
STATUTORY INSTRUMENTS

1991 No. 2839

ENVIRONMENTAL PROTECTION

The Environmental Protection (Duty of Care) Regulations 1991

Made - - - - 16th December 1991

Laid before Parliament 17th December 1991

Coming into force - - 1st April 1992

The Secretary of State for the Environment as respects England, the Secretary of State for Wales as respects Wales and the Secretary of State for Scotland as respects Scotland, in exercise of the powers conferred on them by section 34(5) of the Environmental Protection Act 1990⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1. –

(1) These Regulations may be cited as the Environmental Protection (Duty of Care) Regulations 1991 and shall come into force on 1st April 1992.

(2) In these Regulations–

“the 1990 Act” means the Environmental Protection Act 1990;

“transferor” and “transferee” mean respectively, in relation to a transfer of controlled waste by a person who is subject to the duty imposed by section 34(1) of the 1990 Act, the person who in compliance with that section transfers a written description of the waste and the person who receives that description.

Transfer notes

2. –

(1) The transferor and the transferee shall, at the same time as the written description of the waste is transferred, ensure that such a document as is described in paragraph (2) (“a transfer note”) is completed and signed on their behalf.

(2) A transfer note shall–

(a) identify the waste to which it relates and state–

(i) its quantity and whether on transfer it is loose or in a container;

(1) 1990 c. 43.

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- (ii) if in a container, the kind of container; and
- (iii) the time and place of transfer;
- (b) give the name and address of the transferor and the transferee;
- (c) state whether or not the transferor is the producer or importer of the waste and, if so, which;
- (d) if the transfer is to a person for authorised transport purposes, specify which of those purposes; and
- (e) state as respects the transferor and the transferee which, if any, of the categories of person shown in column 1 of the following Table describes him and provide any relevant additional information specified in column 2 of the Table.

TABLE

Category of person	Additional information
An authority which is a waste collection authority for the purposes of Part II of the 1990 Act.	
A person who is the holder of a waste management licence under section 35 of the 1990 Act or of a disposal licence under section 5 of the Control of Pollution Act 1974(2).	If the waste is to be kept, treated or disposed of by that person, the relevant licence number and the name of the licensing authority.
A person to whom section 33(1) of the 1990 Act does not apply by virtue of regulations under subsection (3) of that section.	
A person registered as a carrier of controlled waste under section 2 of the Control of Pollution (Amendment) Act 1989(3).	The name of the waste regulation authority with whom he is registered and his registration number.
A person who is not required to be so registered by virtue of regulations under section 1(3) of that Act.	
A waste disposal authority in Scotland.	

Duty to keep copies of written descriptions of waste and transfer notes

3. The transferor and the transferee shall each keep the written description of the waste and the transfer note or copies thereof for a period of two years from the transfer of the controlled waste.

Duty to furnish documents

4. A person who has been served by a waste regulation authority with a notice in writing specifying or describing any document and requiring its production shall, if the document is one which at that time he is under a duty to keep under regulation 3, furnish the authority with a copy of

(2) 1974 c. 40.

(3) 1989 c. 14.

it at the authority's office specified in the notice and within the period (not being less than 7 days) so specified.

16th December 1991

Michael Heseltine
Secretary of State for the Environment

13th December 1991

David Hunt
Secretary of State for Wales

16th December 1991

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

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EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 34(1) of the Environmental Protection Act 1990 imposes a duty of care on any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste. The duty requires such persons to ensure that there is no unauthorised or harmful deposit, treatment or disposal of the waste, to prevent the escape of the waste from their control or that of any other person, and on the transfer of the waste to ensure that the transfer is only to an authorised person or to a person for authorised transport purposes and that a written description of the waste is also transferred.

These Regulations impose requirements under section 34(5) of the 1990 Act on any person who is subject to the duty of care as respects the making and retention of documents and the furnishing of copies of them.

Breach of the duty of care or of these Regulations is a criminal offence. The duty of care and these Regulations do not apply to an occupier of domestic property as respects the household waste produced on the property.

Regulation 2 requires the transferor and the transferee to complete and sign a transfer note at the same time as the written description of the waste is transferred. The transfer note must identify the waste in question and state its quantity, how it is stored, the time and place of transfer, the name and address of the transferor and the transferee, whether the transferor is the producer or importer of the waste, which (if any) authorised transport purpose applies, in which category of person the transferor and the transferee are and certain additional information.

Regulation 3 requires the transferor and the transferee to keep the written description of the waste and the transfer note or copies of them for two years from the transfer.

Regulation 4 imposes a duty on a person who is under a duty to keep any document by virtue of regulation 3 to furnish a copy of that document to a waste regulation authority if he is required to do so by the authority.