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STATUTORY INSTRUMENTS

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**2005 No. 894**

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

**PART 1**

**GENERAL**

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

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

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

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

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

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

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

- (a) “the Waste Directive” means Council Directive [75/442/EEC](#)(1) on waste as amended by—
  - (i) Council Directives [91/156/EEC](#)(2) and [91/692/EEC](#)(3);
  - (ii) Commission Decision [96/350/EC](#)(4); and
  - (iii) Regulation [\(EC\) No 1882/2003](#)(5); and

(b) “waste” means anything that—

- (i) is waste(6) for the purposes of the Waste Directive; and
- (ii) subject to regulation 15, is not excluded from the scope of that Directive by Article 2 of that Directive.

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

- (a) without risk to water, air, soil and plants and animals;
- (b) without causing a nuisance through noise or odours; and

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(1) OJNo. L 194, 25.7.1975, p. 39.

(2) OJ No. L 78, 26.3.1991, p. 32.

(3) OJ No. L 377, 31.12.1991, p.48 (as corrected by Corrigendum, OJ No. L 146, 13.6.2003, p. 52).

(4) OJ No. L 135, 6.6.1996, p. 32.

(5) OJ No. L 284, 31.10.2003 p. 1.

(6) Article 1(a) of the Waste Directive defines waste as any substance or object in the categories set out in Annex I (Categories of Waste) to that Directive which the holder discards or intends or is required to discard.

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

### The Hazardous Waste Directive

**3.—**(1) In these Regulations, “the Hazardous Waste Directive” means Council Directive [91/689/EEC](#)(7) on hazardous waste, as amended by Council Directive [94/31/EC](#)(8).

(2) A reference in these Regulations to—

- (a) Annex I, Annex II or Annex III is a reference to the annex to the Hazardous Waste Directive so numbered, as that annex is set out in these Regulations as follows—
- (i) Schedule 1, which sets out Annex I (Categories or generic types of hazardous waste listed according to their nature or the activity which generated them);
  - (ii) Schedule 2, which sets out Annex II (Constituents of the wastes in Annex I.B which render them hazardous when they have the properties described in Annex III); and
  - (iii) Schedule 3, which sets out Annex III (Properties of wastes which render them hazardous);
- (b) hazardous properties is a reference to the properties in Annex III as so set out.

### The List of Wastes

**4.—**(1) In these Regulations—

“the List of Wastes Decision” means Commission Decision [2000/532/EC](#)(9) of 3rd May 2000 replacing Decision [94/3/EC](#) establishing a list of wastes pursuant to Article 1(a) of Council Directive [75/442/EEC](#) on waste and Council Decision [94/904/EC](#) establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive [91/689/EEC](#) on hazardous waste, as amended by amendments thereto which have effect from time to time in relation to England pursuant to the List of Wastes Regulations;

“the List of Wastes Regulations” means the List of Wastes (England) Regulations 2005(10); and

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

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

- (a) being “listed as a waste” and “listed as a hazardous waste” refers to that waste being listed as a waste, or as a hazardous waste, as the case may be, in the List of Wastes, provided, in the case of a waste to which a limit value of concentration applies, it shall only be considered to be listed as a hazardous waste where the relevant limit value of concentration is satisfied;
- (b) being “not listed as hazardous” refers to that waste being not listed as a hazardous waste in the List of Wastes, whether or not it is listed as a waste, and whether or not it is otherwise a hazardous waste pursuant to these Regulations;

and cognate expressions shall be construed accordingly.

(7) OJ No. L 377, 31.12.1991, p. 20 (as corrected by Corrigendum to Directive [91/689/EC](#) (OJ No. L23 30.1.1998 p. 39).

(8) OJ No. L 168, 2.7.1994, p. 28.

(9) OJ No. L 226, 6.9.2000, p. 3.

(10) S.I.2005/895.

## General Interpretation

### 5.—(1) In these Regulations—

“the 1990 Act” means the Environmental Protection Act 1990<sup>(11)</sup>;

“the 1995 Act” means the Environment Act 1995<sup>(12)</sup>;

“the 1994 Regulations” means the Waste Management Licensing Regulations 1994<sup>(13)</sup>;

“the 1996 Regulations” means the Special Waste Regulations 1996<sup>(14)</sup>;

“the Agency” means the Environment Agency;

“asbestos waste” means waste which contains or is contaminated by asbestos;

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

“business day” means any day other than any—

(a) Saturday or Sunday;

(b) Good Friday or Christmas Day;

(c) day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971<sup>(15)</sup>; or

(d) other public holiday;

“carrier” in relation to a consignment of hazardous waste, means a person who takes one or more of the following actions, that is to say, collects the consignment from the premises at which it was produced or premises at which it is being held, delivers it to the consignee, or transports it in the course of its transfer from those premises to the consignee;

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

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

“consignment note”, in relation to a consignment of hazardous waste, means the identification form which is required to accompany the hazardous waste when it is transferred pursuant to Article 5(3)<sup>(16)</sup> of the Hazardous Waste Directive;

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

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

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

“harbour area” has the same meaning as in the Dangerous Substances in Harbour Areas Regulations 1987<sup>(17)</sup>;

“hazardous waste” has the meaning given by regulation 6; “mixing” shall be construed in accordance with regulation 18;

“mobile service” means a service operated from premises which consists of any one or more of the following activities, that is to say, the construction, maintenance or repair of any other premises, or of any fixtures, fittings or equipment located on those other premises, being a

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(11) 1990 c. 43.

(12) 1995 c. 25.

(13) S.I. 1994/1056; relevant amending instruments are S.I. 1995/288, 1996/672, 2000/1973 and 2003/2635.

(14) S.I. 1996/972 as amended by S.I. 1996/2019, 1997/251, 2001/3148.

(15) 1971 c. 80.

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

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

service in the course of which the operator of the service produces hazardous waste at those other premises;

“multiple collection” has the meaning given by regulation 38;

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

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

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

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

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

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

“SEPA” means the Scottish Environment Protection Agency;

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

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

“SIC” means the publication entitled “the UK Standard Industrial Classification of Economic Activities 2003” prepared by the Office of National Statistics and published by Her Majesty’s Stationery Office on 31st December 2002 and implemented on 1st January 2003<sup>(18)</sup>;

“United Kingdom ship” has the meaning given by section 1 of the Merchant Shipping Act 1995<sup>(19)</sup>;

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

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

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

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

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

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

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

“recovery” means any of the operations provided for in Annex IIB of the Waste Directive<sup>(20)</sup>;

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

and expressions cognate to these expressions shall be construed accordingly.

(18) ISBN 0-11-62-11-16417.

(19) 1995 c. 21.

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

(3) In these Regulations—

- (a) any document which is to be provided or given to any person (other than a fixed penalty notice under Part 10) may be provided or given to that person in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;
- (b) any requirement to make, keep or retain a record or to maintain a register may be satisfied in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;
- (c) any requirement for a signature on a notification, consignment note, schedule of carriers or multiple collection consignment note, may be satisfied by an electronic signature incorporated into the document; and
- (d) “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.