

*Draft Regulations laid before the Scottish Parliament under section 2 of the Pollution Prevention and Control Act 1999, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2011 No.**

**ENVIRONMENTAL PROTECTION**

**The Waste Management Licensing (Scotland) Regulations 2011**

*Made* - - - - 2011  
*Coming into force* - - 27th March 2011

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999 (“the 1999 Act”)(1) and paragraph 1A of Schedule 2 to the European Communities Act 1972 (“the 1972 Act”)(2) and all other powers enabling them to do so.

In accordance with section 2(4) of the 1999 Act, they have consulted with the Scottish Environment Protection Agency, such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate, and such other bodies or persons as they consider appropriate.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act, and it appears to the Scottish Ministers that it is expedient for the reference to Regulation 73/2009/EC(3) in paragraph 7 of Schedule 1 and for the references to Regulation 1069/2009/EC(4) in paragraphs 7 and 19 of Schedule 1 to be references to those instruments as amended from time to time.

In accordance with section 2(8) of the 1999 Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Waste Management Licensing (Scotland) Regulations 2011 and come into force on 27th March 2011, subject to paragraph (2).

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- (1) 1999 c.24, as relevantly amended by the Antisocial Behaviour etc. (Scotland) Act 2004 asp 8, schedule 2 Part 1 paragraph 5. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46), as read with section 5(3) of the 1999 Act. Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives (O.J. L 312, 22.11.2008, p.3) was designated for the purposes of paragraph 20(2) (c) of Schedule 1 to the 1999 Act by S.S.I. 2010/131.
- (2) 1972 c.68, as relevantly amended by the Scotland Act 1998 (c.46) Schedule 8 paragraph 15(3); the Legislative and Regulatory Reform Act 2006 (c.51) Part 3 sections 27(1) and (2) and 28 and the European Union Amendment Act 2008 (c.7) Schedule 1 Part 1. The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, so far as exercisable within devolved competence, were transferred to the Scottish Ministers by section 53 of the Scotland Act.
- (3) O.J. L 30, 31.1.2009, p.16, as amended by Commission Regulations 992/2009/EC (O.J. L 278, 23.10.2009, p.7) and 360/2010/EU (O.J. L 106, 28.4.2010, p.1) and by Council Regulation 1250/2009/EC (O.J. L 338, 19.12.2009, p.1).
- (4) O.J. L 300, 14.11.2009, p. 1.

(2) Regulation 34 so far as revoking regulation 4 of, and Schedule 1A to, the 1994 Regulations comes into force on 30th April 2011.

(3) These Regulations extend to Scotland only.

## Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1990 Act” means the Environmental Protection Act 1990(5);

“the 1991 Regulations” means the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(6);

“the 1994 Regulations” means the Waste Management Licensing Regulations 1994(7);

“the 1995 Act” means the Environment Act 1995(8);

“the 2000 Regulations” means the Pollution Prevention and Control (Scotland) Regulations 2000(9);

“the 2003 Act” means the Water Environment and Water Services (Scotland) Act 2003(10);

“the 2003 Regulations” means the Landfill (Scotland) Regulations 2003(11);

“the 2005 Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2005(12)

“the 2011 Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2011;

“agriculture” has the same meaning as in section 86(3) of the Agriculture (Scotland) Act 1948(13);

“agricultural waste” means waste from premises used for agriculture;

“battery” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or one or more secondary battery cells (rechargeable; an accumulator), but does not include any battery excluded from the scope of the Batteries Directive by Article 2(2) of that Directive;

“Batteries Directive” means Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators(14);

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- (5) 1990 c.43, as relevantly amended by the Natural Heritage (Scotland) Act 1991 (c.28) Schedule 2 paragraph 10(2); the Local Government etc. (Scotland) Act 1994 (c.39) Schedule 13 paragraph 167(6) and Schedule 14 paragraph 1; the Environment Act 1995 (c.25) Schedule 19 paragraph 4(1), Schedule 22 paragraphs 64, 66(2), 68(3)(b), 72, 76, 77, 83, 86 and 88 and Schedule 24 paragraph 1; the Waste Minimisation Act 1998 (c.44) section 1; the Water Industry (Scotland) Act 2002 (asp 3) Schedule 7 paragraph 20(2) and (3); the Nature Conservation (Scotland) Act 2004 (asp 6) schedule 7 paragraph 7; S.S.I. 2000/323 Schedule 10 Part 1 paragraph 3(3) and (4); 2000/430 article 2; 2002/83 article 2; 2003/173 article 2; 2005/324 article 2 and 2009/247 regulation 3.
- (6) S.I. 1991/472, as relevantly amended by S.I. 1992/614 Schedule 1 paragraph 9(a); S.I. 1993/2405 regulation 2(1); S.I. 1994/1271 Schedule 1 Part II paragraphs 3, 4 and 5(a) and Schedule 3 paragraphs 8 to 11 and S.I. 1995/3247 Schedule 1 Part 1 paragraph 3.
- (7) S.I. 1994/1056, as relevantly amended by S.S.I. 2003/171 regulation 9 and 2004/275 regulation 9(a).
- (8) 1995 c.25, as relevantly amended by S.S.I. 2000/323 Schedule 10(1) paragraph 5(4) and S.S.I. 2006/181 Schedule 1(IV) paragraph 8(5).
- (9) S.S.I. 2000/323, as relevantly amended by S.S.I. 2003/146 regulations 5, 15(a)(ii) and (iii), 16(a) and (b) and 17(c)(ii); 2003/170 regulation 9; 2003/235 Schedule 6 paragraph 3(4) and (11); 2004/26 regulation 13; 2005/101 regulation 5 and 2005/340 regulations 4, 9(a) and (b) and 11(a).
- (10) 2003 asp 3, as relevantly amended by S.S.I. 2005/348 Part 1 regulation 3(2).
- (11) S.S.I. 2003/235, as relevantly amended by the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) schedule 2(2) paragraph 8; S.S.I. 2003/343 regulation 4 and S.S.I. 2010/60, Part 1 regulation 3(4).
- (12) S.S.I. 2005/348, to which there are amendments not relevant to these Regulations.
- (13) 1948 c.45, to which there are amendments not relevant to these Regulations.
- (14) O.J. L 266, 26.9.2006, p.1, as amended by Directive 2008/103/EC (O.J. L 327, 5.12.2008, p.7).

“broker” means any undertaking arranging the recovery or disposal of waste on behalf of others, whether or not such arrangements involve the broker taking physical possession of the waste;

“co-incineration” means the use of wastes as a regular or additional fuel in a co-incineration plant or the thermal treatment of waste for the purposes of disposal in a co-incineration plant;

“co-incineration plant” means any stationary or mobile plant whose main purpose is the generation of energy or production of material products and—

- (a) which uses wastes as a regular or additional fuel, or
- (b) in which waste is thermally treated for the purpose of disposal,

if co-incineration takes place in such a way that the main purpose of the plant is not the generation of energy or production of material products but rather the thermal treatment of waste, the plant shall be regarded as an incineration plant; this definition covers the site and the entire plant including all co-incineration lines, waste reception, storage, on site pre treatment facilities, waste-, fuel- and air supply systems, boiler, facilities for the treatment of exhaust gases, on site facilities for treatment or storage of residues and waste water, stack devices and systems for controlling incineration operations, recording and monitoring incineration conditions;

“coastal water” has the same meaning as in section 3(8) of the 2003 Act;

“construction work” includes the alteration, repair or improvement of existing works;

“controlled activity” has the same meaning as in the 2011 Regulations;

“controlled waste” has the meaning given by section 75;

“dealer” means any undertaking which acts in the role of principal to purchase and subsequently sell waste, whether or not this involves the dealer taking physical possession of the waste;

“the Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste<sup>(15)</sup>;

“Directive waste” means anything that is waste within the meaning of Article 3(1) of the Directive, as read with Articles 5 and 6, and which is not excluded from the scope of the Directive by Article 2(1), (2) or (3);

“disposal” means any of the operations listed in Part II of Schedule 4, and any other operation relating to waste which is not recovery even where it has as a secondary consequence the reclamation of substances or energy, and any reference to waste being disposed of is a reference to its being submitted to any such operations;

“disposal licence” has the same meaning as in section 3(1) of the Control of Pollution Act 1974<sup>(16)</sup>;

“European Waste Catalogue” means the list of wastes set out in Commission Decision [2000/532/EC](#)<sup>(17)</sup> establishing a list of wastes;

“exempt activity” means any of the activities set out in Schedule 1;

“incineration” means the thermal treatment of wastes with or without the recovery of the combustion heat generated;

“incineration plant” means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of wastes with or without recovery of the combustion heat generated.

(15) O.J. L 312, 22.11.2008, p.3.

(16) [1974 c. 40](#), as relevantly amended by the Criminal Procedure (Scotland) Act [1975 \(c.21\)](#) section 289B(1), 289F and 289G; the 1995 Act Schedule 19 paragraph 1(3) and [S.S.I. 2006/181](#) Schedule 1 Part 1 paragraph 1.

(17) O.J. L 226, 6.9.2000, p.3, as amended by Commission Decisions [2001/118/EC](#) (O.J. L 47, 16.2.2001, p.1) and [2001/119/EC](#) (O.J. L 47, 16.2.2001, p.32) and by Council Decision [2001/573/EC](#) (O.J. L 203, 28.7.2001, p.18).

This includes the incineration by oxidation of waste as well as other thermal treatment processes such as pyrolysis, gasification or plasma processes in so far as the substances resulting from the treatment are subsequently incinerated. This definition covers the site and the entire incineration plant including all incineration lines, waste reception, storage, on site pre treatment facilities, waste-, fuel- and air supply systems, boiler, facilities for the treatment of exhaust gases, on site facilities for the treatment or storage of residues and waste water, stack devices and systems for controlling incineration operations, recording and monitoring incineration conditions;

“inland waters” means an inland water as defined in section 3(6) of the 2003 Act, excluding groundwater;

“landfill” has the same meaning as in regulation 2(1) of the 2003 Regulations;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(18);

“mines or quarries waste” means waste from a mine or quarry;

“operational land” has the same meaning as in sections 215 and 216 of the Town and Country Planning (Scotland) Act 1997(19);

“producer” means anyone whose activities produce waste, or anyone who carries out pre-processing, mixing or other operations resulting in a change in its nature or composition;

“recovery” means any of the operations listed in Part III of Schedule 4, and any other operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in a plant or in the wider economy, and any reference to waste being recovered is a reference to its being submitted to any such operations;

“recycling”, except in relation to WEEE, means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery or reprocessing into materials that are to be used as fuels or for back-filling operations;

“recycling”, in relation to WEEE, has the same meaning as in Article 3(e) of the WEEE Directive;

“the register” means a register of exempt activities maintained under regulation 20;

“reuse”, in relation to WEEE, has the same meaning as in Article 3(d) of the WEEE Directive;

“site licence” has the same meaning as in section 35(12);

“special waste” has the same meaning as in regulation 2 of the Special Waste Regulations 1996(20), except that it includes only such radioactive waste as falls within paragraph (b) of the definition of “waste” below;

“surface water” has the same meaning as in section 3(3) of the 2003 Act;

“treatment”, except in relation to WEEE and batteries and to treatment of land, means recovery or disposal operations, including preparation prior to recovery or disposal;

“treatment”, in relation to WEEE, has the same meaning as in Article 3(h) of the WEEE Directive;

“waste” means—

- (a) Directive waste;

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(18) 1994 c.39, as relevantly amended by the 1995 Act Schedule 22 paragraph 232(1).

(19) 1997 c.8, as relevantly amended by the Transport Act 2000 (c.38) Schedule 5 paragraph 11; the Planning etc. (Scotland) Act 2006 (asp 17) Part 10 section 54(10); S.I. 2000/2040 Schedule 1 Part 1 paragraph 20; S.I. 2001/1149 Schedule 1 Part 1 paragraphs 113(2) to (4); S.S.I. 2006/243 article 4(10) and S.I. 2006/1157 Schedule 1 paragraph 1.

(20) S.I. 1996/972, to which there are amendments not relevant to these Regulations.

- (b) radioactive waste within the meaning of section 1A of the Radioactive Substances Act 1993(21) which is exempt from the requirement for authorisation under section 13 or 14 of that Act by virtue of an order made, or having effect as if made, under section 15(2) of that Act;
- (c) where land is undergoing on-site remediation of contamination, that land including unexcavated contaminated soil and any contaminated buildings permanently connected with that land;

“waste management licence” has the same meaning as in section 35(1);

“waste motor vehicle” has the same meaning as in regulation 2 of the End-of-Life Vehicles (Storage and Treatment) (Scotland) Regulations 2003(22);

“the waste regulation authority” means the Scottish Environment Protection Agency;

“waste oil” means any mineral-based or synthetic lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, lubricating oil, oil for turbines and hydraulic oil;

“the water environment” has the same meaning as in section 3 of the 2003 Act;

“WEEE” means electrical or electronic equipment which is waste including all components, subassemblies and consumables which are part of the product at the time of discarding;

“the WEEE Directive” means Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment(23), as amended by Directive 2003/108/EC(24);

“work” includes any preparatory work;

“writing” includes text that is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

(2) In these Regulations, in relation to batteries—

- (a) “industrial battery” means any battery or battery pack which is—
  - (i) designed exclusively for industrial or professional uses;
  - (ii) used as a source of power for propulsion in an electric vehicle;
  - (iii) unsealed but is not an automotive battery; or
  - (iv) sealed but is not a portable battery;
- (b) “portable battery” means any battery or battery pack which—
  - (i) is sealed;
  - (ii) can be hand-carried by an average natural person without difficulty; and
  - (iii) is neither an automotive nor an industrial battery;
- (c) “the treatment conditions” means the provisions of Article 12(2) and Annex III, Part A of the Batteries Directive; and
- (d) other expressions defined in Article 3 of the Batteries Directive have the same meanings as in that Directive.

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(21) 1993 c. 12, as relevantly amended by the Radioactive Substances Act 1993 Amendment (Scotland) Regulations 2011.

(22) S.S.I. 2003/593.

(23) O.J. L 37, 13.2.2003, p.24.

(24) O.J. L 345, 31.12.2003, p.106.

(3) Any reference in these Regulations to carrying on business as a metal dealer has the meaning given by section 37(2) of the Civic Government (Scotland) Act 1982**(25)**.

(4) The provisions of section 160 apply to—

- (a) the service or giving of any notice required or authorised by these Regulations to be served on or given to a person; or
- (b) the sending or giving of any document required or authorised by these Regulations to be sent or given to a person,

as if the service or giving of any such notice or, as the case may be, the sending or giving of any such document, was required or authorised by or under the 1990 Act.

(5) In these Regulations, unless the context otherwise requires, any reference to—

- (a) a numbered section is a reference to the section in the 1990 Act bearing that number;
- (b) a numbered regulation or Schedule is a reference to the regulation in, or Schedule to, these Regulations bearing that number; and
- (c) a numbered paragraph is a reference to the paragraph in that regulation or Schedule bearing that number in the regulation or Schedule of which that paragraph forms part.

### Relevant Offences

**3.** Any offence is a relevant offence for the purposes of section 74(3)(a) if it is an offence under any of the following enactments—

- (a) section 3, 5(6), 18(2), 92(6) or 93(3) of the Control of Pollution Act 1974;
- (b) section 2 of the Refuse Disposal (Amenity) Act 1978**(26)**;
- (c) section 9(1) of the Food and Environment Protection Act 1985**(27)**;
- (d) section 1, 5, 6(9) or 7(3) of the Control of Pollution (Amendment) Act 1989**(28)**;
- (e) section 23(1), 33, 34(6), 44, 47(6), 57(5), 59(5), 63(2), 71(3) or 80(4);
- (f) section 33 of the Clean Air Act 1993**(29)**;
- (g) the Special Waste Regulations 1996;
- (h) regulation 30(1) of the 2000 Regulations;
- (i) regulation 19(1) of the 2003 Regulations;
- (j) regulation 40(1) of the 2005 Regulations;
- (k) regulation 73 of the Waste Electrical and Electronic Equipment Regulations 2006**(30)**;
- (l) the Transfrontier Shipment of Waste Regulations 2007**(31)**;
- (m) regulation 42 of the Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008**(32)**;
- (n) regulation 89 of the Waste Batteries and Accumulators Regulations 2009**(33)**;

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**(25)** 1982 c.45, to which there are amendments not relevant to these Regulations.

**(26)** 1978 c.3, as relevantly amended by the Criminal Procedure (Scotland) Act 1975 (c.21) section 289E; the Roads (Scotland) Act 1984 (c.54) section 157(2) and Schedule 9 paragraph 78(2) and the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Schedule 4 paragraph 15.

**(27)** 1985 c.48, as relevantly amended by the 1990 Act section 146(4).

**(28)** 1989 c.14, as relevantly amended by the 1990 Act Schedule 15 paragraph 31(2).

**(29)** 1993 c.11, to which there are amendments not relevant to these Regulations.

**(30)** S.I. 2006/3289, as relevantly amended by S.I. 2007/3454 Schedule 1 paragraph 28.

**(31)** S.I. 2007/1711, as relevantly amended by S.I. 2008/9 regulations 4 and 5 and S.I. 2010/265 Part 3 regulation 8.

**(32)** S.I. 2008/3257, as relevantly amended by S.I. 2010/897 regulation 2(13) and (15).

**(33)** S.I. 2009/890.

- (o) regulation 10(6), 11(7), 12(5) or 18(4) of the Environmental Liability (Scotland) Regulations 2009<sup>(34)</sup>;
- (p) section 39(1) of the Marine (Scotland) Act 2010<sup>(35)</sup>; and
- (q) regulation 44(1) of the 2011 Regulations.

### **Notice of Appeal**

4.—(1) An appeal under section 43 or 66(5) (appeals to the Scottish Ministers from decisions with respect to waste management licences or from determinations that information is not commercially confidential) must be made by notice in writing.

(2) The notice must be accompanied by—

- (a) a statement of the grounds of appeal;
- (b) where the appeal relates to an application for a waste management licence or for the modification, surrender or transfer of a waste management licence, a copy of the appellant's application and supporting documents;
- (c) where the appeal relates to a determination under section 66(2) or (4) that information is not commercially confidential, the information in question;
- (d) where the appeal relates to an existing waste management licence (including a waste management licence which has been suspended or revoked), a copy of that waste management licence;
- (e) a copy of any correspondence relevant to the appeal;
- (f) a copy of any other document relevant to the appeal including, in particular, any relevant consent, determination, notice, planning permission, established use certificate or certificate of lawful use or development; and
- (g) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

(3) The appellant must serve a copy of the notice of appeal on the waste regulation authority together with copies of the documents mentioned in paragraph (2).

(4) The appellant may withdraw an appeal by notifying the Scottish Ministers in writing.

(5) The appellant must send a copy of any notification given under paragraph (4) to the waste regulation authority.

### **Time limit for making an appeal**

5.—(1) Notice of appeal must be given—

- (a) in the case of an appeal under section 43, before the expiry of the period of 6 months beginning with—
  - (i) the date of the decision which is the subject of the appeal; or
  - (ii) the date on which the waste regulation authority is deemed by section 36(9), 37(6), 39(10) or 40(6) to have rejected the application;
- (b) in the case of an appeal under section 66(5), before the expiry of the period of 21 days beginning with the date on which the determination which is the subject of the appeal is notified to the person concerned.

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(34) S.S.I. 2009/266.

(35) 2010 asp 5.

(2) The Scottish Ministers may, in relation to an appeal under section 43, at any time allow notice of appeal to be given after the expiry of the period mentioned in paragraph (1)(a).

### **Reports of hearings**

6.—(1) The person hearing an appeal under section 43(2)(c) must make a written report to the Scottish Ministers.

(2) A written report under paragraph (1) must include that person's conclusions and recommendations or reasons for not making any recommendations.

(3) Paragraph (1) does not apply if the person has been appointed to determine the appeal under section 114(1)(a) of the 1995 Act.

### **Notification of determination**

7.—(1) The Scottish Ministers or other person determining an appeal under section 43 or 66(5) must notify the appellant in writing of their, or that person's, decision and of their, or that person's, reasons for that decision.

(2) The Scottish Ministers must provide the appellant with a copy of any report made to them under regulation 6 if they determine an appeal after a hearing under section 43(2)(c).

(3) The Scottish Ministers or other person determining an appeal must, at the same time as notifying the appellant of their, or that person's, decision, send the waste regulation authority a copy of any document sent to the appellant under this regulation.

### **Particulars to be entered in public registers**

8.—(1) A register maintained by the waste regulation authority under section 64(1) must contain full particulars of—

- (a) current or recently current waste management licences (“licences”) granted by the authority and any associated working plans;
- (b) current or recently current applications to the authority for licences, or for the transfer or modification of licences, including details of—
  - (i) documents submitted by applicants containing supporting information;
  - (ii) written representations considered by the authority under section 36(4)(b) or (7)(b), or 37(5);
  - (iii) notices by the authority rejecting applications;
  - (iv) emergencies resulting in the postponement of references under section 37(5)(a);
- (c) notices issued by the authority under section 37 effecting the modification of licences;
- (d) notices issued by the authority under section 38 effecting the revocation or suspension of licences or imposing requirements on the holders of licences;
- (e) notices of appeal under section 43 relating to decisions of the authority and other documents relating to those appeals served on or sent to the authority under regulation 4(3) or (5) or 7(3);
- (f) convictions of holders of licences granted by the authority for any offence under Part II of the 1990 Act (whether or not in relation to a licence) or regulation 19(1) of the 2003 Regulations including the name of the offender, the date of conviction, the penalty imposed and the name of the Court;
- (g) reports produced by the authority in discharge of any functions under section 42, including details of—



- (i) remedial or preventive action taken by the authority under section 42(3);
    - (ii) notices issued by the authority under section 42(5);
  - (h) any monitoring information relating to the carrying on of an activity under a licence granted by the authority which was obtained by the authority as a result of its own monitoring or was given to the authority in writing by virtue of any condition of the licence or section 71(2);
  - (i) directions given by the Scottish Ministers to the authority under section 35(7), 37(3), 38(7), 42(8) or 66(7);
  - (j) any summary prepared by the authority of the amount of special waste produced or disposed of in Scotland;
  - (k) registers and records provided to the authority under regulation 15(5) or 16(1) of the Special Waste Regulations 1996;
  - (l) applications to the authority under section 39 for the surrender of licences, including details of—
    - (i) documents submitted by applicants containing supporting information and evidence;
    - (ii) information and evidence obtained under section 39(4);
    - (iii) written representations considered by the authority under section 39(7)(b); and
    - (iv) notices of determination and certificates of completion issued under section 39(9);
  - (m) written reports under section 109(2) of the 1995 Act by persons authorised by the authority under section 108(1) or (2) of that Act where the articles or substances seized and rendered harmless are waste;
  - (n) all particulars of any conditioning plan or notification as referred to in paragraph 1(3) of Schedule 5 to the 2003 Regulations;
  - (o) all particulars of any notice of a decision under paragraph 1(3)(b) of Schedule 5 to the 2003 Regulations;
  - (p) all particulars of any notification or report required before definitive closure of a landfill under regulation 17(4) of the 2003 Regulations.
- (2) Paragraph (1) is subject to sections 65 and 66 and regulation 9.
- (3) The register must contain a record of—
- (a) the exercise of any power under section 108(4) of the 1995 Act by any person authorised by the authority in connection with its functions under Part II of the 1990 Act;
  - (b) when the power was exercised;
  - (c) what information was obtained; and
  - (d) what action was taken.
- (4) Where any information which shows whether or not there is compliance with any condition of a waste management licence is excluded from the register under section 66, the register must contain a statement indicating whether or not there is compliance with that condition.
- (5) For the purposes of this regulation—
- (a) waste management licences are “recently current” for the period of twelve months after they cease to be in force; and
  - (b) applications for waste management licences or for the transfer or modification of such licences, are “recently current”—
    - (i) if they relate to a waste management licence which is current or recently current; or

- (ii) in the case of an application which is rejected, for the period of twelve months beginning with the date on which the waste regulation authority gives notice of the rejection or, as the case may be, on which the application is deemed by section 36(9), 37(6) or 40(6) to have been rejected.

### Information to be excluded or removed from a register

**9.**—(1) Nothing in regulation 8(1)(g) or (m), (3) or (4) requires a register maintained by the waste regulation authority under section 64(1) to contain information relating to, or to anything which is the subject matter of, any criminal proceedings (including prospective proceedings) at any time before those proceedings are finally disposed of.

(2) Nothing in regulation 8 requires a register maintained by the waste regulation authority under section 64 to contain—

- (a) any monitoring information mentioned in regulation 8(1)(h) after four years have elapsed from that information being entered in the register; or
- (b) any information which has been superseded by later information after four years have elapsed from the later information being entered in the register.

### Mobile plant

**10.**—(1) Plant is treated as being mobile plant for the purposes of Part II of the 1990 Act only if it falls within paragraph (2) and it is—

- (a) an incinerator which is an exempt incinerator for the purposes of Section 5.1 of Schedule 1 to the 1991 Regulations;
- (b) plant for—
  - (i) the recovery, by filtration or heat treatment, of waste oil from electrical equipment; or
  - (ii) the destruction by dechlorination of waste polychlorinated biphenyls or terphenyls (PCBs or PCTs);
- (c) plant for the vitrification of waste;
- (d) plant for the dewatering of muds, sludges, soils and dredgings;
- (e) plant for the treatment by lime stabilisation of sludge;
- (f) plant for the treatment of contaminated material, substances or products for the purpose of remedial action with respect to land or the water environment;
- (g) plant for the treatment of clinical waste; or
- (h) plant for the treatment of sewage.

(2) Plant falls within this paragraph only if it is—

- (a) designed and intended to move or to be moved regularly from place to place with a view to being used at each place, or
- (b) if not so designed, readily capable of so moving or being so moved and intended for that purpose.

(3) For the purposes of paragraph (1)(g) above, “clinical waste” has the meaning given by regulation 1(2) of the Controlled Waste Regulations 1992(36).

### **Conditions of site licences: treatment of WEEE**

11. A site licence which is granted or varied by the waste regulation authority and which authorises the storage or treatment (or both) of WEEE must contain such conditions as the authority considers necessary to give effect to the provisions of Article 6(1), (3) and (4) and Annexes II and III of the WEEE Directive.

### **Conditions of site licences: treatment and storage of batteries**

12. A site licence which is granted or varied by the waste regulation authority and which authorises the storage or treatment (or both) of waste batteries must contain such conditions as the authority considers necessary to give effect to the treatment conditions.

### **Conditions of site licences: incineration of waste industrial and automotive batteries**

13.—(1) A site licence which is granted or varied by the waste regulation authority and which authorises the incineration of waste must contain conditions prohibiting the incineration of waste industrial and automotive batteries.

(2) Such conditions shall not prohibit the incineration of residues of any batteries that have undergone both treatment and recycling, provided that the treatment and recycling—

- (a) used best available techniques, in terms of the protection of health and the environment; and
- (b) complied, as a minimum, with Community legislation, in particular as regards health and safety and waste management.

### **Health at work**

14. No conditions may be imposed in any waste management licence for the purpose only of securing the health of persons at work (within the meaning of Part I of the Health and Safety at Work etc. Act 1974<sup>(37)</sup>).

### **Waste oils**

15.—(1) A waste management licence or disposal licence which authorises the recycling of waste oil must include conditions which ensure that base oils derived from recycling—

- (a) do not constitute special waste; and
- (b) do not contain PCBs or PCTs at all or do not contain them in concentrations beyond a specified maximum limit which in no case is to exceed 50 parts per million.

(2) A waste management licence or disposal licence which authorises the keeping of waste oil must include conditions which ensure that it is not mixed with special waste or PCBs or PCTs.

(3) A waste management licence or disposal licence which is granted or varied by the waste regulation authority and which authorises the treatment of waste oil must include conditions which ensure that, so far as technically feasible and economically viable—

- (a) waste oils having different characteristics are not mixed; and
- (b) waste oils are not mixed with other kinds of waste or substances, if such mixing would impede their treatment.

(4) In this regulation, “PCBs or PCTs” means polychlorinated biphenyls, polychlorinated terphenyls and mixtures containing one or both of such substances.

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(37) 1974 c.37, to which there are amendments not relevant to these Regulations.

**Exclusion of activities under other control regimes from waste management licensing**

16.—(1) Section 33(1)(a), (b) and (c) does not apply in relation to the carrying on of any of the following activities—

- (a) the deposit in or on land, recovery or disposal of waste under an authorisation granted under Part I of the 1990 Act where the activity is or forms part of a process designated for central control under section 2(4);
- (b) the disposal of waste under an authorisation granted under Part I of the 1990 Act where the activity is or forms part of a process within paragraph (a) of Part B of Section 5.1 (incineration) of Schedule 1 to the 1991 Regulations insofar as the activity results in the release of substances into the air;
- (c) the deposit in or on land, recovery or disposal of waste under a permit granted under the 2000 Regulations to operate a Part A installation;
- (d) the disposal of waste under a permit granted under the 2000 Regulations where the activity is or forms part of an activity within Part A of Section 5.1 (incineration) of Part 1 of Schedule 1 to those Regulations;
- (e) the disposal of waste under a permit granted under the 2000 Regulations where the activity is or forms part of an activity within paragraph (a) or (b) of Part B of Section 5.1 (incineration) of Part 1 of Schedule 1 to those Regulations insofar as the activity results in the release of substances into the air;
- (f) the disposal of liquid waste under an authorisation granted or deemed to have been granted under the 2005 Regulations or the 2011 Regulations;
- (g) the recovery or disposal of waste where the activity is or forms part of an operation which is for the time being the subject of a licence under Part II of the Food and Environment Protection Act 1985;
- (h) the recovery or disposal of waste where the activity is for the time being the subject of a licence under Part 4 of the Marine (Scotland) Act 2010; and
- (i) the disposal of agricultural waste under an authorisation granted or deemed to have been granted under the 2005 Regulations or the 2011 Regulations.

(2) Paragraph (1)(a), (b) and (e) does not apply insofar as the activity involves the final disposal of waste by deposit in or on land.

(3) In paragraph (1)(c), “Part A installation” has the meaning given by regulation 2(1) of the 2000 Regulations.

**Exemptions from waste management licensing**

17.—(1) Subject to the following provisions of this regulation and to any conditions or limitations in Schedule 1, section 33(1)(a) and (b) does not apply in relation to the carrying on of any exempt activity set out in that Schedule.

(2) Paragraph (1) does not apply to the carrying on of an exempt activity on any land where that land is covered by a site licence.

(3) Paragraph (1) applies to the carrying on of an exempt activity insofar as it involves special waste—

- (a) only to the extent indicated in Schedule 1; and
- (b) provided that the activity does not involve the carrying out, by an establishment or undertaking, of its own disposal of such waste at the place of production.

(4) In the case of an exempt activity carried on by an establishment or undertaking on any land not within its ownership or control the establishment or undertaking shall obtain all consents necessary to enable the activity to be carried out.

(5) Unless otherwise indicated in Schedule 1, paragraph (1) does not apply to the carrying on of an activity in so far as it involves the storage or treatment of WEEE.

(6) Any exempt activity set out in Schedule 1 containing no specific reference to batteries does not apply to the storage or treatment of batteries collected in accordance with Article 8 of the Batteries Directive.

(7) In the case of an exempt activity involving the carrying out by an establishment or undertaking of the disposal or recovery of waste, paragraph (1) applies only if—

- (a) the type and quantity of waste; and
- (b) the method of disposal or recovery,

are consistent with ensuring the attainment of the objectives mentioned in paragraph 6(1)(a) of Part I of Schedule 4.

(8) In the case of a person carrying on an exempt activity which is a controlled activity, paragraph (1) applies only if that person—

- (a) takes all reasonable steps to secure efficient and sustainable water use; and
- (b) complies with the requirements of—
  - (i) until 22 December 2013, Council Directive [80/68/EEC](#) on the protection of groundwater against pollution caused by certain dangerous substances<sup>(38)</sup>;
  - (ii) from 22 December 2013, Directive [2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration<sup>(39)</sup>; and
  - (iii) Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy<sup>(40)</sup>.

(9) For the purposes of Schedule 1, a container, lagoon or place is secure in relation to waste kept in it if all reasonable precautions are taken to ensure that the waste cannot escape from it and members of the public are unable to gain access to the waste, and any reference to secure storage means storage in a secure container, lagoon or place.

(10) For the purposes of Schedule 1, “benefit to agriculture or ecological improvement” is construed in accordance with Schedule 2 and any guidance issued under paragraph (11) of this regulation.

(11) The waste regulation authority must have regard to any guidance issued to it by the Scottish Ministers with respect to the discharge of its functions in relation to an exempt activity.

### **Exemptions from waste management licensing: controlled activities**

**18.—**(1) Where a person carries out an exempt activity, which is a controlled activity, in accordance with regulation 17(8), that person is deemed to be authorised under the 2011 Regulations for the purposes of regulation 4 of those Regulations.

(2) Paragraph (1) does not apply to any activity specified in section 20(3)(c) or (d) of the 2003 Act or to any activity connected with such an activity and to which section 20(3)(e) of that Act applies.

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(38) O.J. L 20, 26.1.1980, p.43.

(39) O.J. L 372, 27.12.2006, p.19.

(40) O.J. L 327, 22.12.2000, p.1, as amended by Directive [2008/105/EC](#) (O.J. L 348, 24.12.2008, p.84). This Directive was designated for the purposes of paragraph 20(2)(c) of Schedule 1 to the 1999 Act by [S.S.I. 2010/131](#).

### **Exempt activities: registration requirement**

**19.**—(1) It is an offence for an establishment or undertaking to carry on an exempt activity involving the recovery or disposal of waste without being registered with the appropriate registration authority.

(2) The appropriate registration authority is—

- (a) in the case of an exempt activity falling within paragraph 23 of Schedule 1, the authority responsible for granting an authorisation under regulation 27 of the Animal By-Products (Scotland) Regulations 2003<sup>(41)</sup> under which the exempt activity is carried on; and
- (b) in any other case, the waste regulation authority.

(3) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Subject to regulation 31 and notwithstanding the revocation of the 1994 Regulations by regulation 34(1), an exemption which is registered under regulation 18 of the 1994 Regulations as at 27th March 2011 shall continue in effect as if it was registered under these Regulations, but shall fall due for renewal where applicable on the date on which it would have so fallen due under the relevant provisions of the 1994 Regulations.

### **Register of exempt activities**

**20.**—(1) Each appropriate registration authority must maintain a register of establishments and undertakings carrying on exempt activities involving the recovery or disposal of waste in respect of which it is the appropriate registration authority.

(2) Each appropriate registration authority must—

- (a) secure that any register maintained by it under this regulation is open to inspection by members of the public free of charge at all reasonable hours; and
- (b) afford to members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

(3) Registers kept under this regulation may be kept in any form.

### **Register of exempt activities: registration of information**

**21.**—(1) The register must contain the following relevant particulars in relation to each establishment or undertaking registered under regulation 19(1)—

- (a) the name and address of the establishment or undertaking;
- (b) the activity which constitutes the exempt activity; and
- (c) the place where the activity is carried on.

(2) The appropriate registration authority must enter the relevant particulars in the register in relation to each establishment or undertaking carrying out an exempt activity other than one to which regulation 23 or 25 applies, if it receives notice of them in writing or otherwise becomes aware of them.

(3) The appropriate registration authority is taken to be aware of the relevant particulars in relation to—

- (a) an exempt activity carried on under an authorisation granted under Part I of the 1990 Act, or storage related to such an activity;

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(41) S.S.I. 2003/411, as relevantly amended by S.S.I. 2009/7 regulation 2(2).

- (b) an exempt activity carried on under a permit granted under the 2000 Regulations, or storage related to such an activity; and
- (c) an exempt activity falling within paragraph 23 of Schedule 1.

**Register of exempt activities: removal of information**

22.—(1) The appropriate registration authority may remove from the register the entry relating to an exempt activity where it is satisfied that—

- (a) the establishment or undertaking to which the relevant entry relates no longer exists or is no longer carrying on that activity;
- (b) the activity is no longer being carried on in compliance with the conditions or limitations of the relevant paragraph of Schedule 1 or with the relevant provisions of regulation 17;
- (c) the establishment or undertaking carrying on an activity to which regulation 23 or 25 applies has not complied with the requirements of regulation 24, 26 or 27, as the case may be; or
- (d) there has been a breach of any of the registration obligations in regulation 28 which apply in relation to an activity.

(2) The appropriate registration authority must serve on the establishment or undertaking to which an entry relates a notice (“notice of removal”) before removing that entry from the register.

(3) A notice of removal must state—

- (a) the date on which the entry is to be removed; and
- (b) reasons for the removal.

(4) The date specified under paragraph (3)(a) must be at least 21 days after the date on which the notice is served.

(5) The appropriate registration authority may withdraw a notice of removal at any time and reinstate the relevant entry in the register with or without amendment of the particulars relating to that entry.

(6) Paragraphs (2) to (5) do not apply to the removal of an entry from the register under paragraph (1)(c).

**Register of exempt activities: requirements in respect of recovery and storage of scrap metal or waste motor vehicles**

23.—(1) This regulation applies to an exempt activity falling within paragraph 45(1) or (2) of Schedule 1.

(2) In relation to an exempt activity to which this regulation applies, the appropriate registration authority must enter the relevant particulars in the register in relation to an establishment or undertaking only if—

- (a) it receives notice of them in writing;
- (b) that notice is provided by that establishment or undertaking;
- (c) that notice is accompanied by a plan of each place at which any such exempt activity is or will be carried on showing—
  - (i) the boundaries of that place;
  - (ii) the locations within that place at which the exempt activity is or is to be carried on;
  - (iii) the location and specifications of any such impermeable pavements or drainage systems as are mentioned in paragraph 45(1)(c) or (2)(f) or (g) of Schedule 1; and

- (iv) the location of any such secure containers as are mentioned in paragraph 45(2)(e) of Schedule 1;
- (d) in the case of waste motor vehicles, it has first verified, further to its inspection of each such place—
  - (i) the type of waste to be treated;
  - (ii) the quantities of waste to be treated;
  - (iii) the technical and any other requirements relevant to the site; and
  - (iv) the safety precautions to be taken

in order to achieve the objectives referred to in Article 13 of the Directive; and

- (e) that notice is also accompanied by payment of the charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act in respect of each such place where any such exempt activity is carried on.

(3) Registration of an exempt activity involving waste motor vehicles under paragraph (2) continues subject to a requirement that verification of the matters mentioned in paragraph (2)(d) upon inspection is made annually in respect of the activity.

#### **Annual requirements in respect of recovery and storage of scrap metal or waste motor vehicles**

24.—(1) An establishment or undertaking carrying on an exempt activity which is registered under regulation 23(2) must send to the appropriate registration authority annually—

- (a) details of the total quantity of each kind of waste recovered during the preceding 12 months at each place where the exempt activity is carried on;
- (b) an up to date plan of that place containing the details referred to in regulation 23(2)(c); and
- (c) the charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act.

(2) The appropriate registration authority must serve on each establishment or undertaking carrying on an exempt activity which is registered under regulation 23(2) a renewal notice—

- (a) in respect of each place at which that activity is carried on;
- (b) not later than one month before the anniversary of the date when the notice, plan and fee referred to in regulation 23(2), or the details, plan and charge referred to in paragraph (1), as the case may be, were received by the authority in respect of that place.

(3) The renewal notice must specify—

- (a) the amount of the payment due in respect of the charge under paragraph (1)(c);
- (b) the method of payment;
- (c) the date of the anniversary referred to in paragraph (2)(b);
- (d) that payment is due on that date or, if later, upon the day falling one month after the date of the notice (“the due date”); and
- (e) the effect of payment not being made by the due date.

(4) The appropriate registration authority must amend the register in accordance with paragraph (5) or, as the case may be, (6), if the charge payable under paragraph (3)(d) is not received within 2 months of the due date.

(5) Where the establishment or undertaking—

- (a) is registered in respect of only one place in relation to the relevant exempt activity; or



- (b) is registered in respect of more than one place and the charge in respect of each of those places has not been received by the authority

the authority must remove the relevant entry in respect of that establishment or undertaking from the register.

(6) Where the establishment or undertaking is registered in respect of more than one place in relation to the relevant exempt activity and the charge has been received by the authority in respect of one or more (but not all) of those places, the authority must amend the register by removing the entry in respect of those places in relation to which the charge has not been received.

(7) The authority must notify the establishment or undertaking in writing if it removes or amends an entry in its register relating to that establishment or undertaking under this regulation.

### **Register of exempt activities: requirements in relation to certain exempt activities**

**25.**—(1) This regulation applies to exempt activities falling within paragraphs 7, 8(2), 9, 10, 12, 19, 42, 46, 47, 49, 50 or 51 of Schedule 1.

(2) An establishment or undertaking which intends carrying on an exempt activity to which this regulation applies must provide to the appropriate registration authority—

- (a) a written notice given on a form provided for the purpose by the appropriate registration authority (“the notice”);
- (b) a plan of each place at which the activity will be carried on, the information specified in Schedule 3 and such other information as the appropriate authority reasonably requires; and
- (c) payment of any charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act.

(3) Subject to paragraph (4), unless the appropriate registration authority has within the period of 21 days from the date on which it received the notice either—

- (a) entered the relevant particulars in the register in relation to the establishment or undertaking which submitted the notice; or
- (b) served on it a notice of refusal stating that registration is refused and giving reasons for that decision,

those particulars will be deemed to be entered in the register at the end of that 21 day period.

(4) In the case of a notice in relation to an exempt activity falling within paragraph 46 of Schedule 1, the relevant particulars will be deemed to be entered in the register on the date which is requested in the notice, provided that—

- (a) the notice was submitted to the appropriate authority as soon as practicable before the requested date; and
- (b) the appropriate registration authority has not within the period prior to the requested date either entered the relevant particulars in the register or served a notice of refusal on the establishment or undertaking.

### **Annual requirements in respect of certain exempt activities**

**26.**—(1) Particulars entered or deemed to be entered into the register under regulation 25 will be deemed to be removed from the register on the expiry of 12 months from the date on which they were entered or deemed to be entered (“the removal date”) unless the requirements of paragraph (2) are met.

(2) An establishment or undertaking to which regulation 25 applies must send to the appropriate registration authority no later than 21 days before the removal date—

- (a) a notice containing a request that registration of the exempt activity be renewed (“the renewal notice”);
  - (b) confirmation that the particulars submitted in the notice and documentation submitted under regulation 25(2) remain accurate or a revision of such of the particulars of the notice or documentation as are no longer accurate; and
  - (c) any charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act.
- (3) This regulation does not apply to activities falling within paragraph 47(1) or (2) of Schedule 1.

### **Annual requirements in respect of WEEE**

**27.**—(1) An establishment or undertaking carrying on an exempt activity under paragraph 47(1) or (2) of Schedule 1 must send to the appropriate registration authority annually—

- (a) an up to date plan of each place at which it carries on that activity together with the information referred to in regulation 25(2)(b);
- (b) the charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act.

(2) The appropriate registration authority must serve on each establishment or undertaking carrying on an exempt activity under paragraph 47(1) or (2) of Schedule 1 which is registered under regulation 25 a renewal notice—

- (a) in respect of each place where the activity is carried on;
- (b) not later than one month before the anniversary of the date when the notice, plan, information and charge referred to in regulation 25(2), or the plan, information and charge referred to in regulation 27(1), as the case may be, were received by the authority in respect of that place.

(3) The renewal notice must specify—

- (a) the amount of the payment due in respect of the charge under paragraph (1)(b);
- (b) the method of payment;
- (c) the date of the anniversary referred to in paragraph (2)(b);
- (d) that payment is due on that date or, if later, upon the day falling one month after the date of the notice (“the due date”); and
- (e) the effect of payment not being made by the due date.

(4) The appropriate registration authority must amend the register in accordance with paragraph (5) or, as the case may be, (6), if the charge payable under paragraph (3)(d) is not received within 2 months of the due date.

(5) Where the establishment or undertaking—

- (a) is registered in respect of only one place in relation to the relevant exempt activity; or
- (b) is registered in respect of more than one place and the charge in respect of each of those places has not been received by the authority

the authority must remove the relevant entry in respect of that establishment or undertaking from the register.

(6) Where the establishment or undertaking is registered in respect of more than one place in relation to the relevant exempt activity and the charge has been received by the authority in respect of one or more (but not all) of those places, the authority must amend the register by removing the entry in respect of those places in relation to which the charge has not been received.

(7) The authority must notify the establishment or undertaking in writing if it removes or amends an entry in its register relating to that establishment or undertaking under this regulation.

### **Registration obligations**

**28.**—(1) The obligations described in paragraphs (3) to (5) (“the registration obligations”) apply, to the extent specified in paragraphs (2) to (5), to establishments or undertakings whose particulars are entered into the register in relation to an exempt activity falling within paragraphs 7, 8(2), 9, 10, 12, 19, 42, 46, 47 49, 50 and 51 of Schedule 1.

(2) Sub-paragraph (3) does not apply in the case of an exempt activity falling within paragraph 46 of Schedule 1.

(3) An establishment or undertaking must give at least 21 days written notice of the date on which the exempt activity is first to be carried on to the appropriate registration authority unless this information was provided in the notice or renewal notice given under regulations 25, 26 or 27.

(4) An establishment or undertaking must keep records of the quantity, nature, origin, destination and method of recovery or disposal of all waste treated in reliance upon an exempt activity falling within the following paragraphs of Schedule 1—

- (a) paragraphs 7, 8(2), 10, 46 and 50;
- (b) paragraphs 9 and 19 where the volume of waste treated exceeds 2,500 cubic metres;
- (c) paragraph 12 where the volume of waste treated exceeds 10 tonnes per annum.

(5) Records kept under paragraph (4) must be kept for a period of at least 2 years and must be submitted or made available to the appropriate registration authority on request.

(6) A person who carries on an exempt activity in breach of the registration obligations is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Waste Framework Directive**

**29.** Schedule 4 (which implements certain provisions of the Directive) has effect.

### **Registration of brokers and dealers**

**30.**—(1) It is an offence for an establishment or undertaking to arrange (as broker or dealer) for the recovery or disposal of controlled waste on behalf of another person, or to purchase and sell controlled waste as a principal, unless it is a registered broker or dealer in controlled waste.

(2) Paragraph (1) does not apply in relation to an arrangement under which an establishment or undertaking will itself carry out the recovery or disposal of the waste and it is authorised to do so by—

- (a) a waste management licence;
- (b) an authorisation under Part I of the 1990 Act;
- (c) a permit under the 2000 Regulations;
- (d) an authorisation granted under the 2005 Regulations or the 2011 Regulations;
- (e) a licence under Part II of the Food and Environment Protection Act 1985; or
- (f) a licence under Part 4 of the Marine (Scotland) Act 2010.

(3) Paragraph (1) does not apply in relation to an arrangement for the recovery or disposal of waste made by, or to the purchase and sale of waste by, a person who is registered as a carrier of controlled waste, or who is registered for the purposes of paragraph 12(1) of Part I of Schedule 4, if as part of the arrangement that person transports the waste to or from any place in Scotland.

(4) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Section 157 applies in relation to an offence under this regulation as it applies in relation to an offence under the 1990 Act.

(6) Schedule 5 (which makes provision about the registration of brokers of and dealers in controlled waste) has effect.

(7) Section 71(2) and (3) (power to obtain information) have effect as if the provisions of this regulation and Schedule 5 were provisions of Part II of the 1990 Act.

(8) Where a person is registered as a broker of controlled waste under regulation 20 of and Schedule 5 to the 1994 Regulations on 27th March 2011, that registration shall be treated as if it were a registration under this regulation and shall expire on the date specified in connection with the original registration.

### **Transitional provisions**

**31.** Any exempt activity within the meaning of the 1994 Regulations lawfully carried on immediately before or registered as at 27th March 2011 under Schedule 3 to those Regulations, but which is not an exempt activity within the meaning of these Regulations, may continue to be carried on—

- (a) where the establishment or undertaking carrying on the activity applies to the waste regulation authority for a waste management licence in relation to the activity in question before 27th September 2011, until the date on which the licence applied for is granted, or if the application is (or is deemed to be) rejected, until the date on which—
  - (i) the period for appealing expires without an appeal having been made; or
  - (ii) any appeal is withdrawn or finally determined; and
- (b) in any other case, until 27th September 2011.

**32.** Where an activity which was not an exempt activity under the 1994 Regulations becomes an exempt activity under these Regulations, the holder of a waste management licence relating only to such an activity shall be deemed to have surrendered it to the waste regulation authority, and that authority shall be deemed to have accepted the surrender.

### **Savings**

**33.** Notwithstanding the revocation of the 1994 Regulations, the amendments to other enactments made by those Regulations continue to have effect.

### **Revocation and consequential amendments**

- 34.**—(1) The 1994 Regulations are revoked.
- (2) The amendments specified in Schedule 6 have effect.

St Andrew's House,  
Edinburgh

A member of the Scottish Executive

## SCHEDULE 1

Regulations 2(1) and 17

### ACTIVITIES EXEMPT FROM WASTE MANAGEMENT LICENSING

1.—(1) The use, under a permit granted under the 2000 Regulations, of waste glass as part of an activity within Part B of Section 3.3 (the manufacture of glass and glass fibre) of Part 1 of Schedule 1 to the 2000 Regulations if the total quantity of waste glass so used in that activity does not exceed 600,000 tonnes in any period of twelve months.

(2) The storage, at the place where the activity is carried out, of any waste which is intended to be used in reliance upon the exemption conferred by sub paragraph (1).

2.—(1) The operation, under a permit granted under the 2000 Regulations, of a scrap metal furnace with a design holding capacity of less than 25 tonnes to the extent that it is or forms part of an activity within paragraph (a) or (d) of Part B of Section 2.1 (ferrous metals) or paragraph (a) or (b) of Part B of Section 2.2 (non ferrous metals) of Part 1 of Schedule 1 to the 2000 Regulations.

(2) The loading or unloading of such a furnace in connection with its operation in a manner covered by the exemption conferred by sub paragraph (1).

(3) The storage, at the place where such a furnace is located (but not in cases where that place is used for carrying on business as a scrap metal dealer) of scrap metal intended to be submitted to an operation covered by the exemption conferred by sub paragraph (1).

3. The carrying on of any of the following operations—

(a) burning as a fuel, under a permit granted under the 2000 Regulations, of—

(i) straw, poultry litter or wood;

(ii) waste oil listed in Table 1 (including waste oil which is special waste); or

(iii) solid fuel which has been manufactured from waste by a process involving the application of heat,

to the extent that it is or forms part of an activity within Part B of any Section of Part 1 of Schedule 1 to the 2000 Regulations;

(b) the secure storage on any premises of any wastes mentioned in sub paragraph (a), other than waste oil, which are intended to be burned as mentioned in that sub paragraph, and the feeding of such wastes into an appliance in which they are to be so burned;

(c) the secure storage of waste oil listed in Table 1 (including waste oil which is special waste) at the place where it is produced for a period not exceeding 12 months if the waste oil is intended to be submitted to an operation covered by the exemption conferred by sub paragraph (a); and provided that the total volume of that oil does not at any time exceed 23,000 litres;

(d) burning as a fuel, under an authorisation granted under a permit granted under the 2000 Regulations, of tyres to the extent that it is or forms part of an activity within Part B of Section 1.1 of Part 1 of Schedule 1 to the 2000 Regulations, and the shredding and feeding of tyres into an appliance in which they are to be so burned;

(e) the secure storage on any premises of tyres where—

(i) the tyres are intended to be submitted to an operation covered by the exemption conferred by sub paragraph (d);

(ii) the tyres are stored separately;

(iii) none of the tyres is stored on the premises for longer than 12 months; and

(iv) the number of the tyres stored on the premises does not at any time exceed 1,000.

**Table 1**

<i>Codes</i> (1)	<i>Types of waste</i>
<i>Waste hydraulic oils (13 01)</i>	
13 01 09 <sup>(2)</sup>	Mineral based chlorinated hydraulic oils
13 01 10 <sup>(2)</sup>	Mineral based non chlorinated hydraulic oils
13 01 11 <sup>(2)</sup>	Synthetic hydraulic oils
13 01 12 <sup>(2)</sup>	Readily biodegradable hydraulic oils
13 01 13 <sup>(2)</sup>	Other hydraulic oils
<i>Waste engine, gear and lubricating oils (13 02)</i>	
13 02 04 <sup>(2)</sup>	Mineral-based chlorinated engine, gear and lubricating oils
13 02 05 <sup>(2)</sup>	Mineral-based non chlorinated engine, gear and lubricating oils
13 02 06 <sup>(2)</sup>	Synthetic engine, gear and lubricating oils
13 02 07 <sup>(2)</sup>	Readily biodegradable engine, gear and lubricating oils
13 02 08 <sup>(2)</sup>	Other engine, gear and lubricating oils
<i>Waste insulating and heat transmission oils (13 03)</i>	
13 03 06 <sup>(2)</sup>	Mineral based chlorinated insulating and heat transmission oils other than those mentioned in 13 03 01 (insulating or heat transmission oils containing PCBs)

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

<i>Codes</i> (1)	<i>Types of waste</i>
13 03 07 <sup>(2)</sup>	Mineral based non-chlorinated insulating and heat transmission oils
13 03 08 <sup>(2)</sup>	Synthetic insulating and heat transmission oils
13 03 09 <sup>(2)</sup>	Readily biodegradable insulating and heat transmission oils
13 03 10 <sup>(2)</sup>	Other insulating and heat transmission oils
<i>Bilge oils (13 04)</i>	
13 04 01 <sup>(2)</sup>	Bilge oils from inland navigation
13 04 02 <sup>(2)</sup>	Bilge oils from jetty sewers
13 04 03 <sup>(2)</sup>	Bilge oils from other navigation
<i>Waste of liquid fuels (13 07)</i>	
13 07 01 <sup>(2)</sup>	Fuel oil and diesel
13 07 02 <sup>(2)</sup>	Petrol
13 07 03 <sup>(2)</sup>	Other fuels (including mixtures)

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

4.—(1) The cleaning, washing, spraying or coating of waste consisting of packaging or containers so that it or they can be reused if the total quantity of such waste so dealt with at any place does not exceed 1,000 tonnes in any period of seven days.

(2) The storage of waste in connection with the carrying on of any activities described in sub paragraph (1) if that storage is at the place where the activity is carried on unless—

- (a) the total quantity of such waste stored at that place exceeds 1,000 tonnes; or
- (b) more than one tonne of metal containers used for the transport or storage of any chemical are dealt with in any period of seven days.

5.—(1) Burning waste as a fuel in a plant which is an excluded plant for the purposes of Section 5.1 of Part 1 of Schedule 1 to the 2000 Regulations.

(2) The secure storage of waste intended to be submitted to such burning.

(3) Sub-paragraphs (1) and (2) apply only where—

(a) the plant is not located in an air quality management area designated under section 83 of the 1995 Act; and

(b) the waste is stored and burned in accordance with the requisite planning permission (if any).

(4) The recovery, from waste vegetable oils (within category 20 01 25 of the European Waste Catalogue), of fuel for use in an engine of an aircraft, hovercraft, mechanically propelled vehicle, railway locomotive, ship or other vessel, or in appliances described in sub paragraph (1).

(5) The secure storage of—

(a) such waste vegetable oil prior to the carrying out of the fuel recovery process, and

(b) waste produced by the fuel recovery process.

(6) Sub paragraph (4) or, as the case may be, (5) applies only where—

(a) the fuel recovery process is conducted in equipment manufactured for this purpose;

(b) the total quantity of waste (including waste produced by the fuel recovery process) stored at any one time does not exceed 23,000 litres;

(c) no waste is stored for longer than 12 months;

(d) waste produced by the fuel recovery process is stored at the place where it is produced;

(e) accurate records (including information about sources, volumes and destinations) are maintained by the holder and processor of both the waste vegetable oil and the recovered fuel; and

(f) the fuel recovery process is not carried out for commercial purposes on an industrial scale, and in any case no more than 200 tonnes of recovered fuel is produced by the fuel recovery process in any calendar year.

6.—(1) Burning waste oil listed in Table 1 (including waste oil which is special waste) as a fuel in an engine of an aircraft, hovercraft, mechanically propelled vehicle, railway locomotive, ship or other vessel if the total amount burned of such waste does not exceed 2,500 litres an hour in any one engine.

(2) The secure storage of waste oil (including waste oil which is special waste) intended to be so burned if the total quantity of oil stored does not at any time exceed 23,000 litres.

7.—(1) The treatment with any of the wastes listed in Table 2 of land used for agriculture where such treatment results in benefit to agriculture or ecological improvement.

(2) The treatment with any of the wastes listed in Part I of Table 2 of—

(a) operational land of a railway, light railway, Scottish Water or British Waterways; or

(b) land which is a forest, woodland, park, garden, verge, landscaped area, sports ground, recreation ground, churchyard or cemetery;

where the land in question is not used for agriculture and such treatment results in ecological improvement.



**Table 2**

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
<i>PART I Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing (02 01)</i>	
02 01 03	Plant-tissue waste
<i>Wastes from sugar processing (02 04)</i>	
02 04 01	Soil from cleaning and washing beet
<i>Wastes from wood processing and the production of panels and furniture (03 01)</i>	
03 01 01	Waste bark and cork
03 01 05	Sawdust shavings, cuttings, wood, particle board <sup>(3)</sup>
<i>Wastes from pulp, paper and cardboard production and processing (03 03)</i>	
03 03 01	Waste bark and wood (including virgin pulp)
<i>Soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)</i>	
17 05 04	Soil and stones <sup>(2)</sup>
17 05 06	Dredging spoil <sup>(3)</sup>
<i>Wastes from aerobic treatment of solid wastes (19 05)</i>	
19 05 03	Off-specification compost consisting only of biodegradable waste <sup>(3)</sup>
<i>Wastes from anaerobic treatment of waste (19 06)</i>	

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
19 06 04	Digestate consisting only of biodegradable waste <sup>(3)</sup>
19 06 06	Digestate from anaerobic treatment of animal and vegetable waste
<i>Garden and park wastes (including cemetery waste) (20 02)</i>	
20 02 01	Biodegradable waste
20 02 02	Soil and stones
<i>PART II Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing (02 01)</i>	
02 01 99	Straw, wood or paper-based bedding waste, slurry or dirty water from stables, zoos, animal parks or livestock markets, animal faeces, urine and manure <sup>(3)</sup>
<i>Wastes from the preparation and processing of meat, fish and other foods of animal origin (02 02)</i>	
02 02 03	Materials unsuitable for consumption or processing consisting of blood and gut contents from abattoirs, poultry preparation plants or fish preparation plants; wash waters and sludges from abattoirs, poultry preparation plants or fish preparation plants; and shells from shellfish processing <sup>(3)</sup>
02 03	Wastes from fruit, vegetables, cereals, edible oils, cocoa, coffee, tea and tobacco preparation and processing; conserve production; yeast and yeast extract production, molasses preparation and fermentation– all wastes under this category
02 04	Wastes from sugar processing– all wastes under this category
02 05	Wastes from production of dairy products <sup>(3)</sup>
02 06	Wastes from the baking and confectionery industry – all wastes under this category

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
02 07	Wastes from the production of alcoholic and non-alcoholic beverages (except coffee, tea and cocoa) – all wastes under this category
<i>Wastes from pulp, paper and cardboard production and processing (03 03)</i>	
03 03 09	Lime mud waste
03 03 11	Sludges from on-site effluent treatment plants treating only virgin paper wastes which contain no inks <sup>(3)</sup>
03 03 99	De-inked paper sludge from paper recycling, paper crumble derived from virgin pulp which contains no inks <sup>(3)</sup>
<i>Wastes from the leather and fur industry (04 01)</i>	
04 01 07	Sludges, in particular from on-site effluent treatment free of chromium
<i>Wastes from the textile industry (04 02)</i>	
04 02 10	Organic matter from natural products (for example grease, wax)
04 02 15	Wastes from finishing other than those containing organic solvents
04 02 20	Sludges from on-site effluent treatment <sup>(2)</sup>
04 02 21	Wastes from unprocessed textile fibres
04 02 22	Wastes from processed textile fibres
<i>Wastes from the manufacture, formulation, supply and use (MFSU) of acids (06 01)</i>	
06 01 99	Gypsum <sup>(3)</sup>

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
<i>Wastes from the manufacture, formulation, supply and use of fine chemicals and chemical products not otherwise specified (07 07)</i>	
07 07 12	Sludges from on site effluent treatment other than those containing dangerous substances
<i>Wastes from power stations and other combustion plants (except wastes from waste management facilities, off site waste water treatment plants and the preparation of water intended for human consumption and water for industrial use) (10 01)</i>	
10 01 99	Gypsum <sup>(3)</sup>
<i>Wastes from manufacture of cement, lime and plaster and articles and products made from them (10 13)</i>	
10 13 04	Gypsum <sup>(3)</sup>
<i>Soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)</i>	
17 05 06	Dredging spoil <sup>(3)</sup>
<i>Wastes from anaerobic treatment of waste (19 06)</i>	
19 06 03	Liquor consisting only of biodegradable waste <sup>(3)</sup>
19 06 05	Liquor from anaerobic treatment of animal and vegetable waste
<i>Wastes from the preparation of water intended for human consumption or water for industrial use (19 09)</i>	
19 09 02	Sludges from water clarification

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

(3) The secure storage, at the place where it is to be used, of not more than 1250 tonnes of waste intended to be used in reliance upon the exemption conferred by sub paragraph (1) or (2), provided that—

- (a) the waste is stored at a distance of not less than—
  - (i) 10 metres from any inland or coastal waters;
  - (ii) 50 metres from any well, borehole or similar work sunk into underground strata for the purpose of any water supply other than a domestic water supply; and
  - (iii) 250 metres from any well, borehole or similar work sunk into underground strata for the purpose of a domestic water supply; and
- (b) no waste is stored to the extent that the volume stored exceeds ninety per cent of the available capacity of the container or lagoon where the storage takes place.

(4) Sub paragraph (1) or (2) applies only if—

- (a) no more than 250 tonnes or, in the case of dredgings from inland waters, 5,000 tonnes of waste per hectare are used on the land in any period of 12 months;
- (b) in the case of sub-paragraph (1)—
  - (i) the land to be treated by the waste falls within a single farm; or
  - (ii) the total land to be treated does not exceed 50 hectares;
- (c) in the case of sub-paragraph (2), the land to be treated does not exceed 50 hectares;
- (d) the waste to be used has not been mixed with any material which does not itself provide benefit to agriculture or ecological improvement; and
- (e) in the case of materials within category 02 02 03 of the European Waste Catalogue, as listed in Part II of Table 2 above, the waste is treated in accordance with the Animal By-Products (Scotland) Regulations 2003 and Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption, as that Regulation is amended from time to time.

(5) In this paragraph and in paragraphs 8 and 50, “domestic water supply” means a supply of water—

- (a) for such domestic purposes as consist of or include, cooking, drinking, food preparation or washing; or
- (b) for any purposes to premises of a food production undertaking.

(6) In this paragraph, “single farm” means a single agricultural holding including premises and fields associated with it which is managed as one unit for the purposes of the Integrated Administration and Control System for farm support.

(7) In this paragraph and in paragraph 12, “the Integrated Administration and Control System for Farm Support” means the common rules for direct support schemes for farmers established under Council Regulation 73/2009/EC, as that Regulation is amended from time to time.

**8.—(1)** The storage in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place) of sludge which is intended to be used—

- (a) in accordance with the 1989 Regulations; or
- (b) for land treatment in reliance upon the exemption conferred by sub paragraph (2).

(2) The treatment with sludge of land which is not agricultural land within the meaning of the 1989 Regulations if—

- (a) it results in ecological improvement, or in the case of the treatment of land used for non-food crops not grown in short term rotation with food crops, it enhances the growth of those crops; and
  - (b) it does not cause the concentration in the soil of any of the elements listed in column 1 of the soil table set out in Schedule 2 to the 1989 Regulations to exceed the limit specified in the corresponding entry in column 2 of the table.
- (3) Sub paragraph (1) applies only if the following conditions are satisfied—
- (a) the sludge is stored at the place where it is to be used;
  - (b) the sludge is stored at a distance of not less than—
    - (i) 10 metres from any inland or coastal waters;
    - (ii) 50 metres from any well, borehole or similar work sunk into underground strata for the purpose of any water supply other than a domestic water supply; and
    - (iii) 250 metres from any well, borehole or similar work sunk into underground strata for the purpose of a domestic water supply;
  - (c) no sludge is stored to the extent that the volume stored exceeds ninety per cent of the available capacity of the container or lagoon where the storage takes place; and
  - (d) no sludge is stored for longer than 6 months.
- (4) For the purpose of this paragraph, enhancement of crop growth or ecological improvement shall be construed in accordance with Schedule 2 to, and any guidance issued under regulation 17(11) of, these Regulations.
- (5) In this paragraph—
- (a) “the 1989 Regulations” means the Sludge (Use in Agriculture) Regulations 1989(42);
  - (b) “domestic water supply” has the meaning given by paragraph 7(5); and
  - (c) “sludge” has the meaning given by regulation 2(1) of the 1989 Regulations, and “used”, in relation to sludge, has the meaning given by that regulation.

9.—(1) Subject to the following provisions of this paragraph—

- (a) the treatment of land (including the restoration of quarries) with any of the wastes listed in Part I of Table 3;
- (b) the treatment of land (including the restoration of quarries) with any of the wastes listed in Part II of that Table where such treatment results in benefit to agriculture or ecological improvement;
- (c) the secure storage, at the place where it is to be used and for a period not exceeding 6 months, of waste intended to be used in reliance upon the exemption conferred by paragraph (a) or (b).

**Table 3**

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
<b>PART I</b> <i>Wastes from physical and chemical processing of non-metalliferous minerals (01 04)</i>	
(1)	Codes referred to in the European Waste Catalogue.
(2)	Wastes containing dangerous substances are not included.
(3)	The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

(42) S.I. 1989/1263, as relevantly amended by S.I. 1996/593 Schedule 2 paragraph 5(4) and 1996/973 Schedule 1 paragraph 9(4).

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
01 04 08	Waste gravel and crushed rocks <sup>(2)</sup>
01 04 09	Waste sand and clays
<i>Wastes from sugar processing (02 04)</i>	
02 04 01	Soil from cleaning and washing beet
<i>Wastes from power stations and other combustion plants (except wastes from waste management facilities, off-site waste water treatment plants and the preparation of water intended for human consumption and water for industrial use) (10 01)</i>	
10 01 02	Pulverised fuel ash <sup>(3)</sup>
10 01 03	Fly ash from peat and untreated wood
<i>Wastes from manufacture of ceramic goods, bricks, tiles and construction products (10 12)</i>	
10 12 08	Waste ceramics, bricks, tiles and construction products (after thermal processing)
<i>Wastes from manufacture of cement, lime and plaster and articles and products made from them (10 13)</i>	
10 13 14	Waste concrete and concrete sludge
<i>Concrete, bricks, tiles and ceramics (17 01)</i>	
17 01 01	Concrete
17 01 02	Bricks

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
17 01 03	Tiles and ceramics
17 01 07	Mixtures of concrete, bricks, tiles and ceramics <sup>(2)</sup>
<i>Soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)</i>	
17 05 08	Track ballast <sup>(2)</sup>
<i>Wastes from anaerobic treatment of waste (19 06)</i>	
19 06 03	Liquor consisting only of biodegradable waste <sup>(3)</sup>
19 06 04	Digestate consisting only of biodegradable waste <sup>(3)</sup>
19 06 05	Liquor from anaerobic treatment of animal and vegetable waste
19 06 06	Digestate from anaerobic treatment of animal and vegetable waste
<i>Wastes arising from waste water treatment plants not otherwise specified (19 08)</i>	
19 08 99	Wastes not otherwise specified (specifically stone filter media)
<i>Wastes from the preparation of water intended for human consumption or water for industrial use (19 09)</i>	
19 09 99	Wastes not otherwise specified (specifically slow sand filter sand)
<i>Wastes from the mechanical treatment of waste (for example. sorting, crushing, compacting, pelletising) not otherwise specified (19 12)</i>	

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.



<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
19 12 09	Minerals (for example sand, stones)
<i>Wastes from soil and groundwater remediation (19 13)</i>	
19 13 02	Solid waste from soil remediation <sup>(2)</sup>
<i>Garden and park wastes (including cemetery waste) (20 02)</i>	
20 02 02	Soil and stones
<i>PART II Wastes from pulp, paper and cardboard production and processing (03 03)</i>	
03 03 05	De-inked sludges from paper recycling
03 03 07	De-inked paper pulp from paper recycling <sup>(3)</sup>
03 03 09	Lime mud waste
<i>Wastes from the manufacture, formulation, supply and use of fine chemicals and chemical products not otherwise specified (07 07)</i>	
07 07 12	Sludges from on site effluent treatment other than those containing dangerous substances
<i>Soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)</i>	
17 05 04	Soil and stones <sup>(2)</sup>
17 05 06	Dredging spoil <sup>(2)</sup>

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
<i>Wastes from aerobic treatment of solid wastes (19 05)</i>	
19 05 03	Off-specification compost consisting only of biodegradable waste <sup>(3)</sup>
<i>Wastes from waste water treatment plants not otherwise specified (19 08)</i>	
19 08 05	Sludges from treatment of urban waste water
19 08 99	Wastes not otherwise specified (specifically stone filter media)
<i>Wastes from the preparation of water intended for human consumption or water for industrial use (19 09)</i>	
19 09 02	Sludges from water clarification
19 09 99	Wastes not otherwise specified (specifically slow sand filter sand)
<i>Wastes from soil and groundwater remediation (19 13)</i>	
19 13 04	Sludges from soil remediation <sup>(2)</sup>

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

(2) Sub paragraph (1) does not apply to the use of waste at a site designed or adapted for the final disposal of waste by landfill at any time when such disposal is the subject of a waste management licence or a permit granted under regulation 7 of the 2000 Regulations.

(3) Sub paragraph (1) applies only where—

- (a) the waste is used for the purpose of reclamation, restoration or improvement of land which has been subject to industrial or other man made development;
- (b) the waste is suitable for use for the purposes mentioned in sub paragraph (a);
- (c) the waste is used in accordance with the requisite planning permission (if any);
- (d) the waste is used to a depth not exceeding the lesser of 2 metres or the final cross sections shown on the plan submitted under regulation 25(2) or 26(2) of these Regulations; and
- (e) the waste used does not exceed 20,000 cubic metres per hectare.

10.—(1) Subject to sub paragraph (4)—

- (a) the reception and treatment within the curtilage of a water treatment works of any of the wastes listed in Table 4 if the total quantity of waste which is treated in any period of 12 months does not exceed 100,000 cubic metres; and
  - (b) the secure storage within the curtilage of a water treatment works of waste intended to be treated in reliance on the exemption conferred by paragraph (a).
- (2) Subject to the following provisions of this paragraph—
- (a) any recovery operation carried on within the curtilage of a sewage treatment works of any of the wastes listed in Table 4;
  - (b) the secure storage within the curtilage of a sewage treatment works of waste intended to be submitted to the activity mentioned in paragraph (a).

**Table 4**

<i>Codes</i> (1)	<i>Types of waste</i>
<i>Waste from waste water treatment plants not otherwise specified (19 08)</i>	
19 08 01	Screenings
19 08 05	Sludges from treatment of urban waste water
<i>Wastes from the preparation of water intended for human consumption or water for industrial use (19 09)</i>	
19 09 02	Sludges from water clarification
19 09 03	Sludges from decarbonation
19 09 06	Solutions and sludges from regeneration of ion exchangers
<i>Other municipal wastes (20 03)</i>	
20 03 04	Septic tank sludge
20 03 99	Municipal waste not otherwise specified

(1) Codes referred to in the European Waste Catalogue.

(3) The total quantity of waste brought to a sewage treatment works for the purposes of a recovery operation in reliance upon the exemption covered by sub paragraph (2) in any period of 12 months shall not exceed 100,000 cubic metres.

(4) The area where a treatment or recovery operation takes place shall have an impermeable pavement capable of containing any spillage of waste received and connected to a drainage system with impermeable components which does not leak and which will ensure that—

- (a) no liquid will run off the pavement otherwise than via that system; and
- (b) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump.

**11.**—(1) Carrying on at any place, in respect of waste of a kind listed in column 1 of Table 5, any of the activities specified in column 2 of that Table in relation to that kind of waste where—

- (a) the activity is carried on with a view to the recovery or reuse of the waste (whether or not by the person carrying on the activity listed in column 2 of that Table); and
- (b) the total quantity of any particular kind of waste dealt with at that place does not in any period of 7 days exceed the limit specified in relation to that kind of waste in column 3 of that Table.

**Table 5**

<i>Kind of waste</i>	<i>Activities</i>	<i>Maximum total quantity (tonnes per week)</i>
Waste paper or cardboard	Baling, sorting or shredding	3,000
Waste textiles	Baling, sorting or shredding	100
Waste plastic	Baling, sorting, shredding, densifying, pelletising or washing	100
Waste glass	Sorting, crushing or washing	1,000
Waste steel cans, aluminium cans or aluminium foil	Sorting, crushing, pulverising, shredding, compacting or baling	100
Waste food or drink cartons	Sorting, crushing, pulverising, shredding, compacting or baling	100
Waste tyres	Baling, sorting or shredding	10
Waste wood	Baling, compacting, sorting or shredding	1,000

(1) includes special waste.

<i>Kind of waste</i>	<i>Activities</i>	<i>Maximum total quantity (tonnes per week)</i>
Waste paint	Sorting, bulking or mixing	100
Waste batteries <sup>(1)</sup>	Sorting	10

(1) includes special waste.

(2) The storage of waste paints intended to be used in reliance on the exemption in subparagraph (1).

(3) In the case of any waste batteries, sorting must take place in accordance with the treatment conditions.

12.—(1) Subject to sub paragraph (3)—

- (a) composting biodegradable waste of a type listed in Table 6, other than for the purpose of cultivating mushrooms;
- (b) chipping, shredding, cutting, pulverising, screening or storing such waste for the purpose of composting at the place where the composting activity is, or is to be, carried out; and
- (c) screening any such waste which has been composted.

**Table 6**

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
<i>Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing (02 01)</i>	
02 01 03	Plant-tissue waste
02 01 06	Animal faeces, urine and manure (including spoiled straw) <sup>(3)</sup>
02 01 07	Wastes from forestry
02 01 99	Straw, wood or paper – based bedding waste, slurry or dirty water from stables, zoos, animal parks or livestock markets <sup>(3)</sup>
<i>Wastes from fruit, vegetables, cereals, edible oils, cocoa, coffee, tea and tobacco preparation and processing; conserve production; yeast and yeast extract production, molasses preparation and fermentation (02 03)</i>	
02 03 01	Sludges from washing, cleaning, peeling, centrifuging and separation

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
<i>Wastes from wood processing and the production of panels and furniture (03 01)</i>	
03 01 01	Waste bark and cork
03 01 05	Sawdust, shavings, cuttings, wood <sup>(2)</sup>
<i>Wastes from pulp, paper and cardboard production and processing (03 03)</i>	
03 03 01	Waste bark and wood
<i>Wastes from the textile industry (04 02)</i>	
04 02 10	Organic matter from natural products (e.g. grease, wax)
<i>Packaging (including separately collected municipal packaging waste) (15 01)</i>	
15 01 01	Paper and cardboard packaging
15 01 03	Wooden packaging
15 01 09	Textile packaging
<i>Wastes from aerobic treatment of solid wastes (19 05)</i>	
19 05 03	Off-specification compost consisting only of biodegradable waste <sup>(3)</sup>
<i>Separately collected fractions of municipal wastes (household waste and similar commercial, industrial and institutional wastes) (20 01)</i>	
20 01 01	Paper and cardboard
20 01 08	Biodegradable kitchen and canteen waste

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

<i>Codes<sup>(1)</sup></i>	<i>Types of waste</i>
20 01 10	Clothes
20 01 11	Textiles
<i>Garden and park waste (including cemetery waste) (20 02)</i>	
20 02 01	Biodegradable waste
<i>Other municipal wastes (20 03)</i>	
20 03 02	Botanical waste from markets <sup>(3)</sup>

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

(2) Composting any of the wastes listed in the first column of Table 6 for the purpose of cultivating mushrooms at the place where the waste is produced or where the compost is to be used, or at any other place occupied by the person producing the waste or using the compost, where the quantity of waste being composted at any one time does not exceed 2,500 tonnes.

(3) The total quantity of waste treated and stored under sub-paragraph (1) at any time shall not exceed, in relation to the composting activities referred to in the second column of Table 7, the quantity shown in the third column of that Table.

**Table 7**

<i>Code and type of waste (as referred to in Table 6)<sup>(1)</sup></i>	<i>Composting activity</i>	<i>Maximum total quantity (including storage and treatment)</i>
<i>Plant tissue waste 02 01 03</i>	Open air windrow composting without containment <sup>(2)</sup> and without any impermeable pavement or sealed drainage	400 tonnes

*Wastes from forestry 02 01 07*

*Waste bark and cork 03 01 01*

(1) Codes referred to in the European Waste Catalogue.

(2) Containment in this context means composting in a vessel, in a sealed building or by some other process equally effective to produce a wholly contained and controlled environment.

<i>Code and type of waste (as referred to in Table 6)<sup>(1)</sup></i>	<i>Composting activity</i>	<i>Maximum total quantity (including storage and treatment)</i>
<i>Biodegradable waste from gardens and park wastes (including cemetery waste 20 02 01)</i>		
<i>All above wastes namely 02 01 03, 02 01 07, 03 01 01, 20 02 01 plus 02 01 06, 15 01 01, 15 01 09, 20 01 10 and 20 01 11</i>	Open air windrow composting without containment <sup>(2)</sup> on an impermeable pavement with sealed drainage	400 tonnes
<i>Any type of waste referred to in Table 6</i>	Composting with containment <sup>(2)</sup> of waste	400 tonnes
<i>Plant tissue waste 02 01 03</i>	Open air windrow composting by a farm business of wastes arising within that business as defined for the purposes of the Integrated Administration and Control System for farm support without containment <sup>(2)</sup> and without any impermeable pavement or sealed drainage	1,000 tonnes
<i>Wastes from forestry 02 01 07</i>		
<i>Waste bark and cork 03 01 01</i>		
<i>Biodegradable waste from gardens and park wastes (including cemetery waste) 20 02 01</i>		
<i>All above wastes namely 02 01 03, 02 01 07, 03 01 01, 20 02 01 plus 02 01 06, 15 01 01, 15 01 09, 20 01 10 and 20 01 11</i>	Open air composting by a farm business of wastes arising within that business as defined for the purposes of the Integrated Administration and Control System for farm support without containment <sup>(2)</sup>	1,000 tonnes

(1) Codes referred to in the European Waste Catalogue.

(2) Containment in this context means composting in a vessel, in a sealed building or by some other process equally effective to produce a wholly contained and controlled environment.



<i>Code and type of waste (as referred to in Table 6)<sup>(1)</sup></i>	<i>Composting activity</i>	<i>Maximum total quantity (including storage and treatment)</i>
	on an impermeable pavement with sealed drainage	
<i>Any type of waste referred to in Table 6</i>	Composting by a farm business of wastes arising within that business as defined for the purposes of the Integrated Administration and Control System for farm support with containment <sup>(2)</sup> of waste	1,000 tonnes
<i>Biodegradable kitchen and canteen waste 20 01 08</i>	Composting in compliance with regulation 15 of the Animal By-Products (Scotland) Regulations 2003	400 tonnes

(1) Codes referred to in the European Waste Catalogue.

(2) Containment in this context means composting in a vessel, in a sealed building or by some other process equally effective to produce a wholly contained and controlled environment.

(4) The secure storage of biodegradable waste which is to be composted in reliance upon the exemption conferred by sub paragraph (1) at a place other than the place where such composting is or is to be carried out where—

- (a) the waste is stored for a period not exceeding 48 hours and is to be taken directly from the storage site to that place;
- (b) such storage is part of a scheme for the collection of waste from groups of premises; and
- (c) the total quantity of waste so stored does not exceed 10 tonnes.

(5) For the purposes of this paragraph—

- (a) “composting” means the autothermic and thermophilic biological decomposition and stabilisation of biodegradable waste under controlled aerobic conditions that result in a stable sanitised material that can be applied to land for the benefit of agriculture, horticulture or ecological improvement; and
- (b) the reference to “treated” waste includes waste which is undergoing maturation;
- (c) “The Integrated Administration and Control System for farm support” has the meaning given by paragraph 7(7).

13.—(1) The manufacture from—

- (a) waste which arises from demolition or construction work or tunnelling or other excavations; or
- (b) waste which consists of ash, slag, clinker, rock, wood, bark, paper, straw, crushed glass, gypsum, digestate consisting only of biodegradable waste or compost consisting only of biodegradable waste,

of timber products, straw board, plasterboard, bricks, blocks, roadstone, soil, soil substitutes or aggregate.

(2) The treatment of waste soil or rock or digestate consisting only of biodegradable waste or compost consisting only of biodegradable waste which, when treated, is to be spread on land under paragraph 7 or 9, if—

- (a) it is carried out at the place where the waste is produced or the treated product is to be spread; and
- (b) the total amount treated at that place in any day does not exceed 100 tonnes.

(3) The storage of waste which is to be submitted to any of the activities mentioned in sub paragraphs (1) and (2) if—

- (a) the waste is stored at the place where the activity is to be carried out; and
- (b) the total quantity of waste stored at that place at any time does not exceed—
  - (i) in the case of the manufacture of roadstone from road planings, 50,000 tonnes; or
  - (ii) in any other case, 20,000 tonnes.

(4) In this paragraph—

“digestate” means a stable, sanitised material converted from the inputs to the process of controlled decomposition of waste under managed conditions where free oxygen is absent, at temperatures suitable for naturally occurring mesophilic or thermophilic anaerobe and facultative anaerobe bacteria species;

“compost” means a stable, sanitised material resulting from the autothermic and thermophilic biological decomposition and stabilisation of biodegradable waste in controlled aerobic conditions.

**14.—**(1) The manufacture of finished goods from any of the following kinds of waste, namely waste metal, plastic, glass, ceramics, rubber, textiles, wood, paper or cardboard.

(2) The repair or refurbishment of waste goods if the activity is carried on with a view to the reuse of those goods for their original purpose.

(3) The storage of any waste intended to be used in reliance upon the exemption conferred by sub paragraph (1), or, as the case may be, (2), if—

- (a) the waste is stored at the place where the manufacturing, repairing or refurbishment activity is to be carried out; and
- (b) the total quantity of any particular kind of waste listed in sub-paragraph (1) stored at that place at any time does not exceed 15,000 tonnes.

**15.—**(1) The beneficial use of waste if—

- (a) it is put to that use without further treatment; and
- (b) that use of the waste does not involve its disposal.

(2) The storage of waste intended to be used in reliance on the exemption conferred by sub-paragraph (1) above insofar as that storage does not amount to disposal of the waste.

(3) This paragraph does not apply to the use or storage of waste if that activity is covered by an exemption conferred by paragraph 7, 8, 9, 19 or 25, or would be so covered but for any condition or limitation to which that exemption is subject by virtue of any provision contained in the paragraph by which that exemption is conferred.

**16.** The dry screening of any of the wastes listed in Table 8 if—

- (a) the waste is screened at the place where it is produced; and
- (b) no more than 100 tonnes of waste is screened at that place in any one day.

**Table 8**

<i>Codes</i> (1)	<i>Types of waste</i>
<i>Concrete, bricks, tiles and ceramics (17 01)</i>	
17 01 01	Concrete
17 01 02	Bricks
17 01 03	Tiles and ceramics
17 01 07	Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 17 01 06
<i>Soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)</i>	
17 05 04	Soils and stones other than those mentioned in 17 05 03
17 05 06	Dredging spoil other than those mentioned in 17 05 05
17 05 08	Track ballast other than those mentioned in 17 05 07

(1) Codes referred to in the European Waste Catalogue.

**17.—(1)** The storage in a secure place on any premises of waste of a kind described in column 1 of Table 9 if—

- (a) the total quantity of that kind of waste stored on those premises at any time does not exceed the quantity specified in column 2 of that Table in relation to that kind of waste;
- (b) the waste is to be reused, or used for the purposes of—
  - (i) an activity described in paragraph 11; or
  - (ii) any other recovery operation;
- (c) in the case of any waste batteries, storage takes place in accordance with the treatment conditions;
- (d) each kind of waste listed in the Table stored on the premises is kept separately; and
- (e) no waste is stored on the premises for longer than 12 months.

**Table 9**

<i>Kind of waste</i>	<i>Maximum total quantity</i>
Waste paper or cardboard	15,000 tonnes
Waste textiles	1,000 tonnes
Waste plastics	500 tonnes
Waste glass	5,000 tonnes
Waste steel cans, aluminium cans or aluminium foil	500 tonnes
Waste food or drink cartons	500 tonnes
Waste paint within Codes <sup>(1)</sup> 20 01 27 <sup>(2)</sup> and 20 01 28	25 cubic metres
Waste wood	1,000 tonnes
Waste articles which are to be used for construction work which are capable of being so used in their existing state	100 tonnes
Solvents within Codes <sup>(1)</sup> 14 06 02 <sup>(2)</sup> , 14 06 03 <sup>(2)</sup> and 20 01 13 <sup>(2)</sup>	5 cubic metres
Batteries within Codes <sup>(1)</sup> 20 01 33 <sup>(2)</sup> and 20 01 34	5 cubic metres
Refrigerants and halons within Code <sup>(1)</sup> 14 06 01 <sup>(2)</sup> (chlorofluorocarbons, HCFC and HFC)	18 tonnes
Tyres	1,000 tyres
Waste mammalian protein	60,000 tonnes
Waste mammalian tallow	45,000 tonnes

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

(2) In this paragraph—

“mammalian protein” means proteinaceous material, and

“mammalian tallow” means fat, which in each case is derived from the whole or part of any dead mammal by a process of crushing, cooking or grinding.

**18.**—(1) The secure storage on any premises of waste of a kind described in sub-paragraph (2) below if—

- (a) the storage capacity of the container or containers does not exceed 400 cubic metres in total;
- (b) in the case of waste oil or waste vegetable oil listed in Table 10, the storage capacity of any container or containers used for its storage does not exceed 3 cubic metres in total, and provision is made to prevent oil escaping into the ground or a drain;
- (c) there are no more than 20 containers on those premises;
- (d) the waste will be reused, or used for the purposes of—
  - (i) any activity described in paragraph 11 carried on at those premises; or
  - (ii) any other recovery activity;
- (e) in the case of any waste batteries, storage takes place in accordance with the treatment conditions;
- (f) each kind of waste described in sub paragraph (2) stored on the premises is separately stored;
- (g) no waste is stored on the premises for longer than 12 months; and
- (h) the person storing the waste is the owner of the container or containers or has the consent of the owner of the container or containers to use them for that purpose.

(2) Sub paragraph (1) above applies to the following kinds of waste—

- (a) any waste described in paragraph 17 other than waste solvents (within categories 14 06 02, 14 06 03 and 20 01 13 of the European Waste Catalogue), refrigerants or halons;
- (b) waste oil or waste vegetable oil listed in Table 10 (including oil which is special waste).

**Table 10**

<i>Codes</i> (1)	<i>Types of waste</i>
<i>Waste hydraulic oils (13 01)</i>	
13 01 09 <sup>(2)</sup>	Mineral-based chlorinated hydraulic oils
13 01 10 <sup>(2)</sup>	Mineral based non-chlorinated hydraulic oils
13 01 11 <sup>(2)</sup>	Synthetic hydraulic oils

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

<i>Codes</i> <sup>(1)</sup>	<i>Types of waste</i>
13 01 12 <sup>(2)</sup>	Readily biodegradable hydraulic oils
13 01 13 <sup>(2)</sup>	Other hydraulic oils
<i>Waste engine, gear and lubricating oils (13 02)</i>	
13 02 04 <sup>(2)</sup>	Mineral-based chlorinated engine, gear and lubricating oils
13 02 05 <sup>(2)</sup>	Mineral-based non-chlorinated engine, gear and lubricating oils
13 02 06 <sup>(2)</sup>	Synthetic engine, gear and lubricating oils
13 02 07 <sup>(2)</sup>	Readily biodegradable engine, gear and lubricating oils
13 02 08 <sup>(2)</sup>	Other engine, gear and lubricating oils
<i>Waste insulating and heat transmission oils (13 03)</i>	
13 03 06 <sup>(2)</sup>	Mineral-based chlorinated insulating and heat transmission oils other than those mentioned in 13 03 01 (insulating or heat transmission oils containing PCBs)
13 03 07 <sup>(2)</sup>	Mineral-based non-chlorinated insulating and heat transmission oils
13 03 08 <sup>(2)</sup>	Synthetic insulating and heat transmission oils
13 03 09 <sup>(2)</sup>	Readily biodegradable insulating and heat transmission oils
13 03 10 <sup>(2)</sup>	Other insulating and heat transmission oils
<i>Bilge oils (13 04)</i>	

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

<i>Codes</i> (1)	<i>Types of waste</i>
13 04 01 <sup>(2)</sup>	Bilge oils from inland navigation
13 04 02 <sup>(2)</sup>	Bilge oils from jetty sewers
13 04 03 <sup>(2)</sup>	Bilge oils from other navigation
<i>Waste of liquid fuels (13 07)</i>	
13 07 01 <sup>(2)</sup>	Fuel oil and diesel
13 07 02 <sup>(2)</sup>	Petrol
13 07 03 <sup>(2)</sup>	Other fuels (including mixtures)
<i>Separately collected fractions (except 15 01) (20 01)</i>	
20 01 25	Edible oil and fat

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

**19.**—(1) The storage on a site of any of the wastes listed in Table 11, if—

- (a) the waste in question is suitable for use for the purposes of relevant work which will be carried on at the site;
- (b) in the case of waste which is not produced on the site, it is not stored there for longer than 6 months;
- (c) subject to paragraph (d), no more than 50,000 tonnes of the waste is stored on the site at any time; and
- (d) in the case of waste tyre bales, no more than 100 tonnes of the waste is stored on the site at any time.

**Table 11**

<i>Codes</i> (1)	<i>Types of waste</i>
<i>Wastes from physical and chemical processing of non-metalliferous minerals (01 04)</i>	
(1) Codes referred to in the European Waste Catalogue.	
(2) Wastes containing dangerous substances are not included.	
(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.	

<i>Codes</i> (1)	<i>Types of waste</i>
01 04 08	Waste gravel and crushed rocks <sup>(2)</sup>
01 04 09	Waste sand and clays
<i>Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing (02 01)</i>	
02 01 99	Clean shells <sup>(3)</sup>
<i>Wastes from sugar processing (02 04)</i>	
02 04 01	Soil from cleaning and washing beet
<i>Wastes from power stations and other combustion plants (except wastes from waste management facilities, off-site waste water treatment plants and the preparation of water intended for human consumption and water for industrial use ) (10 01)</i>	
10 01 02	Pulverised fuel ash <sup>(3)</sup>
10 01 99	Gypsum <sup>(3)</sup>
<i>Wastes from the iron and steel industry (10 02)</i>	
10 02 02	Unprocessed slag
<i>Wastes from casting of ferrous pieces (10 09)</i>	
10 09 03	Furnace slag
<i>Waste from casting of non ferrous pieces (10 10)</i>	

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.



<i>Codes</i> (1)	<i>Types of waste</i>
10 10 03	Furnace slag
<i>Wastes from manufacture of ceramic goods, bricks, tiles and construction products (10 12)</i>	
10 12 08	Waste ceramics, bricks, tiles and construction products (after thermal processing)
<i>Wastes from manufacture of cement, lime and plaster and articles and products made from them (10 13)</i>	
10 13 14	Waste concrete and concrete sludge
<i>End-of-life vehicles from different means of transport (including off-road machinery) and wastes from dismantling of end-of-life vehicles and vehicle maintenance (except 13, 14, 16 06 and 16 08) (16 01)</i>	
16 01 03	Waste tyre bales <sup>(3)</sup>
<i>Concrete, bricks, tiles and ceramics (17 01)</i>	
17 01 01	Concrete
17 01 02	Bricks
17 01 03	Tiles and ceramics
17 01 07	Mixtures of concrete, bricks, tiles and ceramics <sup>(2)</sup>
<i>Bituminous mixtures, coal tar and tarred products (17 03)</i>	
17 03 02	Road base and road planings <sup>(3)</sup>

(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.

<i>Codes</i> <sup>(1)</sup>	<i>Types of waste</i>
<i>Soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)</i>	
17 05 04	Soil and stones <sup>(3)</sup>
17 05 06	Dredging spoil <sup>(2)</sup>
17 05 08	Track ballast <sup>(2)</sup>
<i>Wastes from incineration or pyrolysis of waste (19 01)</i>	
19 01 12	Bottom ash and slag <sup>(2)</sup>
<i>Wastes from aerobic treatment of solid wastes (19 05)</i>	
19 05 03	Off-specification compost
<i>Wastes from anaerobic treatment of waste (19 06)</i>	
19 06 04	Digestate consisting only of biodegradable waste <sup>(3)</sup>
19 06 06	Digestate from anaerobic treatment of animal and vegetable waste
<i>Wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising not otherwise specified) (19 12)</i>	
19 12 09	Minerals (for example sand, stones)
<i>Wastes from soil and groundwater remediation (19 13)</i>	
19 13 02	Solid waste from soil remediation <sup>(2)</sup>

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(1) Codes referred to in the European Waste Catalogue.

(2) Wastes containing dangerous substances are not included.

(3) The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.



(2) The storage of waste in connection with any activity mentioned in sub paragraph (1) at the premises where it is carried on if the total quantity of waste stored at those premises at any time does not exceed 1,000 tonnes.

**22.—**(1) The recovery at any premises of silver from waste produced in connection with printing or photographic processing if no more than 50,000 litres of such waste are dealt with on those premises in any day.

(2) The storage at those premises of waste which is to be submitted to such a recovery operation as is mentioned in sub paragraph (1).

**23.—**(1) The recovery of waste consisting of animal by-products at a collection centre in accordance with an authorisation under regulation 27 of the Animal By Products (Scotland) Regulations 2003 (in this paragraph, “the 2003 Regulations”) if the total quantity of waste being recovered at that collection centre at any time does not exceed 50 tonnes.

(2) The secure storage of waste intended to be submitted to such treatment if no waste is stored for longer than 12 months.

(3) In this paragraph, “animal by-products” and “collection centre” have the same meaning as in the Community Regulation as defined in regulation 2(1) of the 2003 Regulations.

**24.—**(1) Crushing, grinding or other size reduction of waste bricks, tiles or concrete, under an authorisation granted under Part I of the 1990 Act, to the extent that it is or forms part of a process within paragraph (c) of Part B of Section 3.4 (other mineral processes) of Schedule 1 to the 1991 Regulations or under a permit under the 2000 Regulations, to the extent that it is or forms part of an activity within paragraph (a) of Part B of Section 3.5 (other mineral activities) of Part 1 of Schedule 1 to the 2000 Regulations.

(2) Where any such crushing, grinding or other size reduction is carried on otherwise than at the place where the waste is produced, the exemption conferred by sub paragraph (1) only applies if those activities are carried on with a view to recovery or reuse of the waste.

(3) The storage, at the place where the process is carried on or the activity is carried out, of any such waste which is intended to be so crushed, ground or otherwise reduced in size, if the total quantity of such waste so stored at that place does not at any time exceed 20,000 tonnes.

**25.—**(1) The deposit of waste arising from dredging inland waters or public SUD systems, or from clearing plant matter from inland waters or public SUD systems, if either—

(a) the waste is deposited along the bank or towpath of the waters, or on land adjacent to the public SUD system, where the dredging or clearing takes place; or

(b) the waste is deposited along the bank or towpath of any inland waters, or on land adjacent to a public SUD system, so as to result in benefit to agriculture or ecological improvement.

(2) The total amount of waste deposited along the bank or towpath, or on land adjacent to the public SUD system, under sub paragraph (1) must not at any time exceed 50 tonnes for each metre of the bank, towpath or land along or on which it is deposited.

(3) Sub paragraph (1) does not apply to waste deposited in a container or lagoon.

(4) Sub paragraph (1)(a) only applies to the deposit of waste by an establishment or undertaking where the waste deposited is the establishment or undertaking’s own waste.

(5) The treatment by screening or dewatering of such waste as is mentioned in sub paragraph (1)

(a) on the bank or towpath of the waters, or on land adjacent to the public SUD system, where either the dredging or clearing takes place or the waste is to be deposited, prior to its being

deposited in reliance upon the exemption conferred by the foregoing provisions of this paragraph;

- (b) on the bank or towpath of the waters, or on land adjacent to the public SUD system, where the dredging or clearing takes place, or at a place where the waste is to be spread, prior to its being spread in reliance upon the exemption conferred by paragraph 7(1) or (2); or
- (c) in the case of waste from dredging, on the bank or towpath of the waters, or on land adjacent to the public SUD system, where the dredging takes place, or at a place where the waste is to be spread, prior to its being spread in reliance upon the exemption conferred by paragraph 9(1).

(6) In this paragraph, “public SUD system” has the same meaning as in section 59(1) of the Sewerage (Scotland) Act 1968(45).

**26.**—(1) The recovery or disposal of waste, at the place where it is produced, as an integral part of the process that produces it.

(2) The storage, at the place where it is produced, of waste which is intended to be so recovered or disposed of.

(3) Sub paragraph (1) does not apply to the final disposal of waste by deposit in or on land.

**27.**—(1) Baling, compacting, crushing, shredding or pulverising waste at the place where it is produced.

(2) The storage, at the place where it is produced, of waste which is to be submitted to any of those operations.

**28.** The use of autoclaves to sterilise waste, including special waste, as listed in Table 12, at the place where the waste is produced, if—

- (a) the autoclaves have a capacity of no more than 3 cubic metres,
- (b) the autoclaves are accredited by the Medicine and Healthcare Products Regulatory Agency,
- (c) no more than 100 tonnes of waste is so sterilised at any one place in any one calendar month, and
- (d) where the waste is special waste, it is so sterilised as part of, or as a preliminary to, a recovery operation.

**Table 12**

<i>Codes</i> (1)	<i>Types of waste</i>
<i>Wastes from natal care, diagnosis, treatment or prevention of disease in humans (18 01)</i>	
18 01 01	Sharps (except 18 01 03)
18 01 02	Body parts and organs including blood bags and blood preserves (except 18 01 03)

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

(45) 1968 c.47, as relevantly amended by the 2003 Act Part 2 section 33(1).

<i>Codes</i> (1)	<i>Types of waste</i>
18 01 03 <sup>(2)</sup>	Wastes whose collection and disposal is subject to special requirements in order to prevent infection
18 01 04	Wastes whose collection and disposal is not subject to special requirements in order to prevent infection (for example, dressings, plaster casts, linen, disposable clothing, diapers)
18 01 06 <sup>(2)</sup>	Chemicals consisting of or containing dangerous substances
18 01 07	Chemicals other than those mentioned in 18 01 06
18 01 08 <sup>(2)</sup>	Cytotoxic and cytostatic medicines
18 01 09	Medicines other than those mentioned in 18 01 08
18 01 10 <sup>(2)</sup>	Amalgam waste from dental care

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

**29.**—(1) The disposal of waste at the place where it is produced, by the person producing it, by burning it in an incinerator—

- (a) which is an exempt incinerator for the purposes of Section 5.1 (incineration) of Schedule 1 to the 1991 Regulations, or which is an excluded plant for the purposes of Section 5.1 of Part 1 of Schedule 1 to the 2000 Regulations with a capacity of less than 50 kg per hour; or
  - (b) which is not an incineration plant, a co-incineration plant or an excluded plant for the purposes of Section 5.1 of Part 1 of Schedule 1 to the 2000 Regulations.
- (2) The secure storage at that place of any such waste intended to be submitted to such burning.

**30.**—(1) Burning waste on land in the open if—

- (a) the waste consists of plant tissue;
- (b) it is agricultural waste or it is produced on land which is operational land of a railway, light railway, tramway or British Waterways, or which is a forest, woodland, park, garden, verge, landscaped area, sports ground, recreation ground, bank of an inland waterway, churchyard or cemetery, or it is produced on other land as a result of demolition work;
- (c) it is burned on the land where it is produced; and
- (d) the total quantity burned in any period of 24 hours does not exceed 10 tonnes.

(2) Sub paragraph (1) only applies to the burning of waste by an establishment or undertaking where the waste burned is the establishment or undertaking's own waste.

(3) The burning of waste consisting of plant tissue waste, in pursuance of a notice given under article 32 of the Plant Health (Scotland) Order 2005(46).

(4) The total quantity of waste burned under sub-paragraph (3) in any period of 24 hours shall not exceed 10 tonnes.

(5) The storage pending its burning, on the land where it is to be burned, of waste which is to be burned in reliance upon the exemption conferred by sub paragraph (1) or (3).

(6) The treatment of land for the benefit of agriculture or ecological improvement by incorporation into soil of ash from waste which is burned on that land in reliance upon the exemption conferred by sub paragraph (1) or (3).

**31.** The discharge of waste onto the track of a railway from a sanitary convenience or sink forming part of a vehicle used for the carriage of passengers on the railway, if the discharge in question does not exceed 25 litres.

**32.** The burial on premises of waste arising from the use on those premises of a sanitary convenience which is equipped with a removable receptacle if the total amount buried in any period of 12 months does not exceed 5 cubic metres.

**33.—(1)** The keeping or deposit of waste consisting of excavated materials arising from peatworking at the place where that activity takes place.

(2) Sub paragraph (1) only applies to the keeping or deposit of waste by an establishment or undertaking where the waste kept or deposited is the establishment or undertaking's own waste.

**34.—(1)** The keeping or deposit on land at the place where it is produced of spent ballast if the land is operational land of a railway, light railway or tramway and the total amount kept or deposited at that place does not exceed 10 tonnes for each metre of track from which the ballast derives.

(2) Sub paragraph (1) only applies to the keeping or deposit of waste by an establishment or undertaking where the waste kept or deposited is the establishment or undertaking's own waste.

**35.—(1)** The deposit of waste consisting of excavated material from a borehole or other excavation made for the purpose of mineral exploration if—

- (a) it is deposited in or on land at the place where it is excavated; and
- (b) the total quantity of waste so deposited during any period of 24 months does not exceed 45,000 cubic metres per hectare.

(2) Sub paragraph (1) only applies if—

- (a) the drilling of the borehole or the making of any other excavation is development which is permitted by Class 53 or 54 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(47); and
- (b) the conditions subject to which the development is permitted are observed.

(3) Expressions used in this paragraph which are also used in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 have the same meanings as in that Order.

**36.—(1)** The temporary secure storage of waste to which sub-paragraphs (2) and (3) apply, at waste reception facilities provided within a harbour area in accordance with the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003(48) (in this paragraph “the 2003 Regulations”), where such storage is incidental to the collection or transport of the waste.

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(46) [S.S.I. 2005/613](#), to which there are amendments not relevant to these Regulations.

(47) [S.I. 1992/223](#), as relevantly amended by [S.I. 1994/2586](#) article 2 and [S.I. 1994/1442](#) article 2.

(48) [S.I. 2003/1809](#), to which there are amendments not relevant to these Regulations.

(2) This paragraph applies to waste other than tank washings (including such special waste as is listed in Table 13), but only if—

- (a) the amount of waste so stored within a harbour area at any time does not exceed 20 cubic metres for each ship from which waste has been landed;
- (b) in the case of any waste batteries, storage takes place in accordance with the treatment conditions; and
- (c) no waste is so stored for more than seven days.

(3) This paragraph applies to waste which consists of tank washings (including such special waste as is listed in Table 14), but only if—

- (a) the amount of tank washings consisting of dirty ballast so stored within a harbour area at any time does not exceed 30% of the total deadweight of the ships from which such washings have been landed; and
- (b) the amount of tank washings consisting of waste mixtures containing oil so stored within a harbour area at any time does not exceed 1% of the total deadweight of the ships from which such washings have been landed.

(4) In this paragraph—

“harbour area” has the same meaning as in the Dangerous Substances in Harbour Areas Regulations 1987<sup>(49)</sup>;

“ship” has the same meaning as in the 2003 Regulations;

“tank washings” means waste residues from the tanks (other than the fuel tanks) or holds of a ship or waste arising from the cleaning of such tanks or holds.

**Table 13**

<i>Codes</i> <sup>(1)</sup>	<i>Types of waste</i>
<i>Absorbents, filter materials, wiping cloths and protective clothing (15 02)</i>	
15 02 02 <sup>(2)</sup>	Absorbents, filter materials (including oil filters not otherwise specified), wiping cloths, protective clothing contaminated by dangerous substances
<i>Wastes from electrical and electronic equipment (16 02)</i>	
16 02 09 <sup>(2)</sup>	Transformers and capacitors containing PCBs
16 02 10 <sup>(2)</sup>	Discarded equipment containing or contaminated by PCBs other than those mentioned in 16 02 09
16 02 11 <sup>(2)</sup>	Discarded equipment containing chlorofluorocarbons, HCFC, HFC

(1) Codes referred to in the European Waste Catalogue

(2) Includes special waste.

<sup>(49)</sup> S.I. 1987/37, to which there are amendments not relevant to these Regulations.



<i>Codes</i> (1)	<i>Types of waste</i>
16 02 12 <sup>(2)</sup>	Discarded equipment containing free asbestos
16 02 13 <sup>(2)</sup>	Discarded equipment containing hazardous components other than those mentioned in 16 02 09 to 16 02 12
16 02 15 <sup>(2)</sup>	Hazardous components removed from discarded equipment
<i>Waste explosives (16 04)</i>	
16 04 03 <sup>(2)</sup>	Other waste explosives
<i>Gases in pressure containers and discarded chemicals (16 05)</i>	
16 05 04 <sup>(2)</sup>	Gases in pressure containers (including halons) containing dangerous substances)
<i>Batteries and accumulators (16 06)</i>	
16 06 01 <sup>(2)</sup>	Lead batteries
16 06 02 <sup>(2)</sup>	Ni-Cd batteries
16 06 03 <sup>(2)</sup>	Mercury-containing batteries
16 06 06 <sup>(2)</sup>	Separately collected electrolyte from batteries and accumulators
<i>Wastes from natal care, diagnosis, treatment or prevention of disease in humans (18 01)</i>	
18 01 03 <sup>(2)</sup>	Wastes whose collection and disposal is subject to special requirements in order to prevent infection

(1) Codes referred to in the European Waste Catalogue

(2) Includes special waste.

<i>Codes</i> <sup>(1)</sup>	<i>Types of waste</i>
18 01 06 <sup>(2)</sup>	Chemicals consisting of or containing dangerous substances
18 01 08 <sup>(2)</sup>	Cytotoxic and cytostatic medicines
<i>Separately collected fractions (except 15 01) (20 01)</i>	
20 01 13 <sup>(2)</sup>	Solvents
20 01 21 <sup>(2)</sup>	Fluorescent tubes and other mercury-containing waste
20 01 23 <sup>(2)</sup>	Discarded equipment containing chlorofluorocarbons
20 01 26 <sup>(2)</sup>	Oil and fat other than those mentioned in 20 01 25
20 01 27 <sup>(2)</sup>	Paint, inks, adhesives and resins containing dangerous substances
20 01 29 <sup>(2)</sup>	Detergents containing dangerous substances
20 01 31 <sup>(2)</sup>	Cytotoxic and cytostatic medicines
20 01 33 <sup>(2)</sup>	Batteries and accumulators included in 16 06 01, 16 06 02 or 16 06 03 and unsorted batteries and accumulators containing these batteries
20 01 35 <sup>(2)</sup>	Discarded electrical and electronic equipment other than those mentioned in 20 01 12 and 20 01 23 containing hazardous components
20 01 37 <sup>(2)</sup>	Wood containing dangerous substances

(1) Codes referred to in the European Waste Catalogue

(2) Includes special waste.

**Table 14**

<i>Codes</i> (1)	<i>Types of waste</i>
<i>Waste hydraulic oils (13 01)</i>	
13 01 09 <sup>(2)</sup>	Mineral-based chlorinated hydraulic oils
13 01 10 <sup>(2)</sup>	Mineral based non-chlorinated hydraulic oils
13 01 11 <sup>(2)</sup>	Synthetic hydraulic oils
13 01 12 <sup>(2)</sup>	Readily biodegradable hydraulic oils
13 01 13 <sup>(2)</sup>	Other hydraulic oils
<i>Waste engine, gear and lubricating oils (13 02)</i>	
13 02 04 <sup>(2)</sup>	Mineral-based chlorinated engine, gear and lubricating oils
13 02 05 <sup>(2)</sup>	Mineral-based non-chlorinated engine, gear and lubricating oils
13 02 06 <sup>(2)</sup>	Synthetic engine, gear and lubricating oils
13 02 07 <sup>(2)</sup>	Readily biodegradable engine, gear and lubricating oils
13 02 08 <sup>(2)</sup>	Other engine, gear and lubricating oils
<i>Waste insulating and heat transmission oils (13 03)</i>	
13 03 06 <sup>(2)</sup>	Mineral-based chlorinated insulating and heat transmission oils other than those mentioned in 13 03 01 (insulating or heat transmission oils containing PCBs)

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(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

<i>Codes</i> (1)	<i>Types of waste</i>
13 03 07 <sup>(2)</sup>	Mineral-based non-chlorinated insulating and heat transmission oils
13 03 08 <sup>(2)</sup>	Synthetic insulating and heat transmission oils
13 03 09 <sup>(2)</sup>	Readily biodegradable insulating and heat transmission oils
13 03 10 <sup>(2)</sup>	Other insulating and heat transmission oils
<i>Bilge oils (13 04)</i>	
13 04 01 <sup>(2)</sup>	Bilge oils from inland navigation
13 04 02 <sup>(2)</sup>	Bilge oils from jetty sewers
13 04 03 <sup>(2)</sup>	Bilge oils from other navigation
<i>Waste of liquid fuels (13 07)</i>	
13 07 01 <sup>(2)</sup>	Fuel oil and diesel
13 07 02 <sup>(2)</sup>	Petrol
13 07 03 <sup>(2)</sup>	Other fuels (including mixtures)
<i>Oil wastes not otherwise specified (13 08)</i>	
13 08 01 <sup>(2)</sup>	Desalter sludges or emulsions
13 08 02 <sup>(2)</sup>	Other emulsions
13 08 99 <sup>(2)</sup>	Wastes not otherwise specified

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

<i>Codes</i> (1)	<i>Types of waste</i>
<i>Wastes from transport tank, storage tank and barrel cleaning (except 05 and 13) (16 07)</i>	
16 07 08 <sup>(2)</sup>	Wastes containing oil
16 07 09 <sup>(2)</sup>	Wastes containing other dangerous substances
<i>Aqueous liquid wastes destined for off-site treatment (16 10)</i>	
16 10 01 <sup>(2)</sup>	Aqueous liquid wastes containing dangerous substances
16 10 03 <sup>(2)</sup>	Aqueous concentrates containing dangerous substances

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

**37.**—(1) The burial of a dead domestic pet in the garden of a domestic property where the pet lived.

(2) This paragraph does not apply if—

- (a) the dead domestic pet may prove hazardous to anyone who may come into contact with it; or
- (b) the burial is carried out by an establishment or undertaking and the pet did not die at the property.

**38.** The deposit or storage of samples of waste, including samples of waste which are special waste (including the temporary storage of WEEE pending its recovery), which are being or are to be subjected to testing and analysis, at any place where they are being or are to be tested or analysed, if the samples do not exceed 10 tonnes and are taken—

- (a) in the exercise of any power under the Radioactive Substances Act 1993, the Sewerage (Scotland) Act 1968, the 2003 Act, the 1990 Act, the 1995 Act or the 2011 Regulations;
- (b) by or on behalf of the holder of a waste management licence in pursuance of the conditions of that licence;
- (c) by or on behalf of a person carrying on in relation to the waste an activity described in this Schedule or in regulation 16(1);
- (d) by or on behalf of the owner or occupier of the land from which the samples are taken;
- (e) by or on behalf of any person to whom section 34 applies in connection with that person's duties under that section; or
- (f) for the purposes of research.

**39.**—(1) The secure storage at a pharmacy or at the premises of a medical, nursing or veterinary practice or a needle exchange facility, of the wastes listed in Table 15 (including those which

are special waste) which have been returned to those places from care services, households or by individuals if—

- (a) the total quantity of such returned waste at the pharmacy or premises does not at any time exceed 10 cubic metres;
- (b) the total amount of such waste returned in any 24 hour period does not exceed 5 kilograms or, as the case may be, 5 litres; and
- (c) any waste so returned to the pharmacy or premises is not stored there for longer than 3 months.

(2) The secure storage at the premises of a medical, nursing or veterinary practice of the wastes listed in Table 15 (including special waste) produced in carrying on that practice if—

- (a) in the case of liquid waste, it is stored in a secure container and the total volume of that waste does not at any time exceed 23,000 litres;
- (b) in any other case, either—
  - (i) it is stored in a secure container and the total volume of that waste does not at any time exceed 80 cubic metres; or
  - (ii) it is stored in a secure place and the total volume of that waste does not at any time exceed 50 cubic metres; and
- (c) no such waste is stored at those premises for longer than one year.

(3) In the case of any waste batteries, secure storage under sub-paragraph (1) or (2) must take place in accordance with the treatment conditions.

(4) In this paragraph, “care services” has the same meaning as in section 2 of the Regulation of Care (Scotland) Act 2001<sup>(50)</sup>.

**Table 15**

<i>Codes</i> <sup>(1)</sup>	<i>Types of waste</i>
<i>Wastes from electrical and electronic equipment (16 02)</i>	
16 02 09 <sup>(2)</sup>	Transformers and capacitors containing PCBs
16 02 10 <sup>(2)</sup>	Discarded equipment containing or contaminated by PCBs other than those mentioned in 16 02 09
16 02 11 <sup>(2)</sup>	Discarded equipment containing chlorofluorocarbons, HCFC, HFC
16 02 12 <sup>(2)</sup>	Discarded equipment containing free asbestos

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

<sup>(50)</sup> 2001 asp 8, as relevantly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) Part 6 section 29; the Adoption and Children (Scotland) Act 2007 (asp 4) Part 1 Chapter 1 section 7; the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) Part 4 section 82(1) and by S.S.I. 2010/21 Schedule 1 paragraph 6(2).

<i>Codes</i> <sup>(1)</sup>	<i>Types of waste</i>
16 02 13 <sup>(2)</sup>	Discarded equipment containing hazardous components other than those mentioned in 16 02 09 to 16 02 12
16 02 14	Discarded equipment other than those mentioned in 16 02 09 to 16 02 13
16 02 15 <sup>(2)</sup>	Hazardous components removed from discarded equipment
16 02 16	Components removed from discarded equipment other than those mentioned in 16 02 15
<i>Batteries and accumulators (16 06)</i>	
16 06 01 <sup>(2)</sup>	Lead batteries
16 06 02 <sup>(2)</sup>	Ni-Cd batteries
16 06 03 <sup>(2)</sup>	Mercury-containing batteries
16 06 04	Alkaline batteries (except 16 06 03)
16 06 05	Other batteries and accumulators
<i>Wastes from natal care, diagnosis, treatment or prevention of disease in humans (18 01)</i>	
18 01 01	Sharps (except 18 01 03 – waste whose collection and disposal is subject to special requirements in order to prevent infection)
18 01 02	Body parts and organs including blood bags and blood preserves (except 18 01 03)
18 01 03 <sup>(2)</sup>	Wastes whose collection and disposal is subject to special requirements in order to prevent infection

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

<i>Codes</i> (1)	<i>Types of waste</i>
18 01 04	Wastes whose collection and disposal is not subject to special requirements in order to prevent infection (for example dressings, plaster casts, linen, disposable clothing, diapers)
18 01 07	Chemicals other than those mentioned in 18 01 06 (chemicals consisting of or containing dangerous substances)
18 01 08 <sup>(2)</sup>	Cytotoxic and cytostatic medicines
18 01 09	Medicines other than those mentioned in 18 01 08
<i>Wastes from research, diagnosis, treatment or prevention of disease involving animals (18 02)</i>	
18 02 01	Sharps (except 18 02 02 – wastes whose collection and disposal is subject to special requirements in order to prevent infection)
18 02 02 <sup>(2)</sup>	Wastes whose collection and disposal is subject to special requirements in order to prevent infection
18 02 03	Wastes whose collection and disposal is not subject to special requirements in order to prevent infection
18 02 06	Chemicals other than those mentioned in 18 02 05 (chemicals consisting of or containing dangerous substances)
18 02 07 <sup>(2)</sup>	Cytotoxic and cytostatic medicines
18 02 08	Medicines other than those mentioned in 18 02 07
<i>Separately collected fractions (20 01)</i>	
20 01 31 <sup>(2)</sup>	Cytotoxic and cytostatic medicines

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.



<i>Codes</i> (1)	<i>Types of waste</i>
20 01 32	Medicines other than those mentioned in 20 01 31 (cytotoxic and cytostatic medicines)
20 01 33 <sup>(2)</sup>	Batteries and accumulators included in 16 06 01, 16 06 02 or 16 06 03 and unsorted batteries and accumulators containing these batteries
20 01 34	Batteries and accumulators other than those mentioned in 20 01 33
20 01 35 <sup>(2)</sup>	Discarded electrical and electronic equipment other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components
20 01 36	Discarded electrical and electronic equipment other than those mentioned in 20 01 21, 20 01 23 and 20 01 35
20 01 99	Other fractions not otherwise specified

(1) Codes referred to in the European Waste Catalogue.

(2) Includes special waste.

**40.**—(1) The secure storage of non-liquid waste, including WEEE, at any place other than the premises where it is produced if—

- (a) the amount of waste stored does not at any time exceed 50 cubic metres in total and is not kept for longer than 3 months;
- (b) the person storing the waste is the owner of the place where it is stored or has the consent of the owner;
- (c) the place where it is stored is not a site designed or adapted for the reception of waste with a view to its being disposed of or recovered elsewhere; and
- (d) such storage is incidental to the collection or transport of the waste.

(2) Sub paragraph (1) above does not apply to the storage of waste at a place designed or adapted for the recovery of scrap metal or the dismantling of waste motor vehicles.

(3) The temporary storage of scrap rails on operational land of a railway, light railway or tramway if the total quantity of that waste in any one place does not at any time exceed 10 tonnes and the storage is incidental to the collection or transport of the scrap rails.

**41.**—(1) The temporary storage of waste, including WEEE, pending its collection, on the site where it is produced.

(2) Sub paragraph (1) above does not apply to the storage of waste at a place designed or adapted for the recovery of scrap metal or the dismantling of waste motor vehicles.

(3) Sub paragraph (1) shall only apply where such temporary storage conforms with the obligations and the minimum technical requirements described, respectively, in paragraph 1 of each

of Parts 1 and 2 of the Schedule to the End of Life Vehicles (Storage and Treatment) (Scotland) Regulations 2003(51).

- (4) Sub paragraph (1) above shall apply to special waste if—
- (a) it is stored on the site for no longer than 12 months;
  - (b) in the case of liquid waste, it is stored in a secure container and the total volume of that waste does not at any time exceed 23,000 litres; and
  - (c) in any other case, either—
    - (i) it is stored in a secure container and the total volume of that waste does not at any time exceed 80 cubic metres; or
    - (ii) it is stored in a secure place and the total volume of that waste does not at any time exceed 50 cubic metres.

**42.**—(1) The disposal of waste consisting of pesticide solution or washings in a lined biobed at the place where the waste is produced, provided that no more than 8000 litres of such waste is so disposed of in any 12 month period.

(2) The secure storage of such waste, at the place where it is produced, prior to its disposal in accordance with sub-paragraph (1), provided that no more than 1500 litres of such waste is stored at any one time.

(3) The recovery or reuse of liquid residue from a lined biobed which has been used in accordance with sub-paragraph (1), at the place where the liquid residue is produced.

(4) The treatment of land with biobed material from a lined biobed which has been used in accordance with sub-paragraph (1) by spreading with such biobed material where—

- (a) the biobed material has been securely stored for at least 12 months prior to being spread on the land; and
- (b) that treatment results in benefit to agriculture or environmental improvement.

(5) The secure storage, at the place where it is produced, of biobed material intended to be used in accordance with sub-paragraph (4), where—

- (a) no more than 10 tonnes of biobed material is stored at any one time; and
- (b) no waste is stored for longer than 3 years.

**43.**—(1) The crushing of waste gas discharge lamps (including fluorescent tubes which are special waste within category 20 01 21 of the European Waste Catalogue) for the purposes of volume reduction prior to collection, where the material is intended for recovery or reuse.

- (2) The storage of such lamps—
- (a) prior to crushing; and
  - (b) after crushing but prior to collection.
- (3) Sub paragraph (1) or, as the case as the case may be, sub-paragraph (2) applies only where—
- (a) the crushing operation is carried out in equipment designed for the purpose of volume reduction prior to collection;
  - (b) the crushing operation is carried out solely for that purpose;
  - (c) the mercury concentration in emissions does not exceed 50 micrograms/m<sup>3</sup>;
  - (d) the total quantity of lamps processed in any period of 24 hours does not exceed 3 tonnes;

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(51) S.S.I. 2003/593.

- (e) the storage of the lamps prior to crushing is under weather proof covering in compliance with paragraph 1 of Annex III to the WEEE Directive; and
- (f) the storage of the lamps after crushing is in a secure container.

**44.**—(1) Heating iron, steel or any ferrous-alloy, non ferrous metal or non-ferrous metal alloy, in one or more furnaces or other appliances the primary combustion chambers of which have in aggregate a net rated thermal input of less than 0.2 megawatts, for the purpose of removing grease, oil or any other non-metallic contaminant.

(2) Sub-paragraph (1) does not apply to the removal by heat of plastic or rubber covering from scrap cable or of any asbestos contaminant.

(3) In the case of a process involving the heating of iron, steel or any ferrous-alloy, sub-paragraph (1) does not apply if that process is related to a process described in any of paragraphs (a) to (h), or (j) to (m), of Part A or paragraphs (a) to (c), or (e) or (f), of Part B of Section 2.1 of Schedule 1 to the 1991 Regulations or an activity described in Section 2.1 (other than in paragraph (d) of Part B) of Part 1 of Schedule 1 to the 2000 Regulations.

(4) In the case of a process involving the heating of any non-ferrous metal or non ferrous metal alloy, sub-paragraph (1) does not apply if that process is related to a process described in any of paragraphs (a) to (g), or (i) or (k), of Part A of Section 2.2 of Schedule 1 to the 1991 Regulations or an activity described in Part A of Section 2.2 of Part 1 of Schedule 1 to the 2000 Regulations.

(5) The secure storage of waste intended to be submitted to heating to which sub-paragraph (1) applies if the waste or, as the case may be, any container in which the waste is stored, is stored on an impermeable pavement which is provided with a sealed drainage system.

(6) In this paragraph, “net rated thermal input” means the rate at which fuel can be burned at the maximum continuous rating of the appliance multiplied by the net calorific value of the fuel and expressed as megawatts thermal.

(7) In this paragraph, “ferrous alloy” means an alloy of which iron is the largest constituent, or equal to the largest constituent, by weight, whether or not that alloy also has a non-ferrous metal content greater than any percentage specified in Section 2.2 of Schedule 1 to the 1991 Regulations, and “non-ferrous metal alloy” shall be construed accordingly.

(8) In this paragraph, “sealed drainage system” has the meaning given by paragraph 45(7).

**45.**—(1) The carrying on, at any secure place designed or adapted for the recovery of scrap metal or the dismantling of depolluted motor vehicles, in respect of a kind of waste described in column 1 of Table 16, of any of the activities specified in column 2 of that Table in relation to that kind of waste if—

- (a) the total quantity of any particular kind of waste so dealt with at that place does not in any period of seven days exceed the limit specified in relation to that kind of waste in column 3 of that Table;
- (b) the activity is carried on with a view to the recovery of the waste (whether or not by the person carrying on the activity listed in that Table);
- (c) every part of that place upon which the activity is carried out is surfaced with an impermeable pavement provided with a sealed drainage system; and
- (d) the plant or equipment used in carrying on the activity is maintained in reasonable working order.

**Table 16**

<i>Kind of Waste</i>	<i>Activities</i>	<i>Seven day limit</i>
Ferrous metals (within category 16 01 17 of the European Waste Catalogue) or ferrous alloys in metallic non-dispersible form (but not turnings, shavings or chippings of those metals or alloys)	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	8,000 tonnes
The following non ferrous metals (within category 16 01 18 of the European Waste Catalogue), namely copper, aluminium, nickel, lead, tin, tungsten, cobalt, molybdenum, vanadium, chromium, titanium, zirconium, manganese or zinc, or non-ferrous alloys, in metallic non-dispersible form, of any of those metals (but not turnings, shavings or chippings of those metals or alloys)	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	400 tonnes
Turnings, shavings or chippings of any of the metals or alloys listed in either of the above categories	Sorting; grading; baling; shearing by manual feed; compacting; crushing; cutting by hand-held equipment	300 tonnes
Depolluted motor vehicles	Dismantling, rebuilding, restoring or reconditioning	40 vehicles
Lead acid motor vehicle batteries (within category 16 06 01 of the European Waste Catalogue) (including those whose contents are special waste) not forming part of, nor contained in, a motor vehicle	Sorting	20 tonnes

(2) The storage, at any place designed or adapted for the recovery of scrap metal or the dismantling of depolluted motor vehicles, of waste of a kind listed in column 1 of Table 17 if—

- (a) the waste is to be submitted to any of the activities specified in Table 16 in relation to that kind of waste, or to a recycling or reclamation operation authorised by a waste management licence or an authorisation granted under Part I of the 1990 Act or a permit granted under the 2000 Regulations;
- (b) the total quantity of waste of that kind stored at that place does not exceed the maximum total quantity specified in column 2 of Table 17 in relation to that kind of waste;
- (c) no waste is stored at that place for longer than 12 months;

- (d) each kind of waste is either stored separately or is kept in separate containers, but in a case where a consignment consisting of more than one kind of waste is delivered to that place it may be stored unseparated at that place pending sorting for no longer than 2 months;
- (e) in the case of waste which is liquid or consists of motor vehicle batteries, it is stored in a secure container;
- (f) in the case of depolluted motor vehicles, they are, where appropriate, stored on an impermeable pavement;
- (g) subject to sub-paragraph (2)(f), the waste or, as the case may be, any container in which it is stored, is stored on an impermeable pavement which is provided with a sealed drainage system; and
- (h) the height of any pile or stack of waste does not exceed 5 metres.

**Table 17**

<i>Kind of waste</i>	<i>Maximum total quantity</i>
Ferrous metals (within category 16 01 17 of the European Waste Catalogue) or ferrous alloys in metallic non- dispersible form (but not turnings, shavings or chippings of those metals or alloys)	50,000 tonnes
The following non-ferrous metals (within category 16 01 18 of the European Waste Catalogue), namely copper, aluminium, nickel, lead, tin, tungsten, cobalt, molybdenum, vanadium, chromium, titanium, zirconium, manganese or zinc, or non-ferrous alloys, in metallic non-dispersible form, of any of those metals (but not turnings, shavings or chippings of those metals or alloys)	1,500 tonnes
Turnings, shavings or chippings of any of the metals or alloys listed in either of the above categories	1,000 tonnes
Depolluted motor vehicles, stored where appropriate on an impermeable pavement	1000 vehicles
Lead acid motor vehicle batteries (within category 16 06 01 of the European Waste Catalogue) (including those whose contents are special waste) not forming part of, nor contained in, a motor vehicle	40 tonnes

- (3) Sub-paragraph (1) or (2) only applies to the carrying on of an activity at a place if—
  - (a) the person responsible for the management of that place—
    - (i) has established administrative arrangements to ensure that—

- (aa) waste accepted at that place is of a kind listed in Table 16 or, as the case may be, Table 17; and
  - (bb) no waste is accepted at that place in such a quantity as would cause there to be a breach of any of the terms and conditions of the exemption; and
  - (ii) carries out a monthly audit to confirm compliance with the terms and conditions of the exemption; and
  - (b) the records required by paragraph 14 of Part I of Schedule 4 are kept in such a form as to show, for each month, the total quantity of each kind of waste recovered during that month at that place.
- (4) In the case of any waste batteries, sub-paragraphs (1) and (2) only apply if any treatment or storage of such batteries takes place in accordance with the treatment conditions.
- (5) The temporary storage of waste (in this sub-paragraph referred to as “the non-scrap waste”), pending its collection, at a place designed or adapted for the recovery of scrap metal or the dismantling of depolluted motor vehicles if—
- (a) the non-scrap waste is not of a kind described in Table 17;
  - (b) the non-scrap waste was delivered to that place as part of a consignment of waste of which—
    - (i) at least 70 per cent by weight was waste consisting of depolluted motor vehicles; or
    - (ii) at least 95 per cent by weight was waste of any kind described in Table 17 other than depolluted motor vehicles, and is capable of being separated from that waste by sorting or hand dismantling;
  - (c) the non-scrap waste is stored at that place for no longer than 3 months;
  - (d) in a case where the non-scrap waste is liquid, it is stored in a secure container; and
  - (e) the non-scrap waste or, as the case may be, the container in which the non-scrap waste is stored, is stored on an impermeable pavement which is provided with a sealed drainage system.
- (6) In Table 16, “shearing” means the cold cutting of metal by purpose-made shears, and “depolluted” in relation to waste motor vehicles has the meaning given in regulation 2 of the End-of-Life Vehicles (Storage and Treatment) (Scotland) Regulations 2003.
- (7) For the purposes of this paragraph and paragraph 44, “sealed drainage system”, in relation to an impermeable pavement, means a drainage system with impermeable components which does not leak and which will ensure that—
- (a) no liquid will run off the pavement otherwise than via the system; and
  - (b) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump.

**46.—(1)** The burning at a dock of waste consisting of—

- (a) plant tissue waste, in pursuance of a notice given under article 32 of the Plant Health (Scotland) Order 2005; or
- (b) wood of any kind used to wedge or support parts of cargo, including packing material, spacers and pallets, in pursuance of a notice given under article 31 of the Plant Health (Forestry) Order 2005<sup>(52)</sup>.

(2) The storage at the dock where it was unloaded of waste intended to be burned under sub-paragraph (1).

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<sup>(52)</sup> S.I. 2005/2517, to which there are amendments not relevant to these Regulations.

(3) The total quantity of waste stored or burned under sub-paragraph (1) or (2), in any period of 24 hours, shall not exceed 15 tonnes.

(4) Any waste burned under sub-paragraph (1) shall be burned on a hard standing, within a secure location at the dock where it was unloaded.

**47.**—(1) The repair or refurbishment or both at a secure place of WEEE as described in column 1 of Table 18, together with any incidental storage and other incidental activities in relation to that type of WEEE if—

- (a) the activity is carried on with a view to the reuse of the WEEE for its original purpose;
- (b) best available treatment, recovery and recycling techniques are used when carrying out the activity;
- (c) in respect of a description of waste contained in column 1 of Table 18, the total quantity of WEEE so dealt with at that place does not exceed either the storage limit specified in column 2 of that Table or the treatment limit specified in column 3 in relation to that type of WEEE;
- (d) the technical requirements specified in Annex III of the WEEE Directive are met;
- (e) prior to the treatment of WEEE and in relation to any waste components from WEEE, such WEEE or components are stored in such a manner that their environmentally sound reuse or recycling is not hindered; and
- (f) no WEEE is stored at that place for longer than 12 months.

**Table 18**

<i>Codes and Type of Waste</i> (1)	<i>Storage Limits</i> (2)	<i>Treatment Limits</i>
16 02 14 (WEEE other than those mentioned in 16 02 09 to 16 02 13)	50 cubic metres	2 tonnes/day
20 01 36 (WEEE other than those mentioned in 20 01 21 and 20 01 23 and 20 01 35)	50 cubic metres	2 tonnes/day

(1) Codes referred to in the European Waste Catalogue.

(2) In total either awaiting repair or refurbishment or stored following such treatment.

(2) The carrying on, at any secure place in respect of WEEE that is special waste as described in Table 19, of the treatment activities of repair or refurbishment or both together with any incidental storage and other incidental activities, but not including the degassing and capture of ozone depleting substances in relation to that type of WEEE if—

- (a) the activity is carried on primarily with a view to the reuse of the WEEE for its original purpose;
- (b) best available treatment, recovery and recycling techniques are used when carrying out the activity;
- (c) in respect of a description of waste contained in a particular row of Table 19 the total quantity of WEEE so dealt with at that place does not exceed either the storage limit specified in column 2, or the treatment limit specified in column 3 of that Table for the types of WEEE in that row;
- (d) the technical requirements specified in Annex III of the WEEE Directive are met;

- (e) the other requirements specified in column 4 of that Table for that type of WEEE are met;
- (f) prior to the treatment of WEEE and in relation to any waste components from WEEE, such WEEE or components are stored in such a manner that their environmentally sound reuse or recycling is not hindered; and
- (g) no WEEE is stored at that place for longer than 12 months.

**Table 19**

<i>Codes and Type of Waste</i> (1)	<i>Storage Limits</i> (2)	<i>Treatment Limits</i>	<i>Other Requirements</i>
16 02 11 (WEEE containing chlorofluorocarbons, HCFC or HFC) and 20 01 23 (WEEE containing chlorofluorocarbons)	80 cubic metres	5 tonnes/day	Stored in a manner that will prevent the release of the CFCs, HCFCs or HFCs
Televisions and computer monitors containing cathode ray tubes falling within 16 02 13 (WEEE containing hazardous components other than those mentioned in 16 02 09 to 16 02 12) and 20 01 35 (WEEE other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components)	80 cubic metres	5 tonnes/day	

(1) Codes referred to in the European Waste Catalogue.

(2) In total either awaiting repair or refurbishment or stored following such treatment.

(3) Sub paragraphs (1) or (2) only apply to the carrying out of an activity at a place if the person responsible for the management of that place has established administrative arrangements to ensure that—

- (a) WEEE accepted at that place is of a type set out in column 1 of Table 18 or 19, as the case may be; and
- (b) no waste is accepted at that place in such a quantity as would cause there to be a breach of any of the terms and conditions of the exemption.

(4) For the purposes of this paragraph, the storage and treatment limits set out in columns 2 and 3 of Tables 18 and 19 are overall limits that apply to all waste falling within the 6 digit code or codes specified in column 1 of those Tables.

**48.—**(1) The storage at any secure place of WEEE of a type listed in column 1 of Table 20 if—

- (a) the WEEE is stored for the purpose of its recovery elsewhere;
- (b) the total quantity of any particular type of WEEE stored at the site at any time does not exceed the storage limit specified in column 2 of the Table in relation to that type of WEEE;
- (c) any particular type of WEEE is stored for no longer than the duration limits specified in column 3 of the Table;
- (d) the other relevant storage requirements specified in column 4 of the Table are met; and
- (e) the WEEE is stored in such a manner that its environmentally sound reuse or recycling is not hindered.



**Table 20**

<i>Codes and Type of Waste</i> (1)	<i>Maximum quantity</i>	<i>Maximum duration</i>	<i>Type of containment</i>
16 02 14 (WEEE other than those mentioned in 16 02 09 to 16 02 13) and 20 01 36 (WEEE other than those mentioned in 20 01 21, 20 01 23 and 20 01 35)	80 cubic metres	3 months	Impermeable surface within a secure store; weatherproof covering of stored WEEE
16 02 13 (WEEE other than those mentioned in 16 02 09 to 16 02 12) and 20 01 35 (WEEE other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components)	80 cubic metres	3 months	Appropriate leak proof containers providing an impermeable surface

(1) Codes referred to in the European Waste Catalogue.

(2) The secure storage of WEEE of a type listed in column 1 of Table 21 if—

- (a) the WEEE is stored for the purpose of its recovery elsewhere;
- (b) the total quantity of any particular type of WEEE stored at the site at any time does not exceed the storage limit specified in column 2 of the Table;
- (c) any particular type of WEEE is stored for no longer than the duration limits specified in column 3 of the Table;
- (d) the relevant type of containment and other relevant requirements specified in columns 4 and 5 of the Table are met;
- (e) the WEEE is stored in such a manner that its environmentally sound reuse or recycling is not hindered.

**Table 21**

<i>Codes and Type of Waste</i> (1)	<i>Maximum quantity</i>	<i>Maximum duration</i>	<i>Type of</i>	<i>Other Requirements</i>
16 02 11 (WEEE containing chlorofluorocarbons, HCFC or HFC) and 20 01 23 (WEEE containing chlorofluorocarbons)	80 cubic metres	3 months	Impermeable surface within a secure store; weatherproof covering of stored WEEE	Stored in a manner that will prevent the release of the CFC, HCFC and HFC; overall height of any stack shall not exceed 2 units or 3.5 metres,

(1) Codes referred to in the European Waste Catalogue.

<i>Codes and Type of Waste</i> (1)	<i>Maximum quantity</i>	<i>Maximum duration</i>	<i>Type of</i>	<i>Other Requirements</i>
				whichever is the lower
16 02 13 (WEEE containing hazardous components other than those mentioned in 16 02 09 to 16 2 12) and 20 01 35 (WEEE other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components)	80 cubic metres	3 months	Impermeable surface within a secure store; weatherproof covering of stored WEEE	
20 01 21 (fluorescent tubes and other mercury-containing waste)	50 cubic metres	3 months	Appropriate leak proof weatherproof covering	Stored in such a way that the glass is not broken

(1) Codes referred to in the European Waste Catalogue.

(3) For the purposes of sub paragraphs (1) and (2), the activity of storage shall be taken to include the incidental sorting of waste of that type.

(4) For the purposes of this paragraph, the storage and treatment limits set out in columns 2 and 3 of Tables 20 and 21 are overall limits that apply to all waste falling within the 6 digit code or codes specified in column 1 of those Tables.

**49.** The treatment of waste organophosphate sheep dip (including such waste as is special waste) with an enzyme preparation, provided that no more than two tonnes of such waste is treated in any one day.

**50.—(1)** The mixing of ash from the incineration of pig or poultry carcasses at its place of production with manure for the treatment of land as specified in sub-paragraph (2).

(2) The treatment of land used for agriculture with agricultural waste resulting in benefit to agriculture or ecological improvement, if—

- (a) the waste consists of ash from the incineration of pig or poultry carcasses, or such ash mixed with manure in reliance on the exemption in sub-paragraph (1);
- (b) the land is at the place of production of the ash;
- (c) the land is at least—
  - (i) 10 metres from any inland or coastal waters;
  - (ii) 50 metres from any well, borehole or similar work sunk into underground strata for the purpose of any water supply other than a domestic water supply; and
  - (iii) 250 metres from any well, borehole or similar work sunk into underground strata for the purpose of any domestic water supply;
- (d) at the start of and throughout the treatment—

- (i) the land has not been frozen for 12 or more hours during the preceding 24 hours; and
  - (ii) the land is not waterlogged, flooded or snow-covered;
  - (e) the activity is carried out in accordance with any requirement imposed by or under the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008(53);
  - (f) where the waste consists only of ash from the incineration of pig or poultry carcasses, it is incorporated into the soil as soon as possible; and
  - (g) the total quantity of ash incorporated into the soil does not exceed 150 kilograms per hectare in any period of 12 months.
- (3) The secure storage of not more than 100 tonnes of waste intended to be used for the treatment of land in reliance on the exemption in sub-paragraph (2).
- (4) In this paragraph, “domestic water supply” has the meaning given by paragraph 7(5).

**51.**—(1) The anaerobic digestion of biodegradable waste which is agricultural waste or waste from a distillery.

(2) In this paragraph, “anaerobic digestion” means the process of controlled decomposition of waste under managed conditions—

- (a) where free oxygen is absent;
- (b) at temperatures suitable for naturally occurring mesophilic or thermophilic anaerobe and facultative anaerobe bacteria species; and
- (c) where the inputs to the process are converted to a methane rich biogas for use in an energy recovery process and to a stable sanitised material, the application of which material to land results in benefit to agriculture or horticulture or ecological improvement.

## SCHEDULE 2

Regulation 17(10)

### ASSESSMENT OF BENEFIT TO AGRICULTURE OR ECOLOGICAL IMPROVEMENT

**1.** In assessing benefit to agriculture or ecological improvement for the purposes of paragraphs 7, 8, 9, 25, 42 and 50 of Schedule 1 to these Regulations, regard shall be had to the following paragraphs.

**2.** In assessing benefit to agriculture, regard shall be had to whether the use of the waste on the land will result in an improvement of the soil for the purpose of growing crops or grazing, and the following criteria shall apply for the purposes of such assessment—

- (a) the addition of nitrogen, phosphorus and other plant nutrients in the waste material should take account of the soil nutrient status and other sources of nutrient supply and be matched to the needs of the planned crop rotation;
- (b) the addition of total nitrogen attributable to the use of the waste on the land in any 12 month period must not exceed 250 kilograms per hectare, except in the case of the following wastes as listed in the European Waste Catalogue—
  - (i) soil from cleaning and washing beet (02 04 01);
  - (ii) soil (including excavated soil from contaminated sites), stones and dredging spoil consisting of soil and stones other than those containing dangerous substances (17 05 04);
  - (iii) dredging spoil other than those containing dangerous substances (17 05 06); and

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(53) S.S.I. 2008/298, as amended by S.S.I. 2008/394 and S.S.I. 2009/447.

- (iv) garden and park wastes (including cemetery wastes) consisting of soil and stones (20 02 02);
- (c) the addition of organic matter which improves the capacity of the soil to hold water, or its porosity, stability, tilth and workability is a benefit;
- (d) the addition of materials containing lime should take account of the neutralising value of the material, the pH of the soil and the target soil pH for the crop rotation;
- (e) the spreading or injection of watery wastes may be a benefit where the moisture of the soil is insufficient to support the growth of crops at the time of application, or where they contain nutrients which are applied at an appropriate rate;
- (f) the spreading of waste soil may be a benefit where it is done in order to level uneven land and thereby facilitate the use of the land for agriculture, but not where it is done solely in order to raise the level of the land.

**3.** In assessing ecological improvement, regard shall be had to the extent to which wildlife habitats which might otherwise deteriorate are maintained or supported. The creation of a new habitat, or the restoration of an old habitat, is regarded as an improvement.

SCHEDULE 3

Regulation 25(2)

PLANS AND DOCUMENTS REQUIRED FOR REGISTRATION

<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Plans and documents required</i>
7, 8, 9, 10, 12, 19, 42, 46, 47, 49, 50 and 51	<p>A plan of each place at which the exempt activity is to be carried on showing—</p> <ul style="list-style-type: none"> <li>(a) the boundaries of that place; and</li> <li>(b) the locations within that place at which the exempt activity is to be carried on.</li> </ul>
7	<p>1. The notice shall include the following particulars—</p> <ul style="list-style-type: none"> <li>(a) the establishment or undertaking’s name, address and telephone number, and, if applicable, its fax number and email address;</li> <li>(b) a description of the waste to be used, its physical form and the process from which it arose;</li> <li>(c) a description of where and how the waste will be stored pending the use;</li> </ul>

<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Plans and documents required</i>
	<p>(d) a description of the land which is to be treated with the waste, including its location as identified by reference to a map and a six figure Ordnance Survey grid reference, and its area, the area available for the treatment, the soil, crops grown or to be grown in the soil and all wastes used to treat the land in the previous six months;</p> <p>(e) the method and intended date of treatment, the quantities of waste to be used and the rate of application;</p> <p>(f) details of the benefit to agriculture or ecological improvement to be expected from the treatment, including any analysis of the waste or the soil, and management plans;</p> <p>(g) the location of any part of the water environment within 15 metres of the land on which the waste is to be used; and</p> <p>(h) the intended start and completion date of the storage or treatment</p> <p>2. The notice shall be accompanied by the following documents—</p> <p>(a) an analysis of the wastes to be used and the soil which is to be treated with them;</p> <p>(b) an assessment of the risk of pollution caused by the use;</p> <p>(c) a certificate describing how the treatment will result in benefit to agriculture or ecological improvement, which shall be prepared by or based on advice from a person who, in the opinion of the appropriate registration authority, has appropriate technical or professional expertise.</p> <hr/> <p>3. Wastes shall be analysed in relation to the following parameters—</p> <p>(a) percentage dry solids content;</p> <p>(b) pH;</p> <p>(c) conductivity (mS);</p>

<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Plans and documents required</i>
	<ul style="list-style-type: none"> <li>(d) total content of major nutrients and readily plant available ammonium-nitrogen with the results to be expressed on a fresh weight basis;</li> <li>(e) biochemical oxygen demand and chemical oxygen demand;</li> <li>(f) where the appropriate registration authority considers this to be appropriate, in relation to the types of waste whose codes are listed in the first column of Table 22, the parameters indicated in the remaining columns of the Table; and</li> <li>(g) such other parameters as the appropriate registration authority considers appropriate.</li> </ul>
8(2)	<p>The notice shall include the following particulars—</p> <ul style="list-style-type: none"> <li>(a) the name, address and telephone number and, if applicable, the fax number and e-mail address of the establishment or undertaking that is to store or use the sludge and the establishment or undertaking supplying it;</li> <li>(b) the quantity of sludge to be stored or used and its origin;</li> <li>(c) how that sludge has been treated;</li> <li>(d) the location in which the sludge is to be stored or spread, including a description of any container or lagoon to be used;</li> <li>(e) the locations of any buildings, public rights of way, abstraction points or surface waters above Ordnance Datum which are situated within 400 metres of the boundaries of that place</li> <li>(f) where sludge is to be used for treatment of the land, the notice shall be accompanied by a certificate describing how the activity will result in ecological improvement or as the case may be, enhancement of the growth of crops, which shall be prepared by or based on advice from a person who, in the opinion of the appropriate registration authority, has appropriate technical or professional expertise.</li> </ul>

<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Plans and documents required</i>
9	<p>1. The notice shall include the following particulars—</p> <ul style="list-style-type: none"><li>(a) the establishment or undertaking’s name, address and telephone number and, if applicable, its fax number and email address</li><li>(b) where less than 2,500 cubic metres of waste are to be used, a description of the treatment, the type and quantity of waste to be used and the location of the treatment;</li><li>(c) where 2,500 or more cubic metres of waste are to be used—<ul style="list-style-type: none"><li>(i) the total quantity of waste to be used;</li><li>(ii) the type of waste to be used, identified by reference to the descriptions in the second column of Table 3;</li><li>(iii) the location of the land where the waste is to be used or stored, identified by reference to a map and a six figure Ordnance Survey grid reference, including the name, address, telephone number and, if applicable, the fax number and email address of the landowner</li><li>(iv) a plan of the use with cross-sections showing the proposed levels of the land affected by the treatment;</li><li>(v) the intended start and completion date of the use or storage.</li></ul></li></ul> <p>2. Where any of the wastes listed in Part II of Table 3 is to be used, the notice shall be accompanied by a certificate describing how the activity will result in benefit to agriculture or ecological improvement, which shall be prepared by or based on advice from a person who, in the opinion of the appropriate registration authority, has appropriate technical or professional expertise.</p>
10	<p>The notice shall include the following particulars—</p> <ul style="list-style-type: none"><li>(a) the establishment or undertaking’s name, address and telephone number and, if applicable, its fax number and e-mail address;</li></ul>

<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Plans and documents required</i>
	<ul style="list-style-type: none"> <li>(b) a description of the proposed activity</li> <li>(c) a plan showing the location and specifications of any such impermeable pavements or drainage systems as are mentioned in paragraph 10.</li> </ul>
12 where the activities involve more than 10 tonnes of waste per year	<p>The notice shall include the following particulars—</p> <ul style="list-style-type: none"> <li>(a) the establishment or undertaking’s name, address and telephone number and, if applicable, its fax number and e-mail address;</li> <li>(b) the plan accompanying the notice given to the appropriate registration authority shall show locations of any buildings, public rights of way, abstraction points or surface waters above Ordnance Datum which are situated within 250 metres of the boundaries of the place;</li> <li>(c) the quantities and types of waste to be composted, identified by reference to the descriptions in the second column of Table 6, and the expected duration of the composting;</li> <li>(d) where containment is to be provided as referred to in Table 7, the method of containment.</li> </ul>
19	<p>The notice shall include the following particulars—</p> <ul style="list-style-type: none"> <li>(a) the establishment or undertaking’s name, address and telephone number, and, if applicable, its fax number and email address;</li> <li>(b) where less than 2,500 cubic metres of waste are to be stored or used, a description of the use, the type and quantity of waste to be stored or used and the location of the use;</li> <li>(c) where 2,500 cubic metres or more of waste are to be used for relevant work— <ul style="list-style-type: none"> <li>(i) the total quantity of waste to be stored or used:</li> </ul> </li> </ul>



<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Plans and documents required</i>
	<ul style="list-style-type: none"><li>(ii) the type of waste to be stored or used, identified by reference to the descriptions in the second column of Table 11;</li><li>(iii) the location of the land where the waste is to be stored or used, identified by reference to a map and a six figure Ordnance Survey grid reference, including the name, address, telephone number and, if applicable, the fax number and email address of the landowner;</li><li>(iv) a plan of the use, with cross-sections showing the proposed final levels of the land affected by the use; and</li><li>(v) the intended start and completion date of the storage or use.</li></ul>
42	<p>The notice shall include the following particulars—</p> <ul style="list-style-type: none"><li>(a) the establishment or undertaking’s name, address and telephone number and, if applicable, its fax number and e-mail address;</li><li>(b) a description of the proposed activity; and</li><li>(c) a description of how the biobed will be built and operated, based on principles which, in the opinion of the appropriate registration authority apply appropriate technical or professional expertise.</li></ul>
47	<p>The notice shall include the following particulars—</p> <ul style="list-style-type: none"><li>(a) the establishment or undertaking’s name, address and telephone number and, if applicable, its fax number and e-mail address; and</li><li>(b) a description of the proposed activity.</li></ul>
49	<p>The notice shall include or be accompanied by the following particulars—</p> <ul style="list-style-type: none"><li>(a) the establishment or undertaking’s name, address and telephone number and, if applicable, its fax number and e-mail address;</li><li>(b) a description of the enzyme preparation proposed to be applied.</li></ul>

<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Plans and documents required</i>
50	<p>1. The notice shall include or be accompanied by the following particulars—</p> <ul style="list-style-type: none"> <li>(a) the establishment or undertaking’s name, address and telephone number and, if applicable, its fax number and e-mail address;</li> <li>(b) a description of where and how the waste will be stored pending its use;</li> <li>(c) a description of the land to be treated with the waste, including its location as identified by reference to a map and a six figure Ordnance Survey grid reference, and its area, the area available for treatment, the soil, crops grown or to be grown in the soil and all wastes used to treat the land in the previous six months;</li> <li>(d) the intended dates of treatment, the quantities of waste to be used and the rate of application;</li> <li>(e) details of the benefit to agriculture or ecological improvement to be expected from the treatment, including any analysis of the waste or the soil, and management plans; and</li> <li>(f) the location of any part of the water environment within 15 metres of the land on which the waste is to be used.</li> </ul> <p>2. The notice shall be accompanied by the following documents—</p> <ul style="list-style-type: none"> <li>(a) an analysis of the soil to be treated;</li> <li>(b) an assessment of the risk of pollution caused by the treatment;</li> <li>(c) a certificate describing how the treatment will result in benefit to agriculture or ecological improvement, which shall be prepared by or based on advice from a person who, in the opinion of the appropriate registration authority, has appropriate technical or professional expertise.</li> </ul> <hr/> <p>3. The waste shall be analysed in relation to the following parameters—</p>

<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Plans and documents required</i>
	<ul style="list-style-type: none"><li>(a) percentage dry solids content;</li><li>(b) pH;</li><li>(c) conductivity (mS);</li><li>(d) total content of major nutrients and readily plant available ammonium-nitrogen with the results to be expressed on a fresh weight basis;</li><li>(e) biochemical oxygen demand and chemical oxygen demand;</li><li>(f) where the appropriate registration authority considers this to be appropriate, in relation to the types of waste whose codes are listed in the first column of Table 22, the parameters indicated in the remaining columns of the Table; and</li><li>(g) such other parameters as the appropriate registration authority considers appropriate.</li></ul>
51	<ol style="list-style-type: none"><li>1. The notice shall include the following particulars—<ul style="list-style-type: none"><li>(a) the establishment or undertaking’s name, address and telephone number and, if applicable, its fax number and e-mail address;</li><li>(b) The quantities and types of waste to be digested.</li></ul></li><li>2. The plan accompanying the notice given to the appropriate registration authority shall show locations of any buildings, public rights of way, abstraction points or surface waters above Ordnance Datum which are situated within 250 metres of the boundaries of the place.</li></ol>

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Waste Management Licensing (Scotland) Regulations 2011 No. 228

**Table 22**

<i>Codes referred to in European Waste Catalogue</i>	<i>Parameter</i>					
	<i>Neutralising Value</i>	<i>Micro-biology</i>	<i>Oils &amp; Fats</i>	<i>Potential toxic elements</i>	<i>Prescribed substances <sup>(1)</sup></i>	<i>Carbon/Nitrogen ratio</i>
03 03 11,  03 03 99	X			X	X	X
02 01 99,  03 01 01,  03 01 05,  03 03 01,  17 05 04,  20 02 02		X		X	X	
02 02 03		X	X			
02 03, 02 04,  02 05, 02 06, 02 07	X		X			
03 03 09,  10 13  04, 10 01  99	X			X	X	
02 01 03,		X		X	X	X

(1) ie. Substances prescribed in Schedule 6 to the 1991 Regulations.

<i>Codes referred to in European Waste Catalogue</i>	<i>Parameter</i>					
	<i>Neutralising Value</i>	<i>Micro-biology</i>	<i>Oils &amp; Fats</i>	<i>Potential toxic elements</i>	<i>Prescribed substances <sup>(1)</sup></i>	<i>Carbon/ Nitrogen ratio</i>
02 04 01, 19 05 03, 20 02 01						
04 02 10, 04 02 15, 04 02 20, 04 02 21, 04 02 22						X
04 01 07			X	X	X	
17 05 06, 19 06 03, 19 06 04, 19 06 05, 19 06 06				X	X	
07 07 12	X	X	X	X	X	X
19 09 02	X	X		X	X	
06 01 99	X					

(1) ie. Substances prescribed in Schedule 6 to the 1991 Regulations.

## SCHEDULE 4

Regulations 2(1) and 29

## WASTE FRAMEWORK DIRECTIVE

## PART 1

## GENERAL

**Interpretation of Schedule 4****1.** In this Schedule—

“the 1997 Act” means the Town and Country Planning (Scotland) Act 1997<sup>(54)</sup>;

“best available techniques” has the same meaning as in Article 2(12) of Directive 2008/1/EC concerning integrated pollution prevention and control<sup>(55)</sup>;

“collection” means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility;

“competent authority” has the meaning given in paragraph 5;

“development”, “development plan” and “planning permission” have the same meanings as in the 1997 Act;

“permit” means—

- (a) a waste management licence;
- (b) a disposal licence;
- (c) an authorisation under Part I of the 1990 Act;
- (d) a permit under the 2000 Regulations;
- (e) a licence under Part II of the Food and Environment Protection Act 1985;
- (f) an authorisation under the 2005 Regulations or the 2011 Regulations; or
- (g) a licence under Part 4 of the Marine (Scotland) Act 2010,

and, in relation to a permit, “grant” includes give, issue or pass, “modify” includes vary, and cognate expressions shall be construed accordingly;

“plan-making provisions” means Parts IA and II of the 1997 Act and the National Waste Management Plan for Scotland Regulations 2007<sup>(56)</sup>;

“planning authority” means the local authority, a person appointed by the local authority for the purposes of section 43A of the 1997 Act, a person appointed under paragraph 1 of Schedule 4 to that Act, and the Scottish Ministers in respect of their functions under that Act;

“pollution control authority” means any competent authority other than a planning authority;

“preparing for re-use” means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any further pre-processing; and “preparation for re-use” shall be construed accordingly;

<sup>(54)</sup> 1997 c.8, as relevantly amended by the 2003 Act Part 1 Chapter 3 section 24(2); the Planning and Compulsory Purchase Act 2004 (c.5) Schedule 7 paragraph 20(2); the Planning etc. (Scotland) Act 2006 (asp 17) Part 1 section 1, Part 2 section 2 and Part 3 sections 3(1), 17, 19(1) and 22(3); S.S.I. 1999/1 Part II (11) section 47(1); the Transport and Works (Scotland) Act 2007 (asp 8) Part 1 section 15(1); S.S.I. 2003/341 regulations 2 and 5; S.S.I. 2006/243 article 4(5) and (12)(b) and S.S.I. 2007/268 articles 8(2) and 14.

<sup>(55)</sup> O.J. L 24, 29.1.2008, p.8.

<sup>(56)</sup> S.S.I. 2007/251.

“re-use” means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;

“specified action” means any of the following—

- (a) determining—
  - (i) an application for planning permission; or
  - (ii) an appeal made under section 47 of the 1997 Act in respect of such an application;
- (b) deciding whether to take any action under section 92(2)(a) or (b) or (3) of the 1997 Act;
- (c) deciding whether to direct under section 31(5) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997<sup>(57)</sup> or section 57(1), (2) or (2A) of the 1997 Act that planning permission shall be granted or deemed to be granted;
- (d) deciding whether—
  - (i) in making or confirming a discontinuance order, to include in the order any grant of planning permission; or
  - (ii) to confirm (with or without modifications) a discontinuance order insofar as it grants planning permission,

and, for the purposes of this sub-paragraph, “discontinuance order” means an order under section 71 of, or paragraph 1 of Schedule 8 to, the 1997 Act (including an order made under that section by virtue of section 73 of, or paragraph 12 of Schedule 8 to that Act);

- (e) discharging functions under Part II of the 1997 Act;

“specified functions” has the meaning given by paragraph 5;

“waste management” means the collection, transport, recovery and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including actions taken as a dealer or broker, and cognate expressions shall be construed accordingly;

“waste prevention” means measures taken before a substance, material or product becomes waste that reduce—

- (a) the quantity of waste, including through the re-use of products or the extension of the life span of products;
- (b) the adverse impacts of the generated waste on the environment or human health; or
- (c) the content of harmful substances in materials or products.

### **Duties of the waste regulation authority**

2.—(1) The waste regulation authority shall discharge its specified functions, insofar as they relate to waste, with the objectives set out in sub-paragraph (2).

(2) Those objectives are ensuring that—

- (a) the waste hierarchy set out in paragraph 6(2) and (3) is applied to the generation of waste by the holder of a permit (other than a licence under Part II of the Food and Environment Protection Act 1985 or Part 4 of the Marine (Scotland) Act 2010) in the course of any activity authorised by that permit;
- (b) waste generated by such an activity is treated in accordance with that hierarchy;
- (c) waste generated by such an activity is managed in accordance with paragraph 6(1)(a); and
- (d) Article 23(3) of the Directive is complied with.

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(57) 1997 c.9, to which there are amendments not relevant to these Regulations.

(3) The duty in sub-paragraph (2)(a) and (b) takes effect in relation to a permit which is in force on 27th March 2011 when that permit is next modified after that date.

### **Duties of planning authorities**

**3.—**(1) A planning authority shall exercise its specified functions with the objectives of ensuring that—

- (a) the waste hierarchy set out in paragraph 6(2) and (3) is applied;
- (b) waste is managed in accordance with paragraph 6(1)(a); and
- (c) any plan made under the plan-making provisions is implemented.

(2) Nothing in sub-paragraph (1) requires a planning authority to deal with any matter which the relevant pollution control authority has power to deal with.

### **Duties of other competent authorities**

**4.** Other competent authorities shall discharge their specified functions, insofar as they relate to waste, with the relevant objectives as set out in paragraph 6.

### **Meaning of “competent authority” etc.**

**5.—**(1) For the purposes of this Schedule, “competent authority” means any of the persons listed in column 1 of Table 23 and, in relation to a competent authority, “specified function” means any function of that authority listed in column 2 of that Table opposite the entry for that authority.

**Table 23**

<b>Competent authorities</b>	<b>Specified functions</b>
Any planning authority.	The taking of any specified action.
The waste regulation authority, the Scottish Ministers or a person appointed under section 114(1)(a) of the 1995 Act.	Their respective functions under Part II of the 1990 Act in relation to waste management licences, and preparing the national waste management plan, or any modification of it, in accordance with the National Waste Management Plan for Scotland Regulations 2007.
The waste regulation authority or the Scottish Ministers	Their respective functions under regulation 30 of and Schedule 5 to these Regulations.
The waste regulation authority	Its functions under Schedule 4 paragraph 12 to these Regulations.
The waste regulation authority	Its functions under the Special Waste Regulations 1996.
The Scottish Ministers	Their functions under Part 4 of the Marine (Scotland) Act 2010.
The waste regulation authority, the Scottish Ministers or a person appointed under section 114(1)(a) of the 1995 Act.	Their respective functions under Part I of the 1990 Act in relation to prescribed processes except when—  (a) the process is designated for local control; and



Competent authorities	Specified functions
	(b) it is an exempt activity carried out subject to the conditions and limitations specified in Schedule 1.
The waste regulation authority or the Scottish Ministers.  The waste regulation authority, the Scottish Ministers or a person appointed under section 114(1)(a) of the 1995 Act.	Their respective functions under the 2011 Regulations.  Their respective functions in relation to permits under the 2000 Regulations except in relation to the carrying out of an exempt activity under such permits.
A local authority  A local authority or the Scottish Ministers  The Scottish Ministers  Scottish Water	Its functions under sections 45, 46, 47, 52, 53 and 56.  Their respective functions under sections 57, 58, 63A and 153.  Their functions under Part 5 Chapter 5 of the Climate Change (Scotland) Act 2009(58).  Its functions in relation to control of discharges of trade effluent into its sewers or sewage treatment works under Part II of the Sewerage (Scotland) Act 1968.

(2) In Table 23, except in the case of the functions of the Scottish Ministers under Part 5 Chapter 5 of the Climate Change (Scotland) Act 2009, references to functions do not include functions of making, revoking, amending, revising or re-enacting orders, regulations or schemes where those functions are required to be discharged by statutory instrument.

### Relevant objectives

6.—(1) For the purposes of this Schedule, the following objectives are the relevant objectives in relation to waste management—

- (a) ensuring that waste is managed without endangering human health and without using processes or methods which could harm the environment and in particular without—
  - (i) risk to water, air, soil, plants or animals; or
  - (ii) causing nuisance through noise or odours; or
  - (iii) adversely affecting the countryside or places of special interest;
- (b) where necessary to facilitate or improve recovery and where technically, environmentally and economically practicable, ensuring that different types of waste are collected

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(58) 2009 asp 12.

separately and are not mixed with other waste or other material with different properties; and

(c) implementing any plan made under the plan-making provisions.

(2) Applying the following waste hierarchy in the manner set out in sub-paragraph (3) is a relevant objective in relation to waste prevention, preparation for re-use and management—

- (a) waste prevention;
- (b) preparing for re-use;
- (c) recycling;
- (d) other recovery, including energy recovery;
- (e) disposal.

(3) The hierarchy is to be applied in a way which delivers the best overall environmental outcome. The hierarchy may be departed from for particular types of waste where justified in order to ensure this outcome and by reference to the overall impact of the generation and management of such types of waste.

(4) The following additional objectives are relevant objectives in relation to the recovery and disposal of waste—

- (a) establishing an integrated and adequate network of waste disposal installations and installations for the recovery of all mixed municipal waste which includes waste collected from private households, taking into account best available techniques;
- (b) ensuring that the network referred to at paragraph (a) enables—
  - (i) the European Community as a whole to become self-sufficient in waste disposal, and in the recovery of the municipal waste referred to in paragraph (a), and the Member States individually to move towards that aim, taking into account geographical circumstances or the need for specialised installations for certain types of waste; and
  - (ii) waste to be disposed of, and the municipal waste referred to in paragraph (a) to be recovered, in one of the nearest appropriate installations, by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health.

(5) The following further objectives are relevant objectives in relation to functions under the plan-making provisions—

- (a) encouraging the prevention or reduction of waste production and its harmfulness, in particular by—
  - (i) the development of clean technologies more sparing in their use of natural resources;
  - (ii) reducing the quantity of waste produced through the re-use of products or the extension of their life spans;
  - (iii) the technical development and marketing of products designed so as to make no contribution or to make the smallest possible contribution, by the nature of their manufacture, use or final disposal, to increasing the amount or harmfulness of waste and pollution hazards; and
  - (iv) the development of appropriate techniques for the final disposal of dangerous substances contained in waste destined for recovery; and
- (b) encouraging—
  - (i) the recovery of waste by means of recycling, re-use or reclamation or any other process with a view to extracting secondary raw materials; and
  - (ii) the use of waste as a source of energy.

### Exceptions to duties

7.—(1) In a case where waste management is or forms part of a prescribed process designated for local control under Part I of the 1990 Act, and either requires a waste management licence or is covered by an exemption conferred by regulation 17(1) of, and Schedule 1 to, these Regulations, nothing in paragraphs 2 to 6 requires a competent authority to discharge its functions under—

- (a) Part I of the 1990 Act in order to control pollution of the environment due to the release of substances into any environmental medium other than the air; or
- (b) Part II of the 1990 Act in order to control pollution of the environment due to the release of substances into the air resulting from the carrying on of the prescribed processes.

(2) In sub-paragraph (1), “prescribed process”, “designated for local control”, “pollution of the environment due to the release of substances into the air” and “pollution of the environment due to the release of substances into any environmental medium other than the air” have the meanings which they have in Part I of the 1990 Act.

(3) In a case where waste management is or forms part of an activity carried out at a Part B installation and requires a waste management licence, nothing in paragraphs 2 to 6 shall require a competent authority to discharge its functions under—

- (a) the 2000 Regulations for any purpose other than preventing or, where that is not practicable, reducing emissions into the air;
- (b) Part II of the 1990 Act for the purpose of preventing or reducing emissions into the air.

(4) In sub-paragraph (3), “Part B installation” has the meaning given by regulation 2(1) of the 2000 Regulations.

### Matters to be covered by permits

8. When a pollution control authority grants or modifies a permit, and the activities authorised by the permit include the treatment of waste, the pollution control authority must ensure that the permit covers—

- (a) the types and quantities of waste to be treated;
- (b) for each type of operation permitted, the technical and any other requirements relevant to the site;
- (c) the safety and precautionary measures to be taken;
- (d) the treatment site;
- (e) such monitoring and control operations as may be necessary;
- (f) such closure and after-care provisions as may be necessary;
- (g) the treatment method to be used for each type of operation;
- (h) the relevant operation code from Part II or III of this Schedule, where applicable; and
- (i) for each type of operation permitted, the maximum annual capacity to treat or dispose of waste.

### Modification of provisions relating to development plans

9. Sections 3A(3), 7(1)(b) and 15(1)(a) of the 1997 Act have effect as if the spatial strategies referred to in those provisions included strategies in respect of suitable waste recovery and disposal sites or installations.

**Modifications of Part I of the 1990 Act**

10.—(1) Subject to section 28(1), Part I of the 1990 Act has effect in relation to prescribed processes involving waste management with such modifications as are needed to allow the waste regulation authority to exercise its functions under that Part for the purpose of achieving the objectives set out in paragraph 2(2).

(2) Nothing in sub-paragraph (1) requires the waste regulation authority in granting an authorisation in relation to such a process to take account of those objectives insofar as they relate to the prevention of detriment to the amenities of the locality in which the process is (or is to be) carried on if planning permission, resulting from the decision of a planning authority after 30th April 1994, is or, before the process is carried on, will be in force.

**Modifications of Part II of the 1990 Act**

11.—(1) Part II of the 1990 Act has effect subject to the following modifications.

(2) In section 33(1)(a) and (5), any reference to the deposit of waste in or on land includes a reference to any operation listed in Part II or III of this Schedule involving such a deposit.

(3) In section 33(1)(b), any reference to the treatment or disposal, or to the treatment, keeping or disposal, of controlled waste includes a reference to submitting controlled waste to any of the operations listed in Part II or III of this Schedule other than an operation mentioned in sub-paragraph (2).

(4) In sections 33(1)(c) and 35, any reference to the treatment or disposal, or to the treatment, keeping or disposal, or to the management, of controlled waste includes a reference to submitting controlled waste to any of the operations listed in Part II or III of this Schedule.

(5) In section 36(3), the reference to planning permission is taken to be a reference to planning permission resulting from the decision of a planning authority after 30th April 1994.

(6) In section 62(1), any reference to the treatment, keeping or disposal of such waste as is referred to in that subsection includes a reference to submitting such waste to any of the operations listed in Part II or III of this Schedule.

(7) In section 62(2), any reference to the treatment, keeping or disposal of special waste includes a reference to submitting special waste to any of the operations listed in Part II or III of this Schedule.

**Registration of professional collectors and transporters of waste**

12.—(1) It is an offence for an establishment or undertaking falling within sub-paragraph (a), (b), (f), (g), (i) or (j) of regulation 2(1) of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991<sup>(59)</sup> to collect or transport waste as a normal and regular part of its activities unless it is registered with the waste regulation authority in accordance with the provisions of this paragraph.

(2) Sub-paragraph (1) does not apply in cases where the establishment or undertaking is carrying on the activities mentioned in those sub-paragraphs pursuant to, and in accordance with the terms and conditions of, a permit.

(3) The waste regulation authority must establish and maintain a register of establishments and undertakings registering with it under the provisions of this paragraph.

(4) The register must contain the following particulars in relation to each such establishment or undertaking—

- (a) the name of the establishment or undertaking;

<sup>(59)</sup> S.I. 1991/1624, as relevantly amended by S.I. 1992/588 regulation 10(1); S.I. 1994/1056 regulation 23(2) and (4); S.I. 1998/605 regulation 2(2)(a) and S.S.I. 2005/22 regulation 4.

- (b) the address of its principal place of business; and
  - (c) the address of any place at or from which it carries on business.
- (5) The waste regulation authority must enter the relevant particulars in the register in relation to an establishment or undertaking if it receives notice of them in writing from that establishment or undertaking.
- (6) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) The waste regulation authority must—
- (a) secure that any register maintained by it under this paragraph is open to inspection by members of the public free of charge at all reasonable hours; and
  - (b) afford to members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.
- (8) Registers under this paragraph may be kept in any form.
- (9) Where a person is registered as a professional collector or transporter of waste under Schedule 4 paragraph 12 to the 1994 Regulations on 27th March 2011, that registration shall be treated as a registration under this paragraph.

#### **Duty to carry out appropriate periodic inspections**

**13.—**(1) Any establishment or undertaking which—

- (a) carries out the treatment of controlled waste;
- (b) collects or transports controlled waste on a professional basis;
- (c) arranges for the recovery or disposal of controlled waste on behalf of others, or purchases and sells controlled waste (brokers or dealers); or
- (d) produces special waste,

shall be subject to appropriate periodic inspections by the waste regulation authority.

(2) Section 71(2) and (3) (power to obtain information) have effect as if the provisions of this paragraph were provisions of Part II of the 1990 Act.

(3) In a case where an establishment or undertaking is carrying on an exempt activity in reliance upon an exemption conferred by regulation 17(1) and paragraph 45(1) or (2) of Schedule 1, the waste regulation authority must discharge its duty under sub-paragraph (1) in respect of any place where such an activity is so carried on by—

- (a) carrying out an initial inspection of that place within two months of having received in respect of that place the notice, plan and fee referred to in regulation 23(2); and
- (b) thereafter carrying out periodic inspections of that place at intervals not exceeding 12 months.

(4) In the case of an exempt activity referred to in the first column of Table 24, the duty under sub-paragraph (1) shall be discharged by carrying out inspections at the times referred to in the second column of that table in respect of any place where the relevant exempt activity is carried on.

**Table 24**

<i>Paragraph Number of Exempt activity in Schedule 1</i>	<i>Inspections required</i>
7, 8(2) <sup>(1)</sup>	An inspection shall be carried out at the time of treatment or, where that is not possible, not later than 4 weeks thereafter.
9, 10, 12(2), 19, 49, 50, 51	An initial inspection shall be carried out at the time when the exempt activity commences. Thereafter, periodic inspections shall be carried out at intervals not exceeding 12 months.

(1) treatment activities only.

(5) In a case where an establishment or undertaking is carrying on or intends to carry on an exempt activity in respect of the treatment of WEEE, the waste regulation authority shall discharge its duty under sub-paragraph (1) in respect of any place where such an activity is carried on or to be carried on, by—

- (a) carrying out an inspection of that place within 21 days of having received in respect of that place the notice, plans and fee referred to in regulation 25(2); and
- (b) thereafter carrying out periodic inspections of that place at intervals not exceeding 12 months,

and such inspections shall verify the type and quantities of waste to be treated, the general technical requirements to be complied with and the safety precautions to be taken.

(6) In the case of any such place as is mentioned in sub-paragraph (4) (second entry in Table 24) or (5), but without prejudice to any duties of the waste regulation authority imposed otherwise than by this paragraph, sub-paragraph (1) does not require (but does permit) the waste regulation authority to carry out the periodic inspections referred to in sub-paragraph (4) or sub-paragraph (5) (b) above at intervals of less than 10 months.

(7) Inspections concerning the collection and transport of controlled waste shall cover the origin, nature, quantity and destination of the waste collected and transported.

### **Record keeping**

**14.—**(1) An establishment or undertaking which carries out the recovery or disposal of controlled waste, or which produces special waste, collects or transports such waste on a professional basis or acts as a broker of or dealer in such waste must—

- (a) keep a chronological record of the quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method of the waste; and
- (b) make that information available, on request, to the waste regulation authority or, in the case of special waste, to a previous holder; and for this purpose “holder”, in respect of any such waste, means the producer or the person in possession of it.

(2) Where the waste is special waste, a record required to be kept under sub-paragraph (1) must be retained for at least 12 months from the date on which it was first made by any establishment or undertaking transporting such waste, and for at least three years from that date by any other establishment or undertaking.

(3) Where the waste is special waste, a record required to be kept under sub-paragraph (1) must include a record of the carrying out and supervision of the relevant operation and, in the case of a disposal operation, of the after-care of the disposal site.

(4) It is an offence for an establishment or undertaking to fail to comply with any requirement or obligation placed on it by this paragraph.

(5) Paragraph (2) of regulation 18 of the Special Waste Regulations 1996 (defence in cases of emergency etc.) applies to a person charged with an offence under sub-paragraph (4) as it applies to a person charged with an offence under paragraph (1) of that regulation.

(6) A person who, in purported compliance with a requirement to furnish any information imposed by or under any of the provisions of this paragraph, makes a statement which that person 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.

(7) A person who intentionally makes a false entry in any record required to be kept by virtue of any of the provisions of this paragraph commits an offence.

(8) Paragraphs (5) to (9) of regulation 18 of the Special Waste Regulations 1996 (offence where act or default causes offence by another, offences by bodies corporate and penalties) apply to an offence under this paragraph, as they apply to an offence under that regulation.

## PART II

### WASTE DISPOSAL OPERATIONS

NB. This Part of this Schedule is intended to list disposal operations such as they occur in practice. In accordance with Article 13 of the Directive waste must be disposed of without endangering human health and without the use of processes or methods likely to harm the environment.

(1) <i>Operation Code</i>	<i>Description</i>
D1	Deposit into or onto land (e.g. landfill etc.).
D2	Land treatment (e.g. biodegradation of liquid or sludge discards in soils, etc.).
D3	Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.).
D4	Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons, etc.).
D5	Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.).
D6	Release into a water body except seas/oceans.
D7	Release into seas/oceans including sea-bed insertion.
D8	Biological treatment not listed elsewhere in this Part of this Schedule which results in final compounds or mixtures which are discarded by

(1) The operations listed in this Part of this Schedule are listed in accordance with Annex I of the Directive.

(1) <i>Operation Code</i>	<i>Description</i>
	means of any of the operations listed as D1 to D12 in this Part of this Schedule.
D9	Physico-chemical treatment not listed elsewhere in this Part of this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations listed as D1 to D12 in this Part of this Schedule (e.g. evaporation drying, calcination, etc.).
D10	Incineration on land.
D11	Incineration at sea.
D12	Permanent storage (emplacement of containers in a mine, etc.).
D13	Blending or mixing of waste prior to submission to any of the operations listed as D1 to D12 in this Part of this Schedule.  If there is no other D code appropriate, this may include preliminary operations prior to disposal, including pre-processing such as sorting, crushing, compacting, pelletising, drying, shredding, conditioning or separating prior to submission to any of operations D1 to D12.
D14	Repackaging of waste prior to submission to any of the operations listed as D1 to D13 in this Part of this Schedule.
D15	Storage of waste pending any of the operations listed as D1 to D14 in this Part of this Schedule, but excluding preliminary storage referred to in Article 3(10) of the Directive, pending collection, on the site where the waste is produced.

(1) The operations listed in this Part of this Schedule are listed in accordance with Annex I of the Directive.

### PART III

#### WASTE RECOVERY OPERATIONS

NB. This part of this Schedule is intended to list recovery operations as they occur in practice. In accordance with Article 13 of the Directive waste must be recovered without endangering human health and without the use of processes or methods likely to harm the environment.



(1) <i>Operation Code</i>	<i>Description</i>
R1	<p>Use principally as a fuel or other means to generate energy.</p> <p>This includes incineration facilities dedicated to the processing of municipal solid waste only where their energy efficiency is equal to or greater than (i) 0.60 for installations in operation and permitted in accordance with applicable Community legislation before 1st January 2009; or (ii) 0.65 for other installations. Energy efficiency is calculated according to the formula contained in Annex II of the Directive.</p>
R2	Solvent reclamation/regeneration.
R3	Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes). This includes gasification and pyrolysis using the components as chemicals.
R4	Recycling/reclamation of metals and metal compounds.
R5	Recycling/reclamation of other inorganic materials. This includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials.
R6	Regeneration of acids or bases.
R7	Recovery of components used for pollution abatement.
R8	Recovery of components from catalysts.
R9	Oil re-refining or other reuses of oil.
R10	Land treatment resulting in benefit to agriculture or ecological improvement.
R11	Use of wastes obtained from any of the operations listed as R1 to R10 in this Part of this Schedule.
R12	<p>Exchange of wastes for submission to any of the operations listed as R1 to R11 in this Part of this Schedule.</p> <p>If there is no other R code appropriate, this may include preliminary operations prior</p>

(1) The operations listed in this Part of this Schedule are listed in accordance with Annex II of the Directive.

(1) <i>Operation Code</i>	<i>Description</i>
	to recovery including pre-processing such as dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending or mixing prior to submission to any of operations R1 to R11.
R13	Storage of wastes pending any of the operations listed as R1 to R12 in this Part of this Schedule, excluding preliminary storage referred to in Article 3(10) of the Directive, pending collection, on the site where the waste is produced.

(1) The operations listed in this Part of this Schedule are listed in accordance with Annex II of the Directive.

## SCHEDULE 5

Regulation 30(6)

### REGISTRATION OF BROKERS AND DEALERS

#### Interpretation

1.—(1) In this Schedule—

“the Carriers Regulations” means the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991;

“date of expiry”, in relation to a broker’s or dealer’s registration—

(a) in a case to which sub-paragraph (2) or (3) of paragraph 7 applies, has the meaning given by that sub-paragraph, and

(b) in any other case means the date on which the period of three years mentioned in paragraph 7(1) expires;

“notice” means notice in writing;

“registered as a carrier” means registered under regulation 6 of the Carriers Regulations, and cognate expressions shall be construed accordingly;

“relevant offence” means an offence under any of the enactments listed in regulation 3; and

“relevant period” means two months or, except in the case of an application by a person already registered for the renewal of that person’s registration, such longer period as may be agreed between the applicant and the waste regulation authority.

(2) Sub-paragraphs 3 and 4 apply where the waste regulation authority is determining for the purposes of paragraph 3(11) or 5(1) whether it is desirable for any individual to be or to continue to be authorised to arrange for the disposal or recovery of controlled waste on behalf of other persons, or to purchase and sell waste.

(3) In a case in which a person other than that individual has been convicted of a relevant offence, the waste regulation authority must have regard to whether that individual has been a party to the carrying on of a business in a manner involving the commission of relevant offences.

(4) In relation to any applicant for registration or registered broker or dealer, another relevant person must be treated for the purposes of paragraph 3(11) or 5(1) as having been convicted of a relevant offence if—

- (a) any person has been convicted of a relevant offence committed by that person in the course of that person's employment by the applicant or registered broker or dealer or in the course of the carrying on of any business by a partnership one of the members of which was the applicant or registered broker or dealer;
- (b) a body corporate has been convicted of a relevant offence committed at a time when the applicant or registered broker or dealer was a director, manager, secretary or other similar officer of that body corporate; or
- (c) where the applicant or registered broker or dealer is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate—
  - (i) has been convicted of a relevant offence; or
  - (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a relevant offence for which that body corporate has been convicted was committed.

(5) For the purposes of this Schedule, an application for registration or for the renewal of a registration as a broker of or dealer in controlled waste shall be treated as pending—

- (a) whilst it is being considered by the waste regulation authority; or
- (b) if it has been refused or the relevant period from the making of the application has expired without the applicant having been registered, whilst either—
  - (i) the period for appealing in relation to that application has not expired; or
  - (ii) the application is the subject of an appeal which has not been disposed of.

(6) For the purposes of this Schedule, an appeal is disposed of when any of the following occurs—

- (a) the appeal is withdrawn;
- (b) the appellant is notified by the Scottish Ministers or the waste regulation authority that the appeal has been dismissed; or
- (c) the waste regulation authority complies with any direction of the Scottish Ministers to renew the appellant's registration or to cancel the revocation.

## **Registers**

**2.—(1)** It is the duty of the waste regulation authority to establish and maintain a register of brokers of and dealers in controlled waste and—

- (a) to secure that the register is open for inspection by members of the public free of charge at all reasonable hours; and
- (b) to afford to members of the public reasonable facilities for obtaining copies of entries in the register on payment of reasonable charges.

(2) A register under this paragraph may be kept in any form.

## **Applications for registration**

**3.—(1)** An application for registration or for the renewal of a registration as a broker of or dealer in controlled waste must be made to the waste regulation authority.

(2) A person may not make an application for registration or for the renewal of a registration whilst—

- (a) a previous application made by that person is pending; or

(b) that person is registered.

(3) Sub-paragraph (2) does not prevent a person from applying for the renewal of a registration where that person's application is made within the period of six months mentioned in paragraph 7(5).

(4) An application for registration or for the renewal of a registration in respect of a business which is or is to be carried on by a partnership must be made by all of the partners or prospective partners.

(5) A prospective partner in a business carried on by a partnership whose members are already registered may make an application for registration as a partner in that business to the waste regulation authority.

(6) An application for registration or for the renewal of a registration must be made on a form provided for the purpose by the waste regulation authority, and must be accompanied by such information as may reasonably be required by that authority.

(7) An applicant who wishes to apply to be registered or for the renewal of registration both as a carrier and as a broker of or dealer in controlled waste may, instead of making an application on the forms provided for by regulation 4(6) of the Carriers Regulations and by sub-paragraph (6), make a combined application on a form containing the information required by those forms.

(8) The waste regulation authority must provide a copy of the appropriate application form free of charge to any person requesting one.

(9) The applicant must pay the charge prescribed for the purpose by a charging scheme under section 41 of the 1995 Act when making an application.

(10) The waste regulation authority must, on receipt of an application for registration or for the renewal of a registration, ensure that the register contains a copy of the application.

(11) The waste regulation authority may refuse an application for registration or for the renewal of registration if, and only if—

- (a) there has, in relation to that application, been a contravention of any of the requirements of the preceding provisions of this paragraph; or
- (b) the applicant or another relevant person has been convicted of a relevant offence and, in the opinion of the authority, it is undesirable for the applicant to be authorised to arrange for the disposal or recovery of controlled waste on behalf of other persons, or to purchase and sell controlled waste.

(12) Where the waste regulation authority decides to refuse an application for registration or for the renewal of a registration, the authority must give notice to the applicant informing the applicant that the application is refused and of the reasons for its decision.

(13) If an appeal is made under and in accordance with paragraph 6, the waste regulation authority must, as soon as reasonably practicable, make appropriate entries in its register indicating when the appeal was made and the result of the appeal.

(14) If no such appeal is made, the waste regulation authority must, as soon as reasonably practicable, make an appropriate entry in its register indicating that the application has not been accepted and that no appeal has been made.

(15) The waste regulation authority may remove from its register—

- (a) a copy of an application included under sub-paragraph (10); or
- (b) an entry made under sub-paragraph (13) or (14),

at any time more than six years after the application in question was made.

### Registration as a broker or dealer and amendment of entries

4.—(1) On accepting a person's application for registration or on being directed under paragraph 6(9) to register a person following an appeal in respect of such an application, the waste regulation authority must make an entry in its register—

- (a) showing that person as a registered broker or dealer in controlled waste and allocating that person a registration number (which may include any letter);
- (b) specifying the date on which the registration takes effect and its date of expiry;
- (c) stating any business name of the applicant and the address of the applicant's principal place of business (together with any telephone, telex or fax number and email address of the applicant) and, in the case of an individual, the applicant's date of birth;
- (d) in the case of a body corporate, listing the names of each director, manager, secretary or other similar officer of that body and their respective dates of birth;
- (e) in the case of a company registered under the Companies Acts, specifying its registered number and, in the case of a company incorporated outside Great Britain, the country in which it was incorporated;
- (f) in a case where the person who is registered or another relevant person has been convicted of a relevant offence, giving the person's name, details of the offence, the date of conviction, the penalty imposed, the name of the Court and, in the case of an individual, the person's date of birth; and
- (g) in a case where the person who is registered or any company in the same group of companies as that person is the holder of a waste management licence, stating the name of the holder of the licence and the name of the authority which granted it.

(2) In the case of a business which is, or is to be, carried on by a partnership, all the partners must be registered under one entry and only one registration number may be allocated to the partnership.

(3) On making an entry in its register under sub-paragraph (1) the waste regulation authority must provide the registered person or partnership free of charge with a copy of the entry in the register.

(4) On accepting a person's application for the renewal of a registration or on being directed under paragraph 6(9) to register a person following an appeal in respect of such an application, the waste regulation authority must amend the relevant entry in the register—

- (a) to show the date on which the renewal takes effect and the revised date of expiry of the registration;
- (b) to record any other change disclosed as a result of the application; and
- (c) to note in the register the date on which the amendments are made.

(5) The waste regulation authority must at the same time as amending the register under sub-paragraph (4) provide the registered person or partnership free of charge with a copy of the amended entry in the register.

(6) A person who is registered must notify the waste regulation authority which maintains the relevant register of any change of circumstances affecting information in the register relating to that person.

(7) On—

- (a) being notified of any change of circumstances in accordance with sub-paragraph (6);
- (b) accepting a prospective partner's application for registration in relation to a business carried on by a partnership whose members are already registered; or
- (c) being directed under paragraph 6(9) to register a prospective partner,

the waste regulation authority must—

- (i) amend the relevant entry to reflect the change of circumstances or the registration of the prospective partner;
  - (ii) note in the register the date on which the amendment is made;
  - (iii) provide the registered person or partnership free of charge with a copy of the amended entry in the register.
- (8) In this paragraph—
- “the Companies Acts” has the meaning given by section 2 of the Companies Act 2006<sup>(60)</sup>;
  - “group” has the meaning given by section 1261(1) of that Act.

### **Revocation of registration**

5.—(1) The waste regulation authority may revoke a person’s registration as a broker of or dealer in controlled waste if, and only if—

- (a) that person or another relevant person has been convicted of a relevant offence; and
- (b) in the opinion of the authority, it is undesirable for the registered broker or dealer to continue to be authorised to arrange for the disposal or recovery of controlled waste on behalf of other persons, or to purchase and sell controlled waste.

(2) Where the waste regulation authority decides to revoke a person’s registration as a broker of or dealer in controlled waste, it must give notice to the broker or dealer informing that person of the revocation and the reasons for its decision.

### **Appeals**

6.—(1) Where a person has applied to the waste regulation authority to be registered as a broker of or dealer in controlled waste in accordance with paragraph 3, that person may appeal to the Scottish Ministers if—

- (a) the application is refused; or
- (b) the relevant period from the making of the application has expired without the applicant having been registered.

(2) A person whose registration as a broker of or dealer in controlled waste has been revoked may appeal against the revocation to the Scottish Ministers.

(3) Notice of an appeal to the Scottish Ministers under sub-paragraph (1) or (2) must be given by the appellant to the Scottish Ministers.

(4) The notice of appeal must be accompanied by the following—

- (a) a statement of the grounds of appeal;
- (b) in the case of an appeal under sub-paragraph (1), a copy of the relevant application;
- (c) in the case of an appeal under sub-paragraph (2), a copy of the appellant’s entry in the register;
- (d) a copy of any relevant correspondence between the appellant and the waste regulation authority;
- (e) a copy of any notice given to the appellant under paragraph 3(12) or 5(2);
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

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<sup>(60)</sup> 2006 c.46, to which there are amendments not relevant to these Regulations.

(5) The appellant must at the same time as giving notice of appeal to the Scottish Ministers serve on the waste regulation authority a copy of the notice and a copy of the documents referred to in sub-paragraph (4)(a) to (f).

(6) Notice of appeal is to be given before the expiry of the period of 28 days beginning with—

- (a) in the case of an appeal under sub-paragraph (1)(a), the date on which the appellant is given notice by the waste regulation authority that the application has been refused;
- (b) in the case of an appeal under sub-paragraph (1)(b), the date on which the relevant period from the making of the application expired without the applicant having been registered; or
- (c) in the case of an appeal under sub-paragraph (2), the date on which the appellant is given notice by the waste regulation authority that the appellant's registration as a broker of or dealer in controlled waste has been revoked,

or before such later date as the Scottish Ministers may at any time allow.

(7) If either party to an appeal requests a hearing or the Scottish Ministers so decide, the appeal must be or continue in the form of a hearing before a person appointed for the purpose by the Scottish Ministers.

(8) The person holding such a hearing must, after its conclusion, make a written report to the Scottish Ministers which must include that person's conclusions and recommendations or reasons for not making any recommendations.

(9) On an appeal under this paragraph the Scottish Ministers may, as they think fit, either dismiss the appeal or give the waste regulation authority a direction to register the appellant or, as the case may be, to cancel the revocation.

(10) The Scottish Ministers must—

- (a) notify the appellant in writing of their determination of the appeal and of their reasons for it and, if a hearing is held, must also provide the appellant with a copy of the report of the person who conducted the hearing; and
- (b) at the same time send a copy of those documents to the waste regulation authority.

(11) Where on an appeal made by virtue of sub-paragraph (1)(b) the Scottish Ministers dismiss an appeal, they must direct the waste regulation authority not to register the appellant.

(12) It is the duty of the waste regulation authority to comply with any direction under this paragraph.

(13) This paragraph is subject to section 114 of the 1995 Act (delegation or reference of appeals).

### **Duration of registration**

7.—(1) A person's registration as a broker of or dealer in controlled waste ceases to have effect on the expiry of the period of three years beginning with the date of the registration or, if it has been renewed, beginning with the date on which it was renewed or, as the case may be, last renewed.

(2) Where—

- (a) a registered carrier of controlled waste is registered as a broker of or dealer in controlled waste otherwise than by way of renewal of an existing registration as a broker or dealer; and
- (b) that person's registration as a carrier will expire within three years of the date of the registration of that person as a broker or dealer,

the registration as a broker or dealer will expire on the same date as the registration as a carrier, if that person so requests at the time of making the application for registration as a broker or dealer.

(3) Where—

- (a) a registered broker or dealer in controlled waste is registered as a carrier of controlled waste otherwise than by way of renewal of an existing registration as a carrier; and
- (b) that person's registration as a broker or dealer will expire within three years of the date of the registration of that person as a carrier,

the renewed registration as a broker or dealer will expire on the same date as the registration as a carrier, if that person so requests on the next application for renewal of registration as a broker or dealer which that person makes after having been registered as a carrier.

(4) Registration as a registered broker or dealer ceases to have effect if the registered broker or dealer gives notice requiring the removal of the registered broker's or dealer's name from the register.

(5) The waste regulation authority must, no later than six months before the date of expiry of a broker's or dealer's registration, serve on a registered broker or dealer—

- (a) a notice informing that person of the date of expiry and of the effect of sub-paragraph (6); and
- (b) an application form for the renewal of that person's registration and a copy of that person's current entry in the register.

(6) Where an application for the renewal of a registration is made within the last six months prior to its date of expiry, the registration will, notwithstanding the passing of the expiry date, continue in force—

- (a) until the application is withdrawn or accepted; or
- (b) if the waste regulation authority refuses the application or the relevant period from the making of the application has expired without the applicant having been registered, until—
  - (i) the expiry of the period for appealing; or
  - (ii) where the applicant indicates within that period that the applicant does not intend to make or continue with an appeal, the date on which such an indication is given.

(7) Where the waste regulation authority revokes a broker's or dealer's registration, the registration will, notwithstanding the revocation, continue in force until—

- (a) the expiry of the period for appealing against the revocation; or
- (b) where that person indicates within that period that that person does not intend to make or continue with an appeal, the date on which such an indication is given.

(8) Where an appeal is made under and in accordance with the provisions of paragraph 6—

- (a) by a person whose appeal is in respect of such an application for the renewal of that person's registration as was made, in accordance with paragraph 3, at a time when that person was already registered; or
- (b) by a person whose registration has been revoked,

that registration continues in force after its date of expiry or, as the case may be, notwithstanding the revocation, until the appeal is disposed of.

(9) A registration in respect of a business which is carried on by a partnership ceases to have effect if any of the partners ceases to be registered or if any person who is not registered becomes a partner.

(10) The duration of a registration in respect of a business which is carried on by a partnership is not affected if a person ceases to be a partner or if a prospective partner is registered under paragraph 4(7) in relation to the partnership.

(11) Where the waste regulation authority accepts an application for the renewal of a broker's or dealer's registration before the expiry date, the renewal takes effect, for the purposes of this Schedule, from the expiry date.



## Cessation of registration

8. Where a registration ceases to have effect by virtue of paragraph 6(11) or 7, the waste regulation authority—

- (a) must record this fact in the appropriate entry in its register and the date on which it occurred; and
- (b) may remove the appropriate entry from its register at any time more than six years after the registration ceases to have effect.

## SCHEDULE 6

Regulation 34(2)

### Consequential Amendments

#### The Deposits in the Sea (Exemption) Order 1985

1. In article 4(2) of the Deposits in the Sea (Exemption) Order 1985(61), for “regulation 1(3) of the Waste Management Licensing Regulations 1994” substitute “regulation 2(1) of the Waste Management Licensing (Scotland) Regulations 2011”.

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

2.—(1) In regulation 2(2) of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(62), omit the definition of “registered broker of controlled waste”.

(2) In regulation 4(8) of those Regulations, for “paragraph 3(11)(a) and (b) of Schedule 5 to the Waste Management Licensing Regulations 1994” substitute “paragraph 3(9) of Schedule 5 to the Waste Management Licensing (Scotland) Regulations 2011”.

#### The Controlled Waste Regulations 1992

3.—(1) In regulation 1(2) of the Controlled Waste Regulations 1992(63), in the definition of “Directive waste”, for “regulation 1(3) of the Waste Management Licensing Regulations 1994” substitute “regulation 2(1) of the Waste Management Licensing (Scotland) Regulations 2011”.

(2) In Schedule 3 paragraph 18(2) to those Regulations, for the definition of “tank washings” substitute—

““tank washings” has the same meaning as in paragraph 36 of Schedule 1 to the Waste Management Licensing (Scotland) Regulations 2011;”.

#### The Special Waste Regulations 1996

4. In regulation 1(4) of the Special Waste Regulations 1996, omit the definition of “the 1994 Regulations”.

(61) S.I. 1985/1699, as relevantly amended by S.I. 1994/1056 regulation 21(3).

(62) S.I. 1991/1624, as relevantly amended by S.I. 1994/1056 regulation 23(4).

(63) S.I. 1992/588, as relevantly amended by S.I. 1994/1056 regulation 24(2) and by S.I. 1996/972 regulation 24.

### **The Waste Management (Miscellaneous Provisions) Regulations 1997**

5. In regulation 2 of the Waste Management (Miscellaneous Provisions) Regulations 1997(64), for “the Waste Management Licensing Regulations 1994” substitute “the Waste Management Licensing (Scotland) Regulations 2011”.

### **The Waste Incineration (Scotland) Regulations 2003**

6.—(1) In regulation 2(1) of the Waste Incineration (Scotland) Regulations 2003(65), in paragraph (d)(i) of the definition of “relevant approval” for “regulation 18 of the Waste Management Licensing Regulations 1994” substitute “regulation 19 of the Waste Management Licensing (Scotland) Regulations 2011”.

(2) In regulation 4(b)(iii) of those Regulations, in paragraph (d)(i) of the definition of “relevant authorisation”, for “regulation 18 of the Waste Management Licensing Regulations 1994” substitute “regulation 19 of the Waste Management Licensing (Scotland) Regulations 2011”.

### **The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004**

7. In Schedule 2 Part 2 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004(66), for paragraph 13 substitute—

“13. The Waste Management Licensing (Scotland) Regulations 2011.”.

### **The Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008**

8.—(1) In Part 1 of Schedule 2 to the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008(67), in the entry for option 70, in the second column of the table, in paragraph (2) (b) (v) and (c), for “the Waste Management Licensing Regulations 1994” substitute “the Waste Management Licensing (Scotland) Regulations 2011”.

(2) In Part 2 of Schedule 4 to those Regulations, for “The Waste Management Licensing Regulations 1994” substitute “The Waste Management Licensing (Scotland) Regulations 2011”.

### **The Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008**

9. In Schedule 3 Part 2 to the Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008(68), for “The Waste Management Licensing Regulations 1994” substitute “The Waste Management Licensing (Scotland) Regulations 2011”.

### **The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008**

10. In regulation 8(d) of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008(69), for “the Waste Management Licensing Regulations 1994” substitute “the Waste Management Licensing (Scotland) Regulations 2011”.

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(64) S.I. 1997/351.

(65) S.S.I. 2003/170.

(66) S.I. 2004/99.

(67) S.S.I. 2008/100.

(68) S.S.I. 2008/159.

(69) S.S.I. 2008/298.

## The Chemicals (Hazard Information and Packaging for Supply) Regulations 2009

11. In regulation 3(2)(g) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009(70), for “the Waste Management Licensing Regulations 1994” substitute “the Waste Management Licensing (Scotland) Regulations 2011”.

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### EXPLANATORY NOTE

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

These Regulations consolidate the waste management licensing and exemption system currently contained in the Waste Management Licensing Regulations 1994 as amended. They also make certain changes to that system (including the introduction of new exemptions from the requirement for licensing and the adjustment of various existing exemptions) and contain provision for the purpose of implementing Directive [2008/98/EC](#) on waste (“the Directive”).

Regulation 2 contains definitions, including transposition of relevant definitions contained in the Directive. Regulation 3 makes provision in connection with determining whether an applicant for a waste management licence is a fit and proper person. Regulations 4 to 7 contain procedural provision in relation to appeals under sections 43 and 66 of the Environmental Protection Act 1990 (“the 1990 Act”).

Regulations 8 and 9 make provision in relation to the contents of public registers maintained under section 64 of the 1990 Act. Regulation 10 defines what is to be treated as mobile plant for the purposes of waste management licensing. Regulations 11 to 13 require the inclusion of particular types of condition in site licences dealing with activities involving waste electrical and electronic equipment and batteries. They provide continued transposition of requirements of Directive [2002/96/EC](#) on waste electrical and electronic equipment (WEEE) and Directive [2006/66/EC](#) on batteries and accumulators and waste batteries and accumulators.

Regulation 14 prohibits the imposition in waste management licences of conditions for the purpose of securing the health of persons at work. Regulation 15 makes provision, pursuant to Article 21 of the Directive, as to conditions to be included in a licence which relates to waste oil.

Regulations 16 and 17 exempt certain activities from the requirement to have a waste management licence. Regulation 16 disapplies section 33(1) of the 1990 Act in respect of certain waste activities controlled by other systems. Regulation 17 disapplies section 33(1)(a) and (b) of the 1990 Act in the case of the activities set out in Schedule 1, subject to various conditions including compliance with Directives relating to protection of groundwater and water policy. References to benefit to agriculture or ecological improvement in Schedule 1 are to be construed in accordance with Schedule 2. Regulation 17 and Schedule 1 contain the detail of the exemptions envisaged by Articles 24 and 25 of the Directive. Regulation 18 deals with the interaction between this exemption regime and the separate regulatory requirements relating to controlled activities affecting the water environment. Regulations 19 to 28 provide a system of registration for exempt activities relating to the recovery and disposal of waste, including special provision for specific exemptions (such as a requirement for annual renewal of registration on payment of a fee) and the imposition of criminal liability for breach of registration obligations.

Regulation 29 and Schedule 4 contain provisions transposing aspects of the Directive. Schedule 4 Part I requires specified public authorities to perform their functions under specified enactments with the objectives set out in the Directive. It also sets out requirements relating to the content of permits relating to waste activities, modification of enactments to facilitate compliance with requirements of the Directive, registration of waste collectors and transporters required to be registered by the Directive who would not otherwise be subject to any registration requirement, and the inspection of and keeping of records by establishments or undertakings carrying out waste activities. Parts II and III of Schedule 4 provide illustrative lists of disposal and recovery operations, in connection with the definitions of those operations contained in regulation 2.

Regulation 30 and Schedule 5 require the registration of waste brokers and dealers from 1st April 2011. Schedule 5 makes provision as to the keeping of registers, and in respect of applications for registration, the duration and revocation of registration and appeals.

Regulations 31 to 33 contain transitional provisions and savings. Regulation 34 revokes the Waste Management Licensing Regulations 1994, which are replaced by these Regulations, and gives effect to the minor and consequential amendments contained in Schedule 6.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from Scottish Government Environmental Quality Division, Area 1-H North, Victoria Quay, Edinburgh EH6 6QQ.