means the Offices, Shops and Railway Premises Act 1963(**a**);

"effective time" has the meaning given by regulation 28;

"exempt premises" has the meaning given by regulation 23;

"notified premises" has the meaning given by regulation 21(2)

"office premises" has the meaning given by section 1(2)(a) of the 1963 Act;

"period of notification" has the meaning given by regulation 21(2);

"registered carrier" means a carrier registered pursuant to the Control of Pollution (Amendment) Act 1989(**b**);

"related premises" means the site premises at which a mobile service produces waste for which the relevant premises are service premises in accordance with regulation 29;

"relevant premises" means the premises which the producer or consignor is required to notify;

"relevant fee" means the fee payable in accordance with a scheme made pursuant to section 41 of the 1995 Act;

"service premises" has the meaning given by regulation 29(1);

"shop premises" has the meaning given by section 1(3) of the 1963 Act;

"site premises" means the premises at which hazardous waste is produced;

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(**a**) 1963 c. 41.
(**b**) 1989 c. 14.

"waste electrical and electronic equipment" has the same meaning as in Directive 2002/96/EC(**a**).

# PART 6

## MOVEMENT OF HAZARDOUS WASTE

*Consignment codes*

### Coding standard

**33.**—(1) It is the duty of the Agency from time to time to designate, and at all times to maintain in force a designation of a standard (in these Regulations referred to as a "coding standard"), making provision for the composition of consignment codes for the purposes of this Part.

(2) The coding standard must enable each consignment of hazardous waste to be given a unique consignment code.

(3) The standard shall make provision for different codes for consignment notes completed in relation to hazardous waste removed by pipeline pursuant to regulation 41, where piping is continuous for more than one quarter.

(4) The standard shall make provision for consignment codes to consist of letters, numbers or symbols, or any combination of letters, numbers and symbols.

### Consignment codes

**34.**—(1) It is the duty of—

(a) the producer, in relation to—

(i) a consignment of hazardous waste to be removed from premises at which the waste is produced (other than a ship);

(ii) hazardous waste to be removed by pipeline from premises (other than a ship) situated in a case to which regulation 41 applies; or

(iii) hazardous waste to be deposited within the curtilage of premises at which it was produced;

(b) the master of the ship, in relation to any hazardous waste removed from a ship in a harbour area (including waste accidentally spilled on land adjacent to the ship); and

(c) the consignor, in relation to any other consignment of hazardous waste,

to assign to the hazardous waste a unique code in accordance with the coding standard for the time being in force.

(2) The code assigned pursuant to paragraph (1) shall be the consignment code of the hazardous waste concerned for the purposes of these Regulations.

*Documents to be completed for consignments*

### Completion of consignment notes

**35.**—(1) Where hazardous waste is removed from any premises—

(a) a consignment note shall be completed in accordance with paragraph (2) of this regulation and the requirements of the relevant regulation if one of the following regulations applies—

(i) regulation 36 (standard procedure);

(ii) regulation 39 (removal of ship's waste to reception facilities);

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(**a**) OJ No. L345, 31.12.2003, p106.

(iii) regulation 40 (removal of ship's waste other than to reception facilities);

(iv) regulation 41 (removal of waste by pipeline); or

(v) where the consignment or any part thereof is rejected by the consignee, in accordance in each case with regulation 42 and 43;

(b) if regulation 37 (Schedule of carriers) applies, a schedule of carriers shall be completed in accordance with that regulation and paragraph (3) of this regulation; or

(c) if regulation 38 (multiple collection) or regulation 44 (multiple collection procedure for rejected consignments) applies, a multiple collection consignment note shall be completed in accordance with the applicable regulation and paragraph (4) of this regulation.

(2) The form of consignment note set out in Schedule 4, or a form requiring the same information in substantially the same format, shall be used and shall be completed so as to contain (in the place indicated in the form) all the information provided for in that Schedule which is applicable to the case.

(3) The form of the schedule of carriers set out in Schedule 5, or a form requiring the same information in substantially the same format, shall be used and shall be completed so as to contain (in the place indicated in the form) all the information provided for in that Schedule which is applicable to the case.

(4) The form of multiple collection consignment note set out in Schedule 6, or a form requiring the same information in substantially the same format, shall be used and shall be completed so as to contain (in the place indicated in the form) all the information provided for in that Schedule which is applicable to the case.

(5) In this Part, a reference to a part of a consignment note, schedule of carriers or multiple collection consignment note by its number or description is a reference to that part as it is required to be so numbered or described as the case may be in the form in Schedule 4, 5 or 6 as the case may require.

**Standard procedure**

**36.**—(1) This regulation applies in all cases where a consignment of hazardous waste is to be removed from premises except in cases to which any of regulations 38 to 41 apply.

(2) Before the consignment is removed—

(a) the hazardous waste producer, or holder, as the case may be, shall—

(i) prepare a copy of the consignment note for each of the following: the hazardous waste producer or holder, where different from the consignor; the consignor; the carrier; and the consignee;

(ii) complete Parts A and B on each copy; and

(iii) give every copy to the carrier;

(b) the carrier shall complete Part C on each copy and give every copy to the consignor;

(c) the consignor shall—

(i) complete Part D on each copy;

(ii) where the hazardous waste producer or holder, as the case may be, is not the consignor, give one copy to him;

(iii) retain one copy; and

(iv) give every remaining copy to the carrier.

(3) The carrier shall ensure that every copy which he has received—

(a) travels with the consignment; and

(b) is given to the consignee on delivery of the consignment.

(4) Subject to regulation 42, on receiving the consignment the consignee shall—

(a) complete Part E on both copies; and

(b) give one copy to the carrier.

**Schedule of carriers**

**37.**—(1) This regulation applies in all cases (whether under regulation 36, or regulation 40) where more than one carrier transports, or is to transport, the consignment.

(2) Before the consignment is removed—

(a) the consignor shall—

(i) prepare a copy of the schedule of carriers for the hazardous waste producer or holder (where different from the consignor), the consignor, every carrier and the consignee; and

(ii) give every copy to the first carrier;

(b) the first carrier shall ensure that every copy he has received travels with the consignment;

(c) on delivery of the consignment to each subsequent carrier—

(i) the previous carrier shall give the subsequent carrier every copy of the schedule which he has received;

(ii) the subsequent carrier shall complete the relevant certificate on each copy, give one to the previous carrier who shall retain it, and ensure that every remaining copy which he has received travels with the consignment; and

(d) when the consignment is delivered to a consignee, the carrier shall retain one copy of the carriers schedule and give every remaining copy to the consignee.

(3) Where—

(a) arrangements for the transport of the consignment have not been made with all carriers intended to be involved before transport commences; or

(b) there is a change in any such arrangements after transport commences for any reason,

paragraph (2) applies as if the carrier in possession of the consignment when further arrangements are made, in the case of paragraph (a), or take effect, in the case of paragraph (b), were the consignor and the next carrier were the first carrier.

(4) Where this regulation applies, other than in the case of a rejected consignment of hazardous waste, regulation 36 has effect as if—

(a) a reference to the hazardous waste being removed includes reference to its possession being transferred to the next carrier;

(b) in paragraph (2)(a)(i), the reference to "the carrier" were a reference to "every carrier";

(c) in paragraphs (2)(a)(iii), (2)(b) and (2)(c)(iv), the reference to "the carrier" were a reference to "the first carrier";

(d) in paragraph (3)(b), in relation to a carrier who is not the final carrier, the reference to "the consignee" were a reference to "the subsequent carrier"; and

(e) in paragraph (4)(b), the reference to "the carrier" were a reference to "the final carrier".

**Multiple collections**

**38.**—(1) This regulation applies to a journey made by a single carrier which meets the following conditions—

(a) the carrier collects more than one consignment of hazardous waste in the course of the journey;

(b) each consignment is collected from different premises (none of which is a ship);

(c) all the premises from which a collection is made are in England; and

(d) all consignments collected are transported by that carrier in the course of the journey to the same consignee,

and a journey which meets these conditions is referred to in these Regulations as a "multiple collection".

(2) Where the carrier elects to apply the multiple collection procedure set out in this regulation to a multiple collection, the requirements of this regulation apply to the carrier, and to the producers, holders and consignors of the consignments collected in the course of the round.

(3) Before the first collection, the carrier shall—

(a) prepare two copies of the multiple consignment collection note, plus one copy for each hazardous waste producer or holder, as the case may be, from whom waste is to be collected during the round, and one copy for each consignor, in cases where the hazardous waste producer, or holder, as the case may be, is not the consignor; and

(b) complete Parts A and B on each copy.

(4) Before the removal of waste from each set of premises from which a collection is made—

(a) the producer, or holder, must complete the annex to the multiple collection consignment note on each copy;

(b) the consignor and carrier must sign their respective declarations to the annex to the multiple collection consignment note on each copy of the note; and

(c) the carrier must pass a completed copy to the producer or holder in each case (and where the producer or holder is not the consignor, the consignor).

(5) After collection of the last consignment but before delivery to the consignee, the carrier must complete the particulars for completion by the carrier in section C on both remaining copies of the consignment note.

(6) Subject to regulation 42, on delivery of the waste—

(a) the carrier must pass to the consignee both remaining copies of the note;

(b) the consignee must complete the particulars for completion by the consignee in Section C and complete the certificate in part D of the note on both copies; and

(c) the consignee must return one copy of the completed note to the carrier.

**Removal of ships' wastes to reception facilities**

**39.**—(1) This regulation applies where hazardous waste is removed from a ship (including excesses or spillage from loading or unloading, which have been accidentally spilled on land adjacent to the ship) in a harbour area—

(a) to reception facilities provided within that harbour area; or

(b) by pipeline to any such facilities provided outside a harbour area.

(2) Before the waste is removed from the ship the master of the ship shall—

(a) prepare two copies of the consignment note;

(b) complete Parts A, B and D on each copy;

(c) retain one copy; and

(d) give one copy to the operator of the facilities.

(3) Subject to regulation 42, on receiving a consignment of hazardous waste the operator of the facilities shall complete Part E on the copy which he has received.

**Removal of ships' wastes other than to reception facilities**

**40.**—(1) This regulation applies where hazardous waste is removed from a ship in a harbour area other than in a case to which regulation 39 applies.

(2) Before the consignment is removed—

(a) the master of the ship shall—

(i) prepare three copies of the consignment note;

(ii) complete Parts A and B on each copy; and

(iii) give every copy to the carrier.

(b) the carrier shall complete Part C on each copy;

(c) the master of the ship shall—

(i) complete Part D on each copy;

(ii) retain one copy; and

(iii) give every remaining copy to the carrier;

(d) the carrier shall ensure that every copy which he has received—

(i) accompanies the consignment; and

(ii) is given to the consignee on delivery of the consignment.

(3) Subject to regulation 42, on receiving the consignment the consignee shall—

(a) complete Part E on both copies; and

(b) give one copy to the carrier.

**Removal of wastes by pipeline**

**41.**—(1) This regulation applies where hazardous waste is removed from any premises (other than a ship) on which it is produced or stored by pipeline.

(2) Before the waste is piped, and, where the piping is continuous, at the commencement of each quarter, the producer, or holder, as the case may be, shall—

(a) prepare one copy of the consignment note for each of the following: the producer or holder, as the case may be, where different from the consignor, the consignor and the consignee;

(b) complete Parts A, B and D on each copy, provided that in Part B3 the average flow rate shall be recorded, together with an estimate of the total volume of waste to be piped per week or calendar month.

(3) The consignee shall complete Part E on each copy with the following modifications—

(a) in Part E1, the reference to the date on which the waste was received shall be taken to be a reference to the last date on which waste was received by the consignee pursuant to that consignment note; and

(b) in Part E2, the particulars of the vehicle registration are not required.

(4) The consignee shall retain one copy and ensure that a copy is given to the consignor, and to the hazardous waste producer or holder, where different from the consignor.

*Rejected consignments*

**Duty of consignee not accepting delivery**

**42.**—(1) This regulation and regulations 43 and 44 apply where the consignee does not accept delivery of a consignment of hazardous waste, whether wholly or in part.

(2) The requirements of regulation 36(4), 38(6)(b) and (c), 39(3) or 40(3) (which relate to the duties of the consignee on acceptance of the consignment) as the case may be, do not apply to the consignee in respect of a consignment, or part thereof, which has been rejected.

(3) If copies of the consignment note relating to a rejected consignment have been given to the consignee he shall—

(a) indicate on Part E of each copy that he receives that he does not accept the consignment, or part of the consignment, as the case may be, and the reasons why he does not accept the consignment or part;

(b) retain one copy;

(c) give one copy to the carrier; and

(d) as soon as reasonably practicable, send a copy to the consignor, and (if different from the consignor, the producer or holder, where known).

(4) If no copy of the consignment note has been given to the consignee he shall—

(a) prepare a written explanation of his reasons for not accepting delivery, including such details of the consignment, the hazardous waste producer or holder, the consignor and the carrier as are known to him;

(b) give such written explanation to the carrier;

(c) as soon as reasonably practicable, send one copy to the consignor, and (if different from the consignor) the producer or holder, where known; and

(d) retain a copy of his written explanation.

(5) On being informed that the consignee will not accept delivery of the consignment or part, the carrier shall—

(a) inform the Agency;

(b) seek instructions from the hazardous waste producer or holder; and

(c) take all reasonable steps to ensure those instructions are fulfilled (including completing any consignment note on their behalf).

(6) It is the duty of the hazardous waste producer or holder identified in the relevant part of the consignment note, as the case may be, to—

(a) make arrangements as soon as reasonably practicable for the transfer of the rejected consignment or part to another specified consignee who holds a waste permit or is registered to carry on an exempt activity for the recovery or disposal of the waste; and

(b) forthwith—

(i) give instructions to the carrier accordingly; and

(ii) inform the Agency of the arrangements and instructions.

(7) If in any case within paragraph (6)(a) no alternative consignee can be found within 5 business days, the hazardous waste producer or holder identified in the relevant part of the consignment note shall make arrangements to return the waste to premises from which it was removed for its storage in accordance with the Waste Directive conditions until a suitable consignee can be found.

**Further consignment note for rejected consignment**

**43.**—(1) This regulation applies to the removal of any consignment following rejection by the consignee other than a case to which regulation 44 applies.

(2) Before the consignment or part is moved from the original place for delivery, the hazardous waste producer or holder identified in the relevant part of the original consignment note shall ensure that a copy of a new consignment note is prepared in respect of the rejected consignment or part for each of the following—

(a) the hazardous waste producer;

(b) where the hazardous waste producer or holder is not the consignor, the consignor;

(c) the carrier; and

(d) the new consignee.

(3) The producer or holder shall—

(a) complete Parts A and B on each copy of the note as follows—

(i) the information required to complete Part A should be copied from the original consignment note, including the relevant consignment code to which the letter 'R' shall be added to the end;

(ii) the new consignee's name and address (including the postcode) shall be entered in Part A4; and

(iii) subject to paragraph (4), the relevant information from the original consignment note shall (where part of the load is rejected, in so far as it relates to that part) be copied to Part B; and

(b) give every copy to the carrier.

(4) Where the consignee who rejected the consignment or part states in his written explanation that the description of the waste in the original consignment note is incorrect, the producer or holder shall instead include an accurate description of the waste in the new consignment note.

(5) The carrier shall complete Part C on each copy.

(6) The producer or holder identified in the relevant part of the original consignment note shall—

(a) complete Part D on each copy;

(b) where the producer or holder is not the consignor, give one copy to the producer or holder as the case may be; and

(c) give every remaining copy to the carrier.

(7) The carrier shall ensure that every copy of the new consignment note which he has received—

(a) travels with the rejected consignment or part; and

(b) is given to the new consignee on delivery of the consignment or part.

(8) The new consignee shall—

(a) complete Part E on both copies of the new consignment note; and

(b) give one copy to the carrier.

(9) Where there is to be more than one carrier—

(a) in paragraphs (3)(b), (5) and (6)(c), references to the carrier shall be treated as references to the first carrier;

(b) in paragraphs (2)(c) and (7) references to the carrier shall be treated as references to each carrier;

(c) in paragraph (7)(b), in relation to a carrier who is not the final carrier, the reference to "the new consignee" shall be treated as a reference to "the subsequent carrier"; and

(d) in paragraph (8)(b) the reference to the carrier shall be treated as a reference to the final carrier.

**Procedure for rejected multiple collection consignments**

**44.**—(1) Where two or more consignments comprising part of a multiple collection are rejected and are to be delivered to the same consignee, if the carrier elects to apply the multiple collection procedure set out in regulation 38 to such a delivery, the following requirements shall apply—

(a) the carrier shall—

(i) prepare two copies of the multiple consignment collection note, plus one copy for each hazardous waste producer or holder, as the case may be, from whose consignment has been rejected, and one copy for each consignor, in cases where the hazardous waste producer, or holder, as the case may be, is not the consignor; and

(ii) complete Parts A and B on each copy;

(b) before the removal of waste from the original delivery premises—

(i) the producer, or holder, shall complete the annex to the multiple collection consignment note on each copy prepared by the carrier;

(ii) the consignor and carrier must sign their respective declarations to the annex to the multiple consignment note on each copy of the note prepared by the carrier;

(iii) the carrier must pass a completed copy to the producer or holder in each case (and where the producer is not the consignor, to the consignor);

(c) on delivery of the waste to the new consignee—

(i) the carrier must complete the particulars for completion by the carrier in section C on every copy of the consignment note;

(ii) the carrier must pass to the consignee every copy of the note;

(iii) the consignee must complete the particulars for completion by the consignee in Section C and complete the certificate in part D of the note on every copy of the note; and

(iv) the consignee must return one copy of the completed note to the carrier

*Duty to deliver within time limit*

**Duty to deliver consignment promptly**

**45.** It is the duty of the carrier to deliver the consignment to the consignee promptly and without undue delay.

*Cross Border movements*

**Cross border movement of hazardous waste**

**46.** Schedule 7 has effect in connection with the mutual recognition of consignment notes and the cross border movement of hazardous waste between England and Wales, Scotland, Northern Ireland and Gibraltar.

# PART 7

## RECORDS AND RETURNS

*Site records*

**Records of tipped (discharged) hazardous waste**

**47.**—(1) Any person who tips (discharges) hazardous waste (whether by way of disposal or storage) in or on any land shall record and identify the waste in accordance with the following requirements of this regulation and regulation 51.

(2) A record shall include either—

(a) a site plan marked with a grid, or

(b) a site plan with overlays on which the deposits of the tipped (discharged) waste are shown in relation to the contours of the site.

(3) Records made under this regulation shall be kept in a register.

(4) Deposits shall be identified by reference to both—

(a) the relevant description and six digit code in the List of Wastes, together with a description of the composition of the waste; and

(b) the consignment note relating to such waste, save that where waste is disposed of within the curtilage of the premises at which it is produced the deposits shall be described by reference to the quarterly return made to the Agency by the hazardous waste producer under regulation 53.

(5) A person who is required to make or retain a register pursuant to this regulation shall—

(a) update the register as soon as reasonably practicable and in any event within 24 hours of the receipt, or deposit, as the case may be, of the waste;

(b) keep the register on the site where the tipping takes place; and

(c) retain the records—

(i) for three years after deposit of the waste; or

(ii) if he has a waste permit pursuant to which the site is operated, until that permit is surrendered or revoked.

(6) In reckoning any period of hours for the purposes of this regulation or regulation 48, only the days or hours of any business day shall be counted.

**Records of disposal or recovery of hazardous waste by other means**

**48.**—(1) Any person who—

(a) disposes of hazardous waste in or on land (other than any disposal covered by regulation 47);

(b) recovers hazardous waste in or on land; or

(c) receives hazardous waste at a transfer station,

or both shall record and identify any hazardous waste received in accordance with the following requirements of this regulation and regulation 51.

(2) The waste shall be identified in the record by reference to the relevant description in the List of Wastes and six digit code, and the entry shall include a description of the composition of the waste.

(3) The record shall include—

(a) the quantity, nature and origin of any such waste;

(b) the relevant hazardous properties;

(c) where applicable, the recovery method in respect of the waste by reference to the numbering and description applicable in accordance with Annex IIB of the Waste Directive; and

(d) an inventory showing the specific location at which the waste is being held.

(4) Records made under this regulation shall be kept in a register.

(5) The register shall be updated as soon as reasonably practicable and in any event no later than 24 hours after—

(a) a consignment of hazardous waste is received;

(b) any recovery or disposal operations are carried out or any hazardous waste is placed in storage at the transfer station, as the case may be; and

(c) any hazardous waste is removed from the premises.

(6) A person who is required to make or retain records pursuant to this regulation shall—

(a) keep the register of the records on the site where the recovery operations take place or the transfer station is operated, as the case may be; and

(b) retain the records—

(i) where the hazardous waste is fully recovered, or remains at a transfer station, as the case may be, until it leaves the site and for three years thereafter; or

(ii) if he has a waste permit pursuant to which the site is operated, until that permit is surrendered or revoked.

*Producer and transport records*

**Producers', holders' and consignors' records**

**49.**—(1) A producer or holder of hazardous waste, and where different from the producer, a consignor of hazardous waste, shall keep a record of the quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method of the waste.

(2) Where the waste is transported, the duty in paragraph (1) includes a requirement to keep a record of particulars sufficient to identify the carrier.

(3) The producer, holder or consignor, as the case may be, shall preserve the records to be made pursuant to this regulation whilst he remains the holder of the waste and for at least three years afterwards commencing on the date on which the waste is transferred to another person.

(4) The information to be recorded pursuant to the foregoing provisions of this regulation shall be recorded in a register kept by the producer, holder or consignor, as the case may be, for the purpose.

(5) The register required to be kept and retained by a producer, holder or consignor under paragraph (4) of this regulation shall be kept—

(a) in relation to the register required to be kept by the producer or holder—

(i) at the premises notified pursuant to regulation 24;

(ii) if he no longer occupies those premises, at his principal place of business (or such other address as agreed with the Agency for that purpose); or

(iii) if no premises were notified in relation to the waste, at his principal place of business (or such other address as agreed with the Agency for that purpose).

(b) the register required to be kept by a consignor other than the producer or holder shall be kept at his principal place of business.

(6) If the producer or holder ceases to occupy the notified premises before the period referred to in paragraph (3) expires, he shall inform the Agency forthwith.

**Carrier's records**

**50.**—(1) An establishment or undertaking which transports hazardous waste shall keep a record of the quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method of the waste in accordance with the following requirements of this regulation.

(2) The establishment or undertaking shall keep the records made pursuant to this regulation for at least twelve months commencing on the date of delivery of the waste to its destination.

(3) The information required to be recorded pursuant to paragraph (1) shall be entered in a register and the register kept at the carrier's principal place of business.

**Registers and records: common provisions**

**51.**—(1) The following provisions of this regulation apply in relation to registers required to be kept under regulations 47 to 50.

(2) A person who is required to keep a register shall enter in the register each copy received by them of—

(a) any consignment note (including multiple consignment notes and, where consignments are not accepted, the original note, a copy of any explanation of the reasons for rejection prepared pursuant to regulation 42 and the consignment note prepared pursuant to regulation 43 or 44);

(b) any consignee's return to the producer, holder or consignor received pursuant to regulation 54; and

(c) any carrier's schedule given to him pursuant to regulation 37.

(3) A person who is required to keep a register or retain records until his waste permit is surrendered or revoked shall send those records or that register to the Agency when the permit is surrendered or revoked.

(4) Every register kept or record made pursuant to regulation 15 or 16 of the 1996 Regulations, and every record made pursuant to regulation 13 or 14 of the Control of Pollution (Special Waste) Regulation 1980, shall—

(a) be kept with the register kept pursuant to regulations 47 to 49 by the person required to keep that register for so long as is mentioned in the relevant regulation; and

(b) be sent by that person together with that register if it is sent to the Agency.

**Previous holder's right to information**

**52.**—(1) An establishment or undertaking to which hazardous waste is delivered for disposal or recovery, as the case may be, has the duty, owed to any previous holder of the waste, to supply to that previous holder on request documentary evidence that the disposal or recovery operation concerned has been carried out, indicating where applicable, the relevant entry listed in Annex IIA or Annex IIB, as the case may be, to the Waste Directive.

(2) Any request for information under this regulation shall be in writing and shall specify the period (which may not be less than seven days) within which the information is to be supplied.

**Consignee and self-disposal quarterly returns**

**53.**—(1) Every consignee shall make a return, in these Regulations referred to as a consignee quarterly return, to the Agency of information relating to all consignments of hazardous waste received by him in any quarter in accordance with paragraph (4).

(2) The return shall include—

(a) rejected consignments;

(b) hazardous waste delivered by pipeline where regulation 41 applies; and

(c) in the case of multiple collections, each individual consignment collected.

(3) Where in any quarter hazardous waste is disposed of by depositing it within the curtilage of the premises at which it is produced, the producer shall make a return in respect of that quarter of information relating to the deposit to the Agency (including the consignment code), in accordance with paragraph (4).

(4) A return to be made pursuant to this regulation in respect of a quarter shall be made no later than the time specified in the right hand column of the table below in relation to the quarter specified in the left hand column:

| *Quarter in which the hazardous waste was received, or deposited, as the case may be* | *Return to be received by the Agency not later than* |
|---|---|
| Ending on 31st March | 30th April in the same year as the quarter falls |
| Ending on 30th June | 31st July in the same year as the quarter falls |
| Ending on 30th September | 31st October in the same year as the quarter falls |
| Ending on 31st December | 31st January in the year next following the year in which the quarter falls |

(5) The Agency may prescribe a format for returns to be made under this regulation and, where for the time being a format is prescribed pursuant to this paragraph—

(a) the Agency shall publish the format on its website and in such other manner as it may consider appropriate for informing persons required to submit such returns of its content; and

(b) the Agency shall not be obliged to consider a return as properly made for the purposes of these Regulations unless it is made in that format, or in a format substantially to like effect.

(6) If the Agency prescribe a fee payable by a consignee by charging scheme made under section 41 of the Environment Act 1995 as a means of recovering its costs incurred in performing functions in relation to the consignments included on the consignee quarterly returns, a consignee may recover from a consignor any fees paid under these Regulations in relation to consignments sent by that consignor.

**Consignee's return to the producer, holder or consignor**

**54.**—(1) Without prejudice to any duty under these Regulations on the part of the consignee to send any document or copy thereof to the producer, holder or consignor, a consignee shall send to a producer or holder identified in the relevant part of a consignment note—

(a) a return in a form corresponding to that set out in Schedule 8 or a form substantially to like effect within one month of the end of the quarter in which the waste concerned was accepted; or

(b) a copy of the consignment note together with a description of the method of disposal or recovery undertaken in relation to the waste, within one month of the end of the quarter in which the waste concerned was accepted.

(2) Where hazardous waste was delivered by pipeline in a case to which regulation 41 applies, paragraph (1) shall apply so that the return required under sub-paragraph (a) or the information required under sub-paragraph (b) shall be supplied within one month of the end of the quarter in which the waste concerned was piped.

(3) Where regulation 42 applies, this regulation does not apply to the consignment or part concerned.

**Duties to supply information**

**55.**—(1) A person who is required to retain any record pursuant to any of the foregoing provisions of this Part shall, at any time during the period in which the record is required to be retained produce that record to the Agency or emergency services on request.

(2) A producer holder, previous holder, consignor, carrier or consignee of hazardous waste shall supply to the Agency on request such information as it may reasonably require for the purposes of performing its functions in connection with these Regulations and for the purposes of monitoring the production, movement, storage, treatment, recovery and disposal of hazardous waste.

(3) An establishment or undertaking to which hazardous waste is delivered for recovery or disposal, as the case may be, has the duty to supply to the Agency on request documentary evidence that the disposal or recovery operation concerned has been carried out, indicating where applicable, the relevant entry listed in Annex IIA or Annex IIB, as the case may be, of the Waste Directive.

(4) A person who is required to supply information to the Agency pursuant to this regulation shall supply that information in such form as the Agency may reasonably request.

(5) The power conferred by paragraph (4) includes power to require the production in a visible and legible documentary form of any information is held in electronic form.

(6) Any request for information under this regulation shall be in writing and shall specify the period within which the information is to be supplied.

# PART 8

## THE AGENCY'S FUNCTIONS

**Inspections of hazardous waste producers**

**56.** It is the duty of the Agency to carry out appropriate periodic inspections of hazardous waste producers.

**Inspections of collection and transport operations**

**57.**—(1) In relation to the appropriate periodic inspections of collection and transport operations which are required to be conducted pursuant to Article 13 of the Waste Directive by the

Agency(**a**), without prejudice to the generality of the requirement to conduct such inspections, it is the duty of the Agency insofar as the inspections relate to hazardous waste to conduct the inspections so that they cover more particularly the origin and destination of the hazardous waste.

(2) In paragraph (1), "collection and transport operations" includes operations where the hazardous waste is transported following transfer between different carriers.

**Agency to retain registers etc**

**58.** The Agency shall retain registers and any accompanying records sent to it pursuant to regulation 51(3) for a period of not less than three years commencing with the receipt thereof by the Agency.

**Fees**

**59.**—(1) Section 41 of the 1995 Act (power to make schemes imposing charges) is amended as follows.

(2) For subsection (1)(c) substitute—

"(c) as a means of recovering costs incurred by it in performing functions conferred by regulations made for the purpose of implementing Council Directive 91/689/EEC the Agency may require the payment to it of such charges as may from time to time be prescribed;".

(3) Schedule 9 has effect to make provision in relation to fees to be charged by the Agency in connection with these Regulations until a charging scheme made under section 41 of the 1995 Act to recover the costs incurred by the Agency in performing functions under these Regulations takes effect.

**Provision of information to the Secretary of State**

**60.**—(1) The Agency shall inform the Secretary of State each year of any changes in the following information for every establishment or undertaking which carries out disposal or recovery of hazardous waste principally on behalf of third parties and which is likely to form part of the integrated network referred to in Article 5 of the Waste Directive—

(a) name and address;

(b) the method used to treat waste; and

(c) the types and quantities of waste which can be treated.

(2) The Agency shall provide the information required by paragraph (1) in the format provided for pursuant to the fourth paragraph of Article 8(3) of the Hazardous Waste Directive.

# PART 9

## EMERGENCIES AND GRAVE DANGER

**General**

**61.**—(1) This Part has effect for the purpose of making provision for an emergency or grave danger.

(2) For the purposes of these Regulations, an "emergency or grave danger" is a present or threatened situation arising from a substance or object which is, or which there are reasonable grounds to believe is, hazardous waste, and the situation constitutes a threat to the population or the environment in any place.

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(**a**) See paragraph 13 of Schedule 4 to the 1994 Regulations.

**General duties on the holder in the event of an emergency or grave danger**

**62.**—(1) In cases of emergency or grave danger, a holder of hazardous waste which gives rise to an emergency or grave danger shall—

(a) take all lawful and reasonable steps to avert the emergency or grave danger; or

(b) where it is not reasonably practicable to comply with paragraph (a), take all lawful and reasonable steps to mitigate the emergency or grave danger.

(2) For the purposes of paragraph (1), an act or omission may be considered lawful notwithstanding that it would, apart from this regulation, constitute a breach of these Regulations.

(3) Where the holder of hazardous waste knows or has reasonable grounds to believe that an emergency or grave danger has arisen, he shall notify the Agency as soon as reasonably practicable of the circumstances.

(4) Where the holder takes any step in compliance with paragraph (1), he shall, save where such step has completely averted the emergency or grave danger without breach of these Regulations, notify the Agency as soon as reasonably practicable.

(5) For the purposes of paragraph (4), an emergency or grave danger shall not be considered to have been completely averted if any release has taken place of a substance or object which is, or which there are reasonable grounds to believe is, hazardous waste, whether or not the holder believes he has completely destroyed, retrieved or rendered harmless the substance or object.

(6) In the event of notification pursuant to paragraph (3) or (4) being made orally, the holder shall confirm in writing to the Agency the matters notified within one week of the oral notification.

(7) For the purposes of this regulation a person shall be not be released from any requirement imposed by this regulation merely because he has ceased to be the holder through the waste having left his possession or control due to release.

**General duties of the Agency**

**63.**—(1) The Agency shall exercise its functions (whether under these Regulations or otherwise) so as to take all reasonably practicable steps necessary or expedient to avert or mitigate an emergency or grave danger.

(2) An authorised person shall in exercising functions in relation to an emergency or grave danger so exercise his powers under sections 108 and 109 of the 1995 Act as to take all reasonably practicable steps to avert or mitigate the emergency or grave danger.

# PART 10

## ENFORCEMENT

**Enforcement**

**64.**—(1) Subject to paragraph (2), it is the duty of the Agency to enforce these Regulations.

(2) Paragraph (1) is without prejudice to any right of action which any person may have arising apart from these Regulations, or any other right, power or duty of any person either at law or arising pursuant to any agreement or arrangement (expressly or impliedly) or in consequence of any act or omission.

**Offences**

**65.** It is an offence for a person to fail to comply with any requirement imposed on them by or under the following provisions of these Regulations—

(a) Part 4;

(b) regulations 21, 22 and 24 to 26;

(c) regulations 34 to 44;

(d) regulation 46 and Schedule 7;

(e) Part 7 (with the exception of regulation 52); and

(f) Regulation 62.

**Defences**

**66.** It shall be a defence for a person charged with an offence under regulation 65 to prove that—

(a) he was not reasonably able to comply with the provision in question by reason of an emergency or grave danger and that he took all steps as were reasonably practicable in the circumstances for—

(i) minimising any threat to the public or the environment; and

(ii) ensuring that the provision in question was complied with as soon as reasonably practicable after the event; or

(b) if there is no emergency or grave danger he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

**Liability of persons other than the principal offender**

**67.**—(1) Where the commission by any person of an offence under this Part is due to the act or default of some other person, that other person may be charged with and convicted of an offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where an offence under this Part which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to, any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**False and misleading information**

**68.**—(1) Any person who, in purported compliance with a requirement imposed by or under any of the foregoing provisions of these Regulations to furnish any information, makes a statement which he knows to be false or misleading in a material particular, or recklessly makes any statement which is false or misleading in a material particular, commits an offence.

(2) A person who intentionally makes a false entry in any record or register required to be kept by virtue of any of the foregoing provisions of these Regulations commits an offence.

**Penalties**

**69.**—(1) A person who commits an offence under regulation 65 in connection with any of the following regulations—

(a) regulation 21 (requirement to notify premises);

(b) regulation 22 (prohibition on removal of waste from premises unless notified or exempt);

(c) regulations 24 to 26 (notifications);

(d) regulation 34 (consignment codes);

(e) regulations 35 to 44 (consignment notes);

(f) regulation 46 and Schedule 7 (cross border consignments);

(g) regulation 53 (consignee and self-disposal quarterly returns);

(h) regulation 54 (consignee's return to the producer, holder or consignor); or

(i) regulation 55 (duties to supply information).

shall be liable on summary conviction, to a fine not exceeding level 5 on the standard scale.

(2) A person who commits an offence under regulation 65 or 68 in connection with any other requirement under these Regulations shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

**Fixed penalties**

**70.**—(1) Where an authorised person acting on behalf of the Agency has reason to believe that a person has committed an offence under regulation 65 to which this regulation applies, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) This regulation applies to an offence consisting of—

(a) a failure to comply with any requirement of; or

(b) making a false or misleading statement in purported compliance with,

any of the regulations listed in regulation 69(1)(a) to (i).

(3) Where a person is given a notice under this regulation in respect of an offence—

(a) no proceedings shall be instituted for that offence before the expiration of twenty eight days following the date of the notice; and

(b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(4) A notice under this regulation shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

(a) the period during which, by virtue of paragraph (3), proceedings will not be taken for the offence;

(b) the amount of the fixed penalty;

(c) the name of the person to whom and the address at which the fixed penalty may be paid.

(5) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(6) Where a letter is sent in accordance with paragraph (5) payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) A fixed penalty notice issued pursuant to this section shall be in the form set out in Schedule 10.

(8) The fixed penalty payable in pursuance of a notice under this regulation shall be £300; and as respects the sums received by or on behalf of the Agency, those sums shall be paid to the Secretary of State.

(9) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of the chief finance officer of the Agency;

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

(10) In paragraph (8), "chief finance officer" means the person having responsibility for the financial affairs of the Agency.

# PART 11

## REPLACEMENT OF CONTROLS ON SPECIAL WASTE

### Offences

**71.** In each of sections 33(9) and 38(10) and (11) of the 1990 Act for "special waste" there shall be substituted "hazardous waste".

### Lists of waste displaying hazardous properties

**72.**—(1) In the cross heading before section 62 of the 1990 Act for "special waste" there shall be substituted "hazardous waste".

(2) Section 62 of that Act (special provision with respect to certain dangerous or intractable waste) shall be omitted.

(3) Before section 63 of that Act (waste other than controlled waste) there shall be inserted—

**"Lists of waste displaying hazardous properties**

**62A.**—(1) The Secretary of State shall by regulations list any controlled waste in England which—

(a) is not listed as a hazardous waste in the Hazardous Waste List; and

(b) appears to him to display any of the properties listed in Annex III to Council Directive 91/689/EEC.

(2) The National Assembly for Wales shall by regulations list any controlled waste in Wales which—

(a) is not listed as a hazardous waste in the Hazardous Waste List; and

(b) appears to it to display any of the properties listed in Annex III to Council Directive 91/689/EEC.

(3) In this section "the Hazardous Waste List" means the list referred to in the first indent of Article 1(4) of Council Directive 91/689/EEC.

(4) Regulations under subsection (2) shall be made by statutory instrument but section 161(2) shall not apply to regulations under that subsection.".

### Waste other than controlled waste

**73.** In section 63 of the 1990 Act (waste other than controlled waste), subsections (2) and (3) shall be omitted.

### Definition of Hazardous Waste

**74.** In section 75 of the 1990 Act (meaning of "waste" and household, commercial and industrial waste and special waste)—

(a) in the heading for "special waste" there shall be substituted "hazardous waste";

(b) after subsection (8) there shall be inserted—

"(8A) "Hazardous waste"—

(a) in the application of this Part to England, means any waste which is a hazardous waste for the purposes of the Hazardous Waste (England and Wales) Regulations 2005;

(b) in the application of this Part to Wales means—

(i) any waste listed as a hazardous waste in the Hazardous Waste List;

(ii) any waste listed in regulations made under section 62A(2) above;

(iii) any other waste which displays any of the properties listed in Annex III to Council Directive 91/689/EEC.

(8B) In subsection (8A) "Hazardous Waste List" means the list referred to in the first indent of Article 1(4) of Council Directive 91/689/EEC."; and

(c) subsection (9) shall be omitted.

# PART 12

## FINAL PROVISIONS

**Savings for certain privileges**

**75.**—(1) Nothing in these Regulations shall be taken as requiring any person to produce any documents or records if he would be entitled to refuse to produce those documents or records in any proceedings in any court on the grounds that they are the subject of legal professional privilege, or as authorising any person to take possession of any documents or records which are in the possession of a person who would be so entitled.

(2) Except as provided in paragraph (3), nothing in these Regulations shall be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person's spouse.

(3) A person must comply with a request from the Agency to give information pursuant to regulation 55(2), not withstanding that to do so may incriminate that person or that person's spouse, but information given in response to such a direction may not be given in evidence in any criminal proceedings against that person or that person's spouse.

**Revocations and savings**

**76.**—(1) Subject to the following paragraphs, the 1996 Regulations are revoked.

(2) Where a consignment has been removed from premises before these Regulations come into force, and a consignment note has been raised in relation to that consignment under the 1996 Regulations, then—

(a) for a period of 72 hours after these Regulations come into force entirely—

(i) the 1996 Regulations shall continue to apply in all other respects to that consignment;

(ii) the provisions of these Regulations (other than regulation 62 (general duties on the holder in the event of an emergency or grave danger)) shall not apply to that consignment during that period;

(b) thereafter—

(i) these Regulations shall apply to that consignment except that the requirement to make a consignee quarterly return in relation to that consignment pursuant to regulation 53 shall not arise; and

(ii) the requirement on the consignee to send a copy of the consignment note sent to the Agency shall continue to apply in relation to any consignment sent pursuant to the 1996 Regulations

**Consequential Amendments**

**77.** Schedule 11 (which makes consequential amendments to legislation ) has effect.

**Transitional Provisions**

**78.** Schedule 12 (which makes provisions transitional upon these Regulations coming into force), and has effect.

*Elliot Morley*
Minister of State
23rd March 2005 Department for Environment, Food and Rural Affairs

# SCHEDULE 1 Regulation 3(2)(a)(i)

## ANNEX I TO THE HAZARDOUS WASTE DIRECTIVE

## "ANNEX I

### CATEGORIES OR GENERIC TYPES OF HAZARDOUS WASTE LISTED ACCORDING TO THEIR NATURE OF THE ACTIVITY WHICH GENERATED THEM (*) (WASTE MAY BE LIQUID, SLUDGE OR SOLID IN FORM)

(*) Certain duplications of entries found in Annex II are intentional.

ANNEX I.A.

Wastes displaying any of the properties listed in Annex III and which consist of:

1. anatomical substances; hospital and other clinical wastes;
2. pharmaceuticals, medicines and veterinary compounds;
3. wood preservatives;
4. biocides and phyto-pharmaceutical substances;
5. residue from substances employed as solvents;
6. halogenated organic substances not employed as solvents excluding inert polymerized materials;
7. tempering salts containing cyanides;
8. mineral oils and oily substances (e.g. cutting sludges, etc.);
9. oil/water, hydrocarbon/water mixtures, emulsions;
10. substances containing PCBs and/or PCTs (e.g. dielectrics etc.);
11. tarry materials arising from refining, distillation and any pyrolytic treatment (e.g. still bottoms, etc.);
12. inks, dyes, pigments, paints, lacquers, varnishes;
13. resins, latex, plasticizers, glues/adhesives;
14. chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known (e.g. laboratory residues, etc.);
15. pyrotechnics and other explosive materials;
16. photographic chemicals and processing materials;
17. any material contaminated with any congener of polychlorinated dibenzofuran;
18. any material contaminated with any congener of polychlorinated dibenzo-pdioxin.

ANNEX I.B.

Wastes which contain any of the constituents listed in Annex II and having any of the properties listed in Annex III and consisting of:

19. animal or vegetable soaps, fats, waxes;
20. non-halogenated organic substances not employed as solvents;
21. inorganic substances without metals or metal compounds;
25. metallic dust, powder;
26. spent catalyst materials;
27. liquids or sludges containing metals or metal compounds;
28. residue from pollution control operations (e.g. baghouse dusts, etc.) except (29), (30) and (33);
29. scrubber sludges;
30. sludges from water purification plants;
31. decarbonization residue;
32. ion-exchange column residue;
33. sewage sludges, untreated or unsuitable for use in agriculture;
34. residue from cleaning of tanks and/or equipment;
35. contaminated equipment;
36. contaminated containers (e.g. packaging, gas cylinders, etc.) whose contents included one or more of the constituents listed in Annex II;
37. batteries and other electrical cells;
38. vegetable oils;
39. materials resulting from selective waste collections from households and which exhibit any of the characteristics listed in Annex III;
40. any other wastes which contain any of the constituents listed in Annex II and any of the properties listed in Annex III.”.
22. ashes and/or cinders;
23. soil, sand, clay including dredging spoils;
24. non-cyanidic tempering salts;

# SCHEDULE 2

Regulation 3(2)(a)(ii)

## ANNEX II TO THE HAZARDOUS WASTE DIRECTIVE

## "ANNEX II

### CONSTITUENTS OF THE WASTES IN ANNEX I.B WHICH RENDER THEM HAZARDOUS WHEN THEY HAVE THE PROPERTIES DESCRIBED IN ANNEX III (*)

(*) Certain duplications of generic types of hazardous wastes listed in Annex I are intentional.

Wastes having as constituents:

C1 beryllium; beryllium compounds;
C2 vanadium compounds;
C3 chromium (VI) compounds;
C4 cobalt compounds;
C5 nickel compounds;
C6 copper compounds;
C7 zinc compounds;
C8 arsenic; arsenic compounds;
C9 selenium; selenium compounds;
C10 silver compounds;
C11 cadmium; cadmium compounds;
C12 tin compounds;
C13 antimony; antimony compounds;
C14 tellurium; tellurium compounds;
C15 barium compounds; excluding barium sulfate;
C16 mercury; mercury compounds;
C17 thallium; thallium compounds;
C18 lead; lead compounds;
C19 inorganic sulphides;
C20 inorganic fluorine compounds, excluding calcium fluoride;
C21 inorganic cyanides;
C22 the following alkaline or alkaline earth metals: lithium, sodium, potassium, calcium, magnesium in uncombined form;
C23 acidic solutions or acids in solid form;
C24 basic solutions or bases in solid form;
C25 asbestos (dust and fibres);
C26 phosphorus: phosphorus compounds, excluding mineral phosphates;
C27 metal carbonyls;
C28 peroxides;
C29 chlorates;

C30 perchlorates;
C31 azides;
C32 PCBs and/or PCTs;
C33 pharmaceutical or veterinary coumpounds;
C34 biocides and phyto-pharmaceutical substances (e.g. pesticides, etc.);
C35 infectious substances;
C36 creosotes;
C37 isocyanates; thiocyanates;
C38 organic cyanides (e.g. nitriles, etc.);
C39 phenols; phenol compounds;
C40 halogenated solvents;
C41 organic solvents, excluding halogenated solvents;
C42 organohalogen compounds, excluding inert polymerized materials and other substances referred to in this Annex;
C43 aromatic compounds; polycyclic and heterocyclic organic compounds;
C44 aliphatic amines;
C45 aromatic amines
C46 ethers;
C47 substances of an explosive character, excluding those listed elsewhere in this Annex;
C48 sulphur organic compounds;
C49 any congener of polychlorinated dibenzo-furan;
C50 any congener of polychlorinated dibenzo-p-dioxin;
C51 hydrocarbons and their oxygen; nitrogen and/or sulphur compounds nototherwise taken into account in this Annex.”.

# SCHEDULE 3

Regulation 3(2)(a)(iii)

## ANNEX III TO THE HAZARDOUS WASTE DIRECTIVE

## "ANNEX III

### PROPERTIES OF WASTES WHICH RENDER THEM HAZARDOUS

H1 'Explosive': substances and preparations which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene.

H2 'Oxidizing': substances and preparations which exhibit highly exothermic reactions when in contact with other substances, particularly flammable substances.

H3-A 'Highly flammable':

- liquid substances and preparations having a flash point below 21 ºC (including extremely flammable liquids), or
- substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any application of energy, or
- solid substances and preparations which may readily catch fire after brief contact with a source of ignition and which continue to burn or to be consumed after removal of the source of ignition, or
- gaseous substances and preparations which are flammable in air at normal pressure, or
- substances and preparations which, in contact with water or damp air, evolve highly flammable gases in dangerous quantities.

H3-B 'Flammable': liquid substances and preparations having a flash point equal to or greater than 21 ºC and less than or equal to 55 ºC.

H4 'Irritant': non-corrosive substances and preparations which, through immediate, prolonged or repeated contact with the skin or mucous membrane, can cause inflammation.

H5 'harmful': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may involve limited health risks.

H6 'Toxic': substances and preparations (including very toxic substances and preparations) which, if they are inhaled or ingested or if they penetrate the skin, may involve serious, acute or chronic health risks and even death.

H7 'Carcinogenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce cancer or increase its incidence.

H8 'Corrosive': substances and preparations which may destroy living tissue on contacts.

H9 'Infectious': substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.

H10 'Teratogenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce non-hereditary congenital malformations or increase their incidence.

H11 'Mutagenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce hereditary genetic defects or increase their incidence.

H12 Substances and preparations which release toxic or very toxic gases in contact with water, air or an acid.

H13 Substances and preparations capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics listed above.

H14 'Ecotoxic': substances and preparations which present or may present immediate or delayed risks for one or more sectors of the environment.

**Notes**

1. Attribution of the hazard properties ‘toxic’ (and ‘very toxic’), ‘harmful’, ‘corrosive’ and ‘irritant’ is made on the basis of the criteria laid down by Annex VI, part I A and part II B, of Council Directive 67/548/EEC of 27 June 1967 of the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (1), in the version as amended by Council Directive 79/831/EEC (2).

2. With regard to attribution of the properties ‘carcinogenic’, ‘teratogenic’ and ‘mutagenic’, and reflecting the most recent findings, additional criteria are contained in the Guide to the classification and labelling of dangerous substances and preparations of Annex VI (part II D) to Directive 67/548/EEC in the version as amended by Commission Directive 83/467/EEC (1).

**Test methods**

The test methods serve to give specific meaning to the definitions given in Annex III.

The methods to be used are those described in Annex V to Directive 67/548/EEC, in the version as amended by Commission Directive 84/449/EEC (2), or by subsequent Commission Directives adapting Directive 67/548/EEC to technical progress. These methods are themselves based on the work and recommendations of the competent international bodies, in particular the OECD.

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(1) OJ No L 196, 16. 8. 1967, p. 1.
(2) OJ No L 259, 15. 10. 1979, p. 10.”.

# SCHEDULE 4

Regulation 35(2)

## FORM OF CONSIGNMENT NOTE

HAZARDOUS WASTE (ENGLAND AND WALES) REGULATIONS 2005

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**Part A NOTIFICATION DETAILS** **Sheet _____**
**of_____**

1. Consignment Note Code:_____

2. The waste described below is to be removed from (name, address, postcode, telephone, e-mail, facsimile)

3. Premises Code: (where applicable)

4. The waste will be taken to (address & postcode)

5. The waste producer was (if different from 1) (name, address, postcode, telephone, e-mail, facsimile)

---

**Part B DESCRIPTION OF THE WASTE**

**1. The Process giving rise to the waste(s) was:**

**2. SIC for the process giving rise to the waste:**

**WASTE DETAILS (where more than one waste type is collected all of the information given below must be completed for each EWC identified).**

3. The waste(s) is:

| List of Wastes (EWC) Code (6 digits): | Quantity (kg) | The chemical/biological components of the waste and their concentrations are | | Physical Form (gas, liquid, solid, powder, sludge, or mixed): | Hazard code(s) | Container type, no & size |
|---|---|---|---|---|---|---|
| | | **Component** | **Concentration (% or mg/kg)** | | | |
| | | | | | | |
| | | | | | | |

**The information given below is to be completed for each EWC identified)**

1. Packing Group(s)
2. UN identification number(s)
3. Proper Shipping Name(s)
4. UN class(es)
5. Special handling requirements

---

**PART C CARRIER'S CERTIFICATE** (If more than one carrier is used, please attach Schedule for subsequent carriers.)

If a schedule of carriers is attached, tick here.

I certify that I today collected the consignment and that the details in A2, A4, and B3 are correct and I have been advised of any specific handling requirements.

1. Carrier name
   On behalf of (company)(name, address & postcode, telephone e-mail, facsimile)
2. Carrier registration no/reason for exemption
3. Vehicle registration no (or mode of transport if not road)

Signature
Date at hrs.

**PART D CONSIGNOR'S CERTIFICATE**

I certify that the information in A B and C above are correct, that the carrier is registered or exempt and was advised of the appropriate precautionary measures. All of the waste is packaged and labelled correctly and the carrier has been advised of any special handling requirements.

Name

On behalf of (company name, address, postcode, telephone, e-mail, and facsimile;

Signature

Date at hrs

---

**PART E. CONSIGNEE'S CERTIFICATE where more than one waste type is collected all of the information given below must be completed for each EWC.**

| **Individual EWC code(s) received** | **Quantity of each EWC code received (kg)** | **EWC code accepted/rejected** | **Waste management operation (R or D code)** |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

1. I received this waste at the address given in A4 on at hrs

2. Vehicle registration no.

**3. Where waste is rejected, please provide details below:**

I certify that waste management licence/permit/authorised exemption no(s). authorises the management of the waste described in B at the address given in A4.

Name

On behalf of (company name, address, postcode, telephone, e-mail, facsimile)

Signature

Date at hrs

# SCHEDULE 5

Regulation 35(3)

# SCHEDULE OF CARRIERS

**SECOND CARRIER'S CERTIFICATE**

I certify that [enter details as appropriate] carrier transferred the waste identified in B3 to me today for onward transportation to another carrier/the consignee listed in A4 (delete as appropriate). The quantity transferred is

Name: On behalf of (company)(name, address & postcode, telephone, e-mail, facsimile):

Signature: Date: at hrs.

1. Carrier registration no/reason for exemption:
2. Vehicle registration no (or mode of transport if not road):
3. Original consignment note number

**THIRD CARRIER'S CERTIFICATE**

I certify that [enter details as appropriate] carrier transferred the waste identified in B3 to me today for onward transportation to another carrier/the consignee listed in A4 (delete as appropriate). The quantity transferred is

Name: On behalf of (company) (name, address & postcode, telephone, e-mail, facsimile):

Signature: Date: at hrs.

1. Carrier registration no/reason for exemption:
2. Vehicle registration no (or mode of transport if not road):
3. Original consignment note number

**FOURTH CARRIER'S CERTIFICATE**

I certify that [enter details as appropriate] carrier transferred the waste identified in B3 to me today for onward transportation to another carrier/the consignee listed in A4 (delete as appropriate). The quantity transferred is

Name: On behalf of (company) (name, address & postcode, telephone, e-mail, facsimile):

Signature: Date: at hrs.

1. Carrier registration no/reason for exemption:
2. Vehicle registration no (or mode of transport if not road):
3. Original consignment note number

# SCHEDULE 6 Regulation 35(4)

# FORM OF MULTIPLE COLLECTION CONSIGNMENT NOTE

HAZARDOUS WASTE (ENGLAND AND WALES) REGULATIONS 2005 **Sheet _____ of_____**

---

**Part A CONSIGNEE DETAILS**

The waste will be taken to (address & postcode):

**Part B CARRIER DETAILS**

Carrier name

On behalf of (company)(name, address & postcode, telephone, e-mail, facsimile)

Carrier registration no/reason for exemption

Vehicle registration no (or mode of transport if not road)

Signature

Date at hrs.

---

**Part C SUMMARY OF MULTIPLE CONSIGNMENTS**

**Enter every EWC code collected from each collection point and the quantity of each EWC code collected from that collection point. The table below provides 3 EWC codes on each of 6 consignments. This should be amended to appropriately identify the number of EWC codes on each consignment.**

| **TO BE COMPLETED BY THE CARRIER** | | **TO BE COMPLETED BY THE CONSIGNEE** | | |
|---|---|---|---|---|
| Consignment note code | Individual EWC code(s) per consignment received | Quantity of each EWC code received (kg) | EWC code accepted/rejected | Waste management operation (R or D code) |
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Extra rows should be added for more consignments.

**THESE CONSIGNMENTS ARE DESCRIBED IN DETAIL IN THE ANNEX.**

---

**Part D** **CONSIGNEE'S CERTIFICATE**

1. I received all of the consignments described in Part B at the address given in Part A on at hrs

2 Vehicle registration no.

**3 Where waste is rejected, please provide details below:**

I certify that waste permit no(s). authorises the management of the consignments as described in Part B at the address given in Part A.

Name

On behalf of (company name, address, postcode, telephone, e-mail, facsimile)

Signature

Date: at hrs

# ANNEX TO MULTIPLE COLLECTION CONSIGNMENT NOTE

HAZARDOUS WASTE (ENGLAND AND WALES) REGULATIONS 2005 **Sheet _____ of_____**

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**CONSIGNMENT DETAILS:**

**COLLECTION No (i.e. 1st, 2nd etc)**

**I. Notification Details**

1.Consignment Note Code:_____

2. The waste described below is to be removed from (name, address & postcode, telephone, e-mail, facsimile):

3. Premises Code: (where applicable)

4. The waste producer was (if different from above) (name, address, postcode, telephone, e-mail, facsimile)

**II. Description of the waste**

**1. The Process giving rise to the waste(s) was:**

**2. SIC for the process giving rise to the waste:**

**3. WASTE DETAILS (where more than one waste type is collected all of the information given below must be completed for each EWC identified).**

The waste(s) is:

| **List of Wastes (EWC) Code (6 digits):** | **Quantity (kg)** | **The chemical/biological components of the waste and their concentrations are** | | **Physical Form (gas, liquid, solid, powder, sludge, or mixed):** | **Hazard code(s)** | **Container type, no & size** |
|---|---|---|---|---|---|---|
| | | **Component** | **Concentration (% or mg/kg)** | | | |
| | | | | | | |
| | | | | | | |

Extra rows should be added for more EWC codes collected.

**Additional carriage information (the information given below must be completed for each EWC identified)**

4. Packing Group(s)
5. UN identification number(s)
6. Proper Shipping Name(s)
7. UN class(es)
8. Special handling requirements

| **CONSIGNOR'S DECLARATION:**<br>**I certify that the information provided for my consignment is correct, that the carrier is registered or exempt and was advised of the appropriate precautionary measures. All of the waste is packaged and labelled correctly and the carrier has been informed of any specific handling requirements.**<br><br>Name: (Consignor)<br><br>Signature:<br><br>Date: | **CARRIER'S DECLARATION:**<br>**I certify that today I collected the quantity of waste given on this part of the form for the address given on this part of the form from the address given here and will take it to the address given in Part A.**<br><br>Name (Carrier)<br><br>Signature:<br><br>Date: at hrs |
|---|---|

# SCHEDULE 7

Regulation 46

# UK CROSS BORDER MOVEMENT OF HAZARDOUS WASTE

**Recognition of cross border UK consignment notes**

**1.** Subject to paragraph 4 and paragraph 7, where hazardous waste is removed from premises situated in Scotland, Wales, Northern Ireland or Gibraltar and is transported into England ("a cross border consignment into England"), no requirement for a consignment note to accompany the waste under Part 6 shall apply if—

(a) a consignment note which is completed in Scotland, Wales, Northern Ireland or Gibraltar accompanies the waste; and

(b) the note contains the information required by the standard consignment note set out in the Annex to Commission Decision 94/774 of 24 November 1994(**a**) ("a cross border consignment note").

**2.** Any requirement in Part 6 to complete a consignment note for a cross border consignment may be satisfied by including the information—

(a) on the cross border consignment note; or

(b) where that is not possible, on a separate form prepared for that purpose.

**3.** Any requirement to keep a copy of a consignment note for a cross border consignment or to give a copy of the note to another person may be satisfied by keeping a copy of the cross border consignment note or giving a copy of the note to that person.

**UK Cross Border Consignments into England**

**4.**—(1) If a cross border consignment into England is rejected wholly or in part, the consignee shall—

(a) indicate on the cross border consignment note (if he has received one) or otherwise provide a written record of his rejection of the consignment (or part of it) and the reasons for such rejection;

(b) retain a copy of the note or record;

(c) give a copy to the carrier; and

(d) as soon as reasonably practicable, send a copy to the consignor, and (if different from the consignor) the producer or holder indicated on the cross border consignment note.

(2) On being informed that the consignee will not accept delivery of a cross border consignment into England or part, the carrier shall—

(a) inform the Agency; and

(b) seek instructions from the hazardous waste producer or holder indicated on the cross border consignment note and take all reasonable steps to ensure they are fulfilled.

(3) Before a rejected cross border consignment into England is moved from the original delivery destination, the carrier shall ensure that—

(a) a consignment note is completed in accordance with regulation 43 or 44; and

(b) a copy of the note is sent to SEPA (where the waste is transported from Scotland) or the Northern Ireland Department of the Environment (where the waste is transported from Northern Ireland).

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(**a**) OJ No. L 310, 03.12.1994 p.70.

**5.** Where a cross border consignment into England from Scotland or Northern Ireland is accepted, the consignee shall send a copy of the cross border consignment note to SEPA (where the waste is transported from Scotland) or the Northern Ireland Department of the Environment (where the waste is transported from Northern Ireland).

**UK Cross Border Consignments out of England**

**6.**—(1) Where a cross border consignment out of England is consigned to premises in Scotland or Northern Ireland, the following requirements shall apply in addition to those in Part 6.

(2) Before the hazardous waste is removed—

(a) the hazardous waste producer, or holder, as the case may be, or (in the case of a multiple collection of hazardous waste) the carrier, shall ensure that—

(i) a copy of the relevant consignment note is prepared for SEPA (where the waste is to be consigned to a consignee in Scotland), or for the Northern Ireland Department of the Environment (where the waste is to be consigned to a consignee in Northern Ireland); and

(ii) an additional copy is provided for the consignee.

(b) the copies of the relevant consignment note prepared pursuant to paragraph (a) shall be completed in accordance with Part 6; and

(c) the consignor (or the producer or holder, as the case may be) or, in the case of a multiple collection of hazardous waste, the carrier, shall send the copy of the note prepared pursuant to paragraph (a)(i) to the relevant authority at least 72 hours before removal of the consignment or if that is not possible, as soon as reasonably practicable thereafter.

(3) The carrier shall ensure the additional copy of the note prepared for consignee travels with the consignment and is given to the consignee on delivery of the consignment.

**Multiple Collections in England and Wales**

**7.**—(1) This paragraph applies to a journey made by a carrier which meets the conditions set out in regulation 38(1) except that at least one collection is made in Wales.

(2) A journey to which this paragraph applies shall be treated as a multiple collection for the purposes of these Regulations but in relation to any collections made in Wales, the carrier shall ensure that the multiple collection consignment note is completed before the waste is delivered to the consignee.

(3) Where the consignee for a journey to which this paragraph applies is located in Wales, regulation 39 shall apply to the collection of any consignments collected in England.

# SCHEDULE 8

Regulation 54

## FORM OF CONSIGNEE'S RETURN TO PRODUCER OR HOLDER

### Hazardous waste producer returns form

1. Consignee details

| Name of consignee | Postcode | Consignee hazardous waste i.d. code | Date[a] |
|---|---|---|---|
| | | | |

2. Waste return

| Consignment note number | Date received | Mode of transport | Frequency of collection[b] | EWC code(s) [c] | Hazards [d] | Physical form[e] | Quantity (kg) | Mode of disposal/ recovery[f] |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |

[a] Date of submission of the return by the consignee
[b] Where relevant.
[c] There may be more than one waste stream for each consignment note. All relevant EWC codes must be recorded.
[d] Hazard: each individual EWC code may have more than one hazard. Each appropriate hazard for a particular EWC code must be entered. Choose all of the appropriate hazards for the particular waste:
H1 Explosive
H2 Oxidising
H3A Highly flammable
H3B Flammable
H4 Irritant
H5 Harmful
H6 Toxic
H7 Carcinogenic
H8 Corrosive
H9 Infectious
H10 Toxic for Reproduction
H11 Mutagenic
H12 Substances and preparations which release toxic or very toxic gases in contact with water, air or an acid
H13 Substances and preparations capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any characteristics listed above
H14 Ecotoxic

[e] Physical form: Choose one option from the list as appropriate.
Gas
Liquid
Mixed
Powder
Sludge
Solid

(f) Mode of disposal/recovery or rejected : use the appropriate Rxx/Dxx code for the operation performed on the waste or insert REJ if the waste has been rejected

| Code | Disposal operation |
|---|---|
| D01 | Deposit into or onto land |
| D02 | Land Treatment |
| D03 | Deep injection |
| D04 | Surface impoundment |
| D05 | Specially engineered landfill |
| D06 | Release into a water body except seas/oceans |
| D07 | Release into seas/oceans including seabed insertion |
| D08 | Biological treatment not specified elsewhere which results in final compounds or mixtures which are disposed of by any of the operations numbered D01 to D12 |
| D09 | Physic-chemical treatment not specified elsewhere which results in final compounds or mixtures which are disposed of by any of the operations numbered D01 to D12 |
| D10 | Incineration on land |
| D11 | Incineration at sea |
| D12 | Permanent storage |
| D13 | Blending or mixing prior to submission to any of the operations numbered D01 to D12 |
| D14 | Repackaging prior to submission to any of the operations numbered D01 to D12 |
| D15 | Storage pending any of the operations numbered D01 to D14 (excluding temporary storage, pending collection, on the site where it is produced). |

Recovery operation

| | |
|---|---|
| R01 | Use principally as a fuel or other means to generate energy |
| R02 | Solvent reclamation/regeneration |
| R03 | Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes) |
| R04 | Recycling/reclamation of metals and metal compounds |
| R05 | Recycling/reclamation of other inorganic materials |
| R06 | Regeneration of acids or bases |
| R07 | Recovery of components used for pollution abatement |
| R08 | Recovery of components from catalysts |
| R09 | Oil refining or other re-uses of oil |
| R10 | Land treatment resulting in benefit to agriculture or ecological improvement |
| R11 | Use of wastes obtained from any of the operations numbered R01 to R11 |
| R12 | Exchange of wastes for submission to any of the operations numbered R01 to R11 |
| R13 | Storage of wastes pending any of the operations numbered R01 to R12 (excluding temporary storage, pending collection, on the site where it is produced). |

# SCHEDULE 9

Regulation 59

## TRANSITIONAL CHARGES BY THE AGENCY

**1.** The following paragraphs have effect in relation to the charges payable to the Agency under these Regulations.

**2.** The charge to be paid on the notification of premises pursuant to regulation 26 is—

(a) £28 for each set of premises notified in writing;

(b) £23 for each set of premises notified by telephone; and

(c) £18 for each set of premises notified in electronic form.

**3.** The charge to be paid by a consignee in respect of any consignee quarterly return made pursuant to regulation 53 shall be—

(a) for any return made in writing, the sum of the following amounts for each consignment accepted by the consignee during the quarter—

(i) £10 for each consignment forming part of a multiple collection; and

(ii) £19 for any other consignment; and

(b) for any return made in electronic form, the sum of the following amounts for each consignment accepted by the consignee during the quarter—

(i) £5 for each consignment forming part of a multiple collection; and

(ii) £10 for any other consignment.

**4.** The charge to be paid by a producer in respect of any self disposal return made pursuant to regulation 53 shall be—

(a) for any return made in writing, £19; and

(b) for any return made in electronic form, £10.

**5.** The time for payment of the fee required under paragraph 3 or 4 shall be the later of 30 days following—

(a) the last day of the quarter to be covered by the return if a return is not submitted in accordance with regulation 53; or

(b) submission of the return in accordance with regulation 53.

**6.** A consignee may recover from a consignor any fees paid under paragraph 3 in relation to consignments sent by that consignor.

# SCHEDULE 10

Regulation 70(7)

## FORM OF FIXED PENALTY NOTICES

## HAZARDOUS WASTE (ENGLAND AND WALES) REGULATIONS 2005, SCHEDULE 9

Notice Number:_____
Name of alleged offender:_____
Address:_____
_____

I, _____ (a) an authorised person acting on behalf of the Environment Agency, have reason to believe that on or between _____ (b), you committed the offence of _____(c).
This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. The circumstances alleged to constitute the offence are as follows:
_____
_____
No proceedings will be taken for this offence before the expiration of 28 days from the date of this notice. You will not be liable to conviction for the offence if you pay the fixed penalty during that period of 28 days.
The amount of the fixed penalty is £300. It may be paid to _____(d) at the following address:
_____ (e).
Payment may be made by pre-paying and posting to: _____(d) at the address shown above a letter containing the amount of the penalty. Payment may also be made by cash, or by cheque, postal order or money order made payable to:_____ _____ (d).
(If you are sending cash, you are advised to send it by registered post.) Payment made in this way will be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post. Alternatively, payment may be made in person or by any other method.
Signature of authorised person: _____
Date of notice:_____

Notes:
(a) Insert name of authorised person.
(b) Insert date on or dates between which offence is alleged to have taken place.
(c) Insert regulation of the Hazardous Waste (England and Wales) Regulations 2005 which is alleged to have been contravened.
(d)Insert title or name of the person to whom the fixed penalty is to be paid.
(e) Insert address at which payment is to be made.

Letter which may be used for payment by post

I enclose with this letter the amount of £300 being the fixed penalty for the offence described in Fixed Penalty Notice number: _____ (a)
under Schedule 10 of the Hazardous Waste (England and Wales) Regulations 2005.

Signature:_____
Name in capitals:_____
Address:_____
_____
_____

Notes:
(a) Insert Notice number that appears in the fixed penalty notice above.".

# SCHEDULE 11 Regulation 77

# CONSEQUENTIAL AMENDMENTS

## PART 1

### AMENDMENTS TO PRIMARY LEGISLATION

*The Waste and Emissions Trading Act 2003*

**1.** The Waste and Emissions Trading Act 2003(**a**) is amended as follows.

**2.** In section 25(2), for "for the purpose of Council Directive 91/689/EEC" substitute "within the meaning of regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005".

## PART 2

### AMENDMENTS TO SECONDARY LEGISLATION

*The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991*

**3.** The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(**b**) are amended as follows.

**4.** At the end of Schedule 1 insert "The Hazardous Waste (England and Wales) Regulations 2005".

*The Environmental Protection (Duty of Care) Regulations 1991*

**5.** The Environmental Protection (Duty of Care) Regulations 1991(**c**) are amended as follows.

**6.** In regulation 2(3), for "special waste" substitute "hazardous waste", and for "Special Waste Regulations 1996" substitute "Hazardous Waste (England and Wales) Regulations 2005".

*The Environmental Protection (Prescribed Processes and Substances) Regulations 1991*

**7.** The Environmental Protection (Prescribed Processes and Substances) Regulations 1991(**d**) are amended as follows.

**8.** In Section 5.1 of Chapter 5 of Schedule 1—

(a) in the definition of "exempt hazardous waste incineration plant"—

(i) in paragraph (ii) for "Annex II to Directive 91/689/EEC on hazardous waste" substitute "Schedule 2 of the Hazardous Waste (England and Wales) Regulations 2005";

(ii) in paragraph (iii) for "Annex III to Directive 91/689/EEC on hazardous waste" substitute "Schedule 3 of the Hazardous Waste (England and Wales) Regulations 2005";

(b) in the definition of "hazardous waste"—

(i) in the opening words, for "Article 1(4) of Directive 91/689/EEC" substitute "regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005"; and

---

(**a**) 2003 c.33.
(**b**) S.I. 1991/1624; Schedule 1 was amended by S.I 1994/1137, 1996/972, 2000/1973.
(**c**) S.I. 1991/2839; as amended by S.I.2002/1559, 2003/63.
(**d**) S.I. 1991/472; relevant amendments are contained in S.I.1998/767.

(ii) in sub-paragraph (i)(b) and paragraph (v), for "in Annex II to Directive 91/689//EEC" substitute "in Schedule 2 to the Hazardous Waste (England and Wales) Regulations 2005".

*Waste Management Licensing Regulations 1994*

**9.** The 1994 Regulations are amended as follows.

**10.** In regulation 1(3), for the definition of "special waste", substitute ""hazardous waste" has the meaning given by regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005".

**11.** In regulation 3, at the end add "(q) the Hazardous Waste (England and Wales) Regulations 2005".

**12.** In regulation 10(1)(j) for "special waste" substitute "hazardous waste".

**13.** In regulation 10(1)(k) at the end insert "or regulation 47(5) or 48(6)of the Hazardous Waste (England and Wales) Regulations 2005".

**14.** In regulation 14(1) and 14(2), for "toxic and dangerous waste" substitute "hazardous waste", and in regulation 14(3) for the definition of "toxic and dangerous waste" substitute ""hazardous waste" has the meaning given by regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005.".

**15.** In regulation 17(3) and 17(3A) for "special waste" substitute "hazardous waste".

**16.** In paragraph 5 of Schedule 1, for subparagraph (d) to the end of paragraph 5, substitute—

"(d) every record made relating to the site pursuant to regulation 14 of the Control of Pollution (Special Waste)Regulations 1980, regulation 16 of the 1996 Regulations, or regulation 0 of the Hazardous Waste (England and Wales) Regulations 2005;

and any estimate under paragraph 4 of the total quantities of the different types of waste dealt with at the site shall, in particular, differentiate between biodegradable waste, non-biodegradable waste and hazardous waste.".

**17.** In paragraph 2(1) of Schedule 1A, for the definition of hazardous waste substitute ""hazardous waste" means such waste as defined in Regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005."

**18.** In schedule 3, in paragraphs 3(a)(ii), 3(c), 18(2)(b), 28, 36(1), 36(2), 38, 39(1), 39(2), 41(2), and in tables 4, 4A and 4B, on each occasion that it appears, for "special waste" substitute "hazardous waste".

**19.** In paragraph 9 of Schedule 4, omit subparagraphs (9) and (10).

**20.** In paragraph 13(1) of Schedule 4 delete ", and producers of special waste,".

**21.** In paragraphs 14(1)(b) and 14(1A) of Schedule 4 for "special waste" substitute "hazardous waste".

**22.** For paragraph 14(5) of Schedule 4, substitute—

"(2) Paragraph (a) of regulation 66 of the Hazardous Waste (England and Wales) Regulations 2005 (defence in case of emergency) shall apply to a person charged with an offence under paragraph (4) above as it applies to a person charged with an offence under regulation 65 of those Regulations.".

**23.** For paragraph 14(8) of Schedule 4, substitute—

"(8) Regulations 67 and 69(2) of the Hazardous Waste (England and Wales) Regulations 2005 shall apply to an offence under this paragraph as they apply to an offence under regulation 65 of those Regulations.".

*Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999*

**24.** The Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999(**a**) are amended as follows.

**25.** In paragraph 9 of Schedule 1, for "hazardous waste (that is to say, waste to which Council Directive 91/689/EEC applies)." substitute "hazardous waste as defined in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005.".

*Environmental Protection (Disposal of Polychlorinated Biphenyls and Dangerous Substances)(England and Wales) Regulations 2000*

**26.** The Environmental Protection (Disposal of Polychlorinated Biphenyls and Dangerous Substances)(England and Wales) Regulations 2000(**b**) are amended as follows.

**27.** For regulation 11(3), substitute the following—

"(3) Subject to paragraphs (5) and (7), the Agency shall keep a register specifying the quantity, origin, nature and PCB content of used PCBs in respect of which—

(a) copies of consignment notes specifying that information are furnished to it under regulations 5(4), 8(7) or 9(3) of the Special Waste Regulations 1996; or

(b) quarterly returns specifying that information are furnished to it under regulation 53 of the Hazardous Waste (England and Wales) Regulations 2005,

and which in either case have been furnished by a person in the course of a business concerned with the disposal of PCBs."

*Pollution Prevention and Control (England and Wales) Regulations 2000*

**28.** The Pollution Prevention and Control (England and Wales) Regulations 2000(**c**) (which extend to England and Wales) are amended as follows.

**29.** In Chapter 5 of Schedule 1—

(a) in the definition of "hazardous waste" in the paragraph headed "Interpretation of Section 5.1" of Section 5.1—

(i) in the opening words for "Article 1(4) of Directive 91/689/EEC on hazardous waste" substitute "regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005"; and

(ii) in paragraph (a)(ii) for "Annex II to Directive 91/689/EEC on hazardous waste" substitute "Schedule 2 of the Hazardous Waste (England and Wales) Regulations 2005";

(b) in paragraph 1 of the paragraph headed "Interpretation of Part A(1)" of Section 5.3 for the definition of "hazardous waste", substitute ""hazardous waste" means any waste as defined for the time being in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005."; and

(c) in the paragraph headed "Interpretation of Part A(1)" of Section 5.4 insert the following after paragraph 3—

"**4.** In this Part, hazardous waste means any waste as defined in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005.".

*Chemicals (Hazard Information and Packaging for Supply) Regulations 2002*

**30.** The Chemicals (Hazard Information and Packaging for Supply) Regulations 2002(**d**) are amended as follows.

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(**a**) S.I. 1999/293, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 2000/1043, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2000/1973; relevant amendments have been made by S.I.2002/2980.
(**d**) S.I. 2002/1689, to which there are amendments not relevant to these Regulations.

**31.** In regulation 3(3)(e), for "Special Waste Regulations 1996" substitute "Hazardous Waste (England and Wales) Regulations 2005".

*Landfill (England and Wales) Regulations 2002*

**32.** The Landfill (England and Wales) Regulations 2002(**a**) are amended as follows.

**33.** In Regulation 7(2) for "Hazardous waste means any waste as defined in Article 1(4) of Directive 91/689/EEC (hazardous waste)." substitute "Hazardous waste means any waste as defined in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005.".

**34.** For paragraph 2(a) of Schedule 1, substitute "(a) it is a hazardous waste as defined in the Hazardous Waste (England and Wales) Regulations 2005; and".

**35.** For paragraph 3(1)(a) of Schedule 1, substitute "(a) it is a hazardous waste as defined in the Hazardous Waste (England and Wales) Regulations 2005; and".

**36.** For paragraph 3(1)(b) of Schedule 1, substitute "(b) it is a non-hazardous waste as defined in the Hazardous Waste (England and Wales) Regulations 2005.".

**37.** For paragraph 5(1)(g) of Schedule 1, substitute—

"(g) in the case of hazardous waste, the relevant properties which render it hazardous as listed in Schedule 3 of the Hazardous Waste (England and Wales) Regulations 2005;".

*Packaging (Essential Requirements) Regulations 2003*

**38.** The Packaging (Essential Requirements) Regulations 2003(**b**) are amended as follows.

**39.** In regulation 3(2), for the words "or the provisions of Council Directive 91/689/EEC on hazardous waste." substitute "or the provisions of the Hazardous Waste (England and Wales) Regulations 2005."

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(**a**) S.I. 2002/1959; as amended by S.I. 2004/1375.
(**b**) S.I. 2003/1941.

# SCHEDULE 12

Regulation 78

# TRANSITIONAL PROVISIONS

## PART 1

### PROVISIONS OF THESE REGULATIONS

**1.**—(1) This paragraph applies to any notification of premises made for the purposes of these Regulations before 16th July 2005.

(2) Where it is proposed to remove waste from any premises after 16th July 2005, a producer, and, in the circumstances provided for in regulation 25, a consignor, may notify premises to the Agency in advance in accordance with regulation 26.

(3) Notification may be given more than one month in advance of the effective time.

(4) But the effective time for may not be on a date earlier than 16th July 2005 or on a date later than 16th September 2005.

(5) The Agency shall, where notification is duly given pursuant to this paragraph, issue a premises code in accordance with regulation 27.

(6) Expressions used in this paragraph have the same meanings as in Part 5.

**2.** Where the removal of waste by pipeline from any premises commenced before 16th July 2005 but continues thereafter, regulation 41 shall have effect as if the first day on which the waste was piped was 16th July 2005.

## PART 2

### PERMITTING REGIMES

**3.**—(1) Subject to the following provisions of this Schedule, a reference in a waste permit to special waste, or to special waste of any description (howsoever framed), is a reference to hazardous waste, or hazardous waste of that description, as the case may be.

**4.**—(1) This paragraph applies in relation to waste which was not special waste immediately before these Regulations come into force if that waste becomes hazardous waste as a result of these Regulations ("changed status waste").

(2) Any general prohibition or restriction contained in a waste permit relating to the disposal or recovery of special waste under that permit immediately before these Regulations came into force shall not apply to the disposal or recovery of changed status waste insofar as the permit specifically authorises the disposal or recovery of that type of waste.

(3) A waste permit holder who would no longer be authorised to continue to dispose or recover that waste under his permit by reason of the change in its status, may continue to dispose or recover that waste in accordance with the permit despite the change in status until the prescribed date.

(4) Regulation 17(3) of the 1994 Regulations shall not apply to the carrying on of an exempt activity involving changed status waste at any place by a person who was carrying on that activity at that place immediately before these Regulations come into force ("a changed status waste exempt person").

(5) A changed status waste exempt person who would no longer be authorised to carry on an exempt activity involving such waste by reason of the change in its status, may continue to carry on that activity at that place in accordance with the 1994 Regulations despite the change in status until the prescribed date.

(6) The prescribed date is—

(a) where an application for a waste permit or a variation to a permit is duly made in relation to the activity before 16th July 2006, the date on which the application is granted or if the application is (or is deemed to be) rejected, the date on which the period for appealing expires without an appeal being made or any appeal is withdrawn or finally determined; or

(b) in any other case, 16th July 2006.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations set out the regime for the control and tracking of the movement of hazardous waste for the purpose of implementing the Hazardous Waste Directive (Directive 91/689/EC). The Regulations extend to England and Wales although the only provisions that apply to Wales are modifications to the Environmental Protection Act 1990 contained in Part 11.

**Hazardous Waste**

The Waste Framework Directive (Directive 75/442/EEC) regulates, subject to the certain exclusions, the management of all types of waste ("Directive waste"). The Hazardous Waste Directive supplements the Waste Framework Directive by imposing additional requirements in relation to Directive waste which displays certain hazardous properties. These requirements have previously been transposed by the Special Waste Regulations 1996 through controls on "special waste". These Regulations repeal the Special Waste Regulations 1996 and replace the term "special waste" with "hazardous waste".

Parts 1 to 3 of the Regulations define Hazardous waste and set out how the Regulations apply to that waste. The definition of hazardous waste in regulation 6 refers to the list of hazardous wastes set out in the List of Wastes (England) Regulations 2005 (S.I.2005/895).

There is an exclusion from these controls for domestic waste which displays hazardous properties but not if it comprises asbestos waste or is collected separately. In both cases, the Regulations do not impose obligations directly on householders.

**Mixing Ban**

Part 4 bans the mixing of hazardous waste unless it is permitted as part of a disposal or recovery operation in accordance with the Waste Framework Directive. It also imposes a duty to separate different categories of Hazardous Waste where technically feasible.

**Notification**

Part 5 makes it an offence to remove hazardous waste from premises which have not been notified to the Environment Agency, unless they are exempt premises or the waste has been flytipped. All premises at which hazardous waste is produced or removed must be notified by the producer of the waste or the consignor (the person who arranges for the removal of the waste). Notification lasts 12 months after which the premises must be notified again. A fee is payable to the Environment Agency on notification of premises.

**Movement of Hazardous Waste**

Part 6 requires documents to be completed whenever hazardous is removed from premises (which includes removal from ships and removal by pipeline). The various types of form are set out in Schedules 4 to 7. This is to ensure that an accurate description of consignments of waste accompanies them whenever they move. This is in addition to any requirements to ensure hazardous waste is properly packaged and labelled (see in particular the Packaging (Essential Requirements) Regulations 2003 (S.I. 2003/1941)).

Producers, holders, carriers, consignors and consignees are all required to complete various parts of the forms. If the consignee rejects the waste, suitable alternative arrangements must be made. Schedule 7 deals with cross border transfers within the United Kingdom and Gibraltar.

**Records and Returns**

Part 7 requires producers, holders, carriers, consignors and consignees to keep records. These must be kept for a minimum of 3 years except in the case of carriers where the period is 12 months. Consignees are required to provide the Environment Agency with a quarterly return setting out the consignments they have received during that period. Consignees may be required to pay a fee to the Environment Agency but are given a right to recover the payment from consignors who sent

the waste to them. They are also required to send a return to producers or holders who sent waste to them. Schedule 9 sets out a transitional scheme for fees.

**The Agency's functions**

Part 8 sets out the Agency's functions. In particular, the Agency is required to inspect producers of hazardous waste periodically and to keep any records sent to it pursuant to Part 7 for a minimum of 3 years.

**Emergencies and Grave Danger**

Part 9 imposes duties on holders of hazardous waste and the Environment Agency in the event of an emergency or grave danger which arises from hazardous waste.

**Enforcement**

Part 10 makes it an offence for failure to comply with the requirements of these Regulations. The maximum penalty for failure to comply with a requirement imposed by or under the regulations set out in regulation 69(1) is level 5 on the standard scale (currently £5000). The Agency may issue fixed penalty notices of £300 instead of seeking conviction in relation to such offences. Other offences under the Regulations (including the provision of false information) are subject to a maximum fine of level 5 if tried summarily and higher fines and also imprisonment if tried on indictment.

**Amendments to other legislation**

Part 11 omits references to special waste in the Environmental Protection Act 1990 and replaces them with references to hazardous waste. It also gives the Secretary of State the power to designate waste as hazardous for the purposes of these Regulations by means of a statutory instrument.

Schedule 11 makes consequential amendments to secondary legislation so that references to special waste are omitted and references to hazardous waste are updated so that they are consistent with these Regulations.

**Transitional provision**

Schedule 12 makes transitional provision. It provides a two month period for notification in advance of the Regulations fully coming into force. It also makes transitional provision for those cases where the change to hazardous waste from special waste would mean that a person would no longer be authorised to dispose or recover waste.

As these Regulations give effect to a Directive, a transposition note has been prepared setting out how the Government will transpose into UK law the main elements of this Directive. A regulatory impact assessment has also been prepared. Copies of both the transposition note and regulatory impact assessment are available in the libraries of both Houses of Parliament, and from WM Hazardous Waste Unit, Department for Environment, Food and Rural Affairs, Zone 7/F15, Ashdown House, 123 Victoria Street, London SW1E 6DE.

The volume entitled "Indexes to the United Kingdom Standard Industrial Classification of Economic Activities 2003", referred to in the definition of "SIC", is available from the Stationery Office Limited on 0870 600 552.