

2013 No. 255

ENVIRONMENTAL PROTECTION

The Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013

Made - - - - *31st October 2013*

Coming into operation - *30th November 2013*

The Department of the Environment in exercise of the powers conferred by Article 17(2) of the Litter (Northern Ireland) Order 1994^(a) and Articles 2(3) and 5(7) of the Waste and Contaminated Land (Northern Ireland) Order 1997^(b), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013 and shall come into operation on 30th November 2013.

(2) In these Regulations—

“the 1994 Order” means the Litter (Northern Ireland) Order 1994;

“the 1997 Order” means the Waste and Contaminated Land (Northern Ireland) Order 1997; and

“Directive waste” has the same meaning as in regulation 1(3) of the Waste Management Licensing Regulations (Northern Ireland) 2003^(c).

Waste which is not to be treated as household waste, industrial waste or commercial waste

2.—(1) Waste which is not Directive waste is not to be treated as household waste, commercial waste or industrial waste for the purposes of Part 2 of the 1997 Order.

(2) The following waste (where it is Directive waste) is not to be treated as household waste, industrial waste or commercial waste for the purposes of Part 2 of the 1997 Order—

- (a) sewage sludge or septic tank sludge which is treated, kept or disposed of (otherwise than by means of mobile plant) within the curtilage of a sewage treatment works as an integral part of the operation of those works;
- (b) sludge which is supplied or used in accordance with the Sludge (Use in Agriculture) Regulations (Northern Ireland) 1990 (“the 1990 Regulations”)^(d);
- (c) septic tank sludge which is used on agricultural land within the meaning of the 1990 Regulations.

(a) S.I. 1994 No. 1896 (N.I. 10)
(b) S.I. 1997/2870 (N.I. 19)
(c) S.R. 2003 No. 493 as amended
(d) S.R. 1990 No. 880

(3) Animal by-products (where they are Directive waste) which are collected and transported in accordance with Article 21(1) to (3) of the Animal By-Products Regulation are not to be treated as household waste, industrial waste or commercial waste for the purposes of Article 5 of the 1997 Order.

(4) In this regulation—

- (a) “animal by-products” has the meaning given in Article 3(1) of the Animal By-Products Regulation;
- (b) “the Animal By-Products Regulation” means Regulation (EC) No 1069/2009(a) 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 and repealing Regulation (EC) No 1774/2002 (Animal By-Products Regulation).

Household, industrial and commercial waste

3.—(1) Subject to regulation 2, the Schedule (household, industrial and commercial waste) has effect.

Litter

4.—(1) Part 2 of the 1997 Order has effect as if references to controlled waste collected under Article 20 include references to litter collected under Articles 7(1)(a), 12(10) and 12C(3) of the 1994 Order.

Amendments to other legislation

5.—(1) The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002(b) shall be amended as follows.

(2) In regulation 1(2) insert the following definition in the appropriate alphabetical place

“authorised officer” means an officer of the Department of the Environment.

(3) For regulations 2 to 4 substitute—

“Transfer Notes

2.—(1) Subject to paragraph (3), the transferor and transferee shall, at the same time as the written description of the waste is transferred in accordance with Article 5(1)(c)(ii) of the 1997 Order, ensure that such a document as is described in paragraph (2) (“a transfer note”) is completed and signed by them or on their behalf.

(2) A transfer note shall—

- (a) identify the waste to which it relates by reference to the appropriate categories of waste in the European Waste Catalogue and state—
 - (i) the quantity of that waste and whether on transfer it is loose or in a container;
 - (ii) if in a container, the kind of container;
 - (iii) the date, time and place of transfer;
 - (iv) the SIC code of the transferor;
 - (v) the origin of the waste, if known; and
 - (vi) the destination of the waste upon transfer;
- (b) give the name and address of the transferor and the transferee and be signed by them;

(a) OJ L 300, 14.11.2009

(b) S.R. 2002 No. 271

- (c) state in respect of the transferor and the transferee whether they are—
 - (i) the producer of the waste;
 - (ii) the importer of the waste;
 - (iii) the transporter of the waste or a waste broker or dealer;
 - (iv) a district council;
 - (v) a person who is a holder of a waste management licence under Article 6 of the 1997 Order or a permit under Article 9 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003(a), in which case the transfer note must include the waste authorisation number;
 - (vi) a person to whom Article 4(1) of the 1997 Order does not apply by virtue of regulations under paragraph (3) of that Article;
 - (vii) a person registered as a carrier of controlled waste under Article 39 of the 1997 Order, in which case the transfer note must include the registration number;
 - (viii) a person registered as a broker of or dealer in controlled waste, in which case the transfer note must include the registration number;
- (d) confirm that the transferor has discharged the duty as required by regulation 17 of the Waste Regulations (Northern Ireland) 2011(b) (the Waste Hierarchy).

(3) A transfer note—

- (i) may be in electronic form; and
- (ii) where in electronic form, shall only be accepted if it is legible.

(4) Where the transfer note is in electronic form, the signature required by paragraph (2)(b) shall be an electronic signature and “electronic signature” means data in electronic form which is attached to or logically associated with the transfer note and which serves as a method of authentication.

(5) In this regulation “SIC code” means a code included in the UK Standard Industrial Classification of Economic Activities 2007 published by the Office for National Statistics on 14th December 2007(c).

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

3.—(1) The transferor and the transferee shall keep a transfer note, or a copy of it as appropriate, for at least 2 years from the date upon which it is completed and signed by them.

(2) This regulation shall not apply where the waste transferred is hazardous waste and the consignment note and, where appropriate, a schedule required by the Hazardous Waste Regulations (Northern Ireland) 2005(d) is completed and dealt with in accordance with those Regulations.

Duty to furnish documents

4.—(1) A person holding or transporting waste shall carry the associated transfer note with that waste and shall produce that transfer note to an authorised officer or a constable on demand.

(2) A person who has been served by the Department with a notice in writing specifying or describing any document and requiring its production shall, if the document is one which

(a) S.R. 2003 No. 46
 (b) S.R. 2011 No. 280
 (c) ISBN 978-0-230-21012-7
 (d) S.R. 2005 No. 300

at that time he is under a duty to keep under regulation 3, furnish the Department with a copy of it within the period (not being less than 7 days) specified in the notice”.”

Revocation

6. The Controlled Waste Regulations (Northern Ireland) 2002(a) are revoked.

Sealed with the Official Seal of the Department of the Environment on 31st October 2013



Wesley Shannon
A senior officer of the Department of the Environment

(a) S.R. 2002 No. 248

Interpretation of the Schedule

1.—(1) In this Schedule the following definitions apply—

“agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949;

“camp site” means land on which tents are pitched for the purpose of human habitation and land the use of which is incidental to that purpose;

“charity shop” means a premises used wholly or mainly for the sale of goods donated to a charity where the proceeds of sale (after deduction of expenses) are applied for the purposes of a charity;

“clinical waste” means waste from a healthcare activity (from medical, nursing, dental, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or research) that—

- (a) contains viable micro-organisms or their toxins which are known or reliably believed to cause disease in humans or other living organisms;
- (b) contains or is contaminated with drugs or medicine that contains a biologically active pharmaceutical agent; or
- (c) is a sharp, swab or dressing, or a body fluid or other biological material (including human and animal tissue) containing or contaminated with a dangerous substance within the meaning of Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances^(a), and waste of a similar nature from a non-healthcare activity;

“construction” includes improvement, repair or alteration;

“controlled waste” means household, industrial and commercial waste or any such waste;

“Directive waste” has the same meaning as in regulation 1(3) of the Waste Management Licensing Regulations (Northern Ireland) 2003^(b);

“European Waste Catalogue” means the list of waste belonging to the categories listed in the List of Wastes Regulations (Northern Ireland) 2005^(c);

“factory” has the meaning given in Section 175 of the Factories Act (Northern Ireland) 1965^(d);

“general medical practitioner” means a person registered in the General Practitioner Register kept by the General Medical Council under Section 34 of the Medical Act 1983^(e);

“hazardous waste” has the same meaning as given in regulation 6 of the Hazardous Waste Regulations (Northern Ireland) 2005^(f) (waste which displays one or more of the hazardous properties listed in Annex III of the Waste Framework Directive);

“Irish Traveller Community” means the community of people as described in Article 5 of the Race Relations (Northern Ireland) 1997 Order^(g);

(a) OJ No L 196, 16.8.1967 as amended by Regulation (EC) No. 1272/2008 and Commission Directive 2009/2/EC

(b) S.R. 2003 No. 493 as amended

(c) S.R. 2005 No. 301

(d) S.I. 1965 c. 20 as amended by S.I. 1970 c.46 and 1971 c. 11

(e) S.I. 1983 c. 54 Section 34c was inserted by S.I. 2010/224 Article 4 and Schedule 1, paragraph 10

(f) S.R. 2005 No. 300

(g) S.I. 1997 No. 869 (N.I. 6)

“mixed hereditament” means a hereditament which is used partly for the purposes of a dwelling house as defined in Schedule 5 to the Rates (Northern Ireland) Order 1977^(a) and partly for other purposes;

“not for profit body” means a body which, by virtue of its constitution or any enactment—

- (a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes; and
- (b) is prohibited from directly or indirectly distributing among its members any part of its assets (otherwise than for charitable or public purposes);

“offensive waste” means waste that—

- (a) is not clinical waste;
- (b) contains body fluids, secretions or excretions; and
- (c) falls within code 18 01 04, 18 02 03 or 20 01 99 in Schedule 1 to the List of Wastes (Northern Ireland) Regulations 2005^(b);

“scientific research association” has the meaning given in Section 469 of the Corporation Tax Act 2010^(c);

“scrap metal” means any waste metal, and any broken, worn out, defaced or partly manufactured articles made wholly or partly of metal and any metallic wastes, and also includes old, broken, worn out or defaced tooltips or dies made of any of the materials commonly known as hard metal or of cemented or sintered metallic carbides;

“septic tank sludge” means residual sludge from septic tanks and other similar installations for the treatment of sewage;

“sludge” means residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters;

“The Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council, on waste^(d);

“transferor” and “transferee” means respectively, in relation to a transfer of controlled waste by a person who is subject to the duty imposed by Article 5 of the 1997 Order, the person who in compliance with that Article transfers a written description of the waste and the person who receives that description;

“vessel” includes a hovercraft within the meaning of Section 4(1) of the Hovercraft Act 1968^(e);

“waste oils” means any mineral or synthetic lubrication or industrial oils which have become unfit for the use for which they were originally intended, such as used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils;

“waste solvent” means solvent which is contaminated, spoiled or otherwise unfit for its original purpose.

Sources of household, industrial and commercial waste

2.—(1) Table 1 describes waste which is to be treated as household waste, industrial waste or commercial waste because of the place where it is produced.

(2) The second column of Table 1 describes the places at which waste is produced.

(3) For the purposes of Part 2 of the 1997 Order the waste must be treated as the type of waste specified in the third column, subject to any exception in the fourth column.

(a) S.I. 1977 No. 2157 (N.I. 28)
(b) S.R. 2005 No. 301
(c) S.I. 2010 c. 4 Part 2 chapter 1
(d) OJ No L 312, 22.11.08
(e) S.I. 1969 c. 59

(4) But in a case where paragraph 3 or 4(3) requires waste to be treated inconsistently with sub-paragraph (3), the requirements of those paragraphs take precedence.

Table 1

Classification by place of production

No.	Description	Classification	Exceptions
1	Private storage premises used wholly or mainly for the storage of articles of domestic use	Household waste	
2	Land belonging to or used wholly or mainly in connection with domestic property or a caravan where waste from that property or caravan is to be treated as household waste	Household waste	
3	A private garage	Household waste	Where the garage has a floor area exceeding 25 ^{m²} or is not used wholly or mainly for the accommodation of a private motor vehicle, the waste is to be treated as commercial waste
4	A vehicle or vessel used wholly for the purposes of living accommodation	Household waste	Where the vehicle or vessel is used in the course of a business for the provision of self-catering accommodation, the waste is to be treated as commercial waste
5	A place of worship	Household waste	
6	A residential hostel which provides accommodation only to persons with no other permanent address or who are unable to live at their permanent address	Household waste	
7	A 'Bed and Breakfast'	Household waste	
8	Prisons, Borstals or other such penal institution	Household waste	
9	A charity shop selling donated goods originating from domestic property	Household waste	
10	A caravan or mobile home site for members of the Irish Traveller Community	Household waste	
11	Premises used wholly or mainly for public meetings	Household waste	
12	University, school or other educational establishment	Household waste	
13	Domestic property used in the course of a business for the provision of self-catering accommodation	Commercial waste	
14	A caravan— (a) used in the course of a business for the provision of self-catering accommodation; or (b) which is not allowed to be used for	Commercial waste	

No.	Description	Classification	Exceptions
	human habitation throughout the year by virtue of a licence or planning permission		
15	Premises occupied by a charity and wholly or mainly used for charitable purposes	Commercial waste	Where the waste is from a place of worship or from premises used wholly or mainly for public meetings, it is to be treated as household waste
16	A camp site or a tent pitched on land other than a camp site	Commercial waste	Where the waste is from domestic premises at a camp site, it is to be treated as household waste
17	Premises occupied by a club, society or any association of persons in which activities are conducted for the benefit of the members	Commercial waste	
18	Premises occupied by— (a) a court; (b) a government department; (c) a district council; (d) a person appointed by or under any enactment to discharge public functions; (e) a body incorporated by Royal Charter; and (f) A public body or Trust.	Commercial waste	Waste classified as household waste or industrial waste because it is from a place— (a) otherwise described in this table (except for entry 27); or (b) described in Article 2(2) of the 1997 Order (household waste or industrial waste)
19	A hotel	Commercial waste	
20	Any part of a 'mixed hereditament' used for the purposes of a trade or business	Commercial waste	
21	A market or fair	Commercial waste	
22	The practice of a general medical practitioner	Commercial waste	
23	An office or showroom	Commercial waste	
24	A workshop or similar premises which is not a factory only because— (a) those working there are not employees; or (b) the work carried on there is not carried on by way of trade or for purposes of gain	Industrial waste	Where the principal activities at the premises are computer operations or the copying of documents by photographic or lithographic means the waste is to be treated as commercial waste
25	A laboratory	Industrial waste	
26	A scientific research association	Industrial waste	
27	Premises used for the breeding, boarding or stabling of animals	Industrial waste	
28	Waste imported into Northern Ireland	Industrial waste	
29	Directive waste from a place (including	Industrial	

No.	Description	Classification	Exceptions
	any vehicle, vessel or aircraft) not otherwise described in this table or in Article 2(2) of the 1997 Order (household waste and commercial waste)	waste	

Nature of waste and activities producing waste

3.—(1) Table 2 describes waste which is to be treated as household waste, commercial waste or industrial waste because of its nature or the activity which produces it notwithstanding the place where it is produced.

(2) The second column of Table 2 describes the nature of the waste or the activity which produces it.

(3) The waste must be treated for the purposes of Part 2 of the 1997 Order as the type of waste established in the third column, subject to any exception in the fourth column.

(4) But in a case where paragraph 4(3) requires waste to be treated inconsistently with subparagraph (3), the requirements of paragraph 4(3) takes precedence.

Table 2

Classification by nature of waste or activity producing waste

No.	Description	Classification	Exceptions
1	Waste arising from the discharge of duties under Article 7(1)(a) or (e) of the 1994 Order (duty to collect litter)	Household waste	
2	Waste arising from the discharge by a district council of its duty under Article 7(2) of the 1994 Order (duty to ensure roads are kept clean)	Household waste	
3	Waste arising from the discharge of duties under Article 7(1)(c), 12(10), 12C(3) and 13 of the 1994 Order (duty and powers in relation to the collection of litter)	Commercial waste	
4	Waste arising from the discharge of duties under Article 7(1)(b) and (d) of the 1994 Order (duties to collect litter)	Industrial waste	
5	Waste arising from the discharge by a district council or the Department for Regional Development of the duty under Article 7(2) of the 1994 Order (duty to ensure roads are kept clean)	Industrial waste	
6	Hazardous waste arising from the following activities carried on at premises used for the purposes of a trade or business— (a) mixing or selling paints; (b) sign writing; (c) laundering or dry cleaning; (d) developing photographic film or making photographic prints; (e) selling petrol, diesel fuel, paraffin, kerosene, heating oil or similar substances; or (f) selling pesticides, herbicides or fungicides	Industrial waste	
7	Waste oil, waste solvent or scrap metal	Industrial waste	Where the waste is

No.	Description	Classification	Exceptions
			<p>produced at the following places it is to be treated as household waste—</p> <ul style="list-style-type: none"> (a) a residential home; (b) domestic property, a caravan or land belonging to or used in connection with such a place; (c) a private garage which has a floor area of 25^{m2} or less or is used wholly or mainly for the accommodation of a private motor vehicle; (d) private storage premises used wholly or mainly for the storage of articles of domestic use; or (e) a vehicle or vessel used wholly for the purposes of living accommodation, except where it is used in the course of a business for the provision of self-catering accommodation
8	Waste from construction or demolition works, including preparatory works	Industrial waste	The waste is to be treated as household waste for the purposes of Articles 5(2) and (2A) of the 1997 Order only (dis-application of Article 5(1) and duty on the occupier of domestic property to transfer household waste only to an authorised person or for authorised transport purposes)
9	Septic tank sludge	Industrial waste	The waste is to be treated as household waste for the

No.	Description	Classification	Exceptions
			purposes of Articles 5(2) and (2A) of the 1997 Order
10	Sewage	Industrial waste	
11	Clinical waste and offensive waste	Industrial waste	Clinical waste and offensive waste produced at domestic property, a residential home, a caravan or a vehicle or vessel used wholly for the purposes of living accommodation is to be treated as household waste, except that where such a vehicle or vessel is used in the course of a business for the provision of self-catering accommodation, such waste is to be treated as commercial waste. Clinical waste and offensive waste collected under Article 7(1) and (2) of the 1994 Order is to be treated as household waste or commercial waste in accordance with entries 1 to 6
12	Agricultural Waste	Industrial waste	Applies only where this waste is Directive waste

Household waste for which collection and disposal charges may be made

4.—(1) Table 3 describes waste which is household waste (by virtue of Article 5(5) of the 1997 Order) or waste which is to be treated as household waste (by virtue of Article 2(2) of the 1997 Order).

(2) The third column indicates which household waste is prescribed for the purposes of Article 20(3) of the 1997 Order (cases in respect of which a charge for collection may be made).

(3) The fourth column indicates which waste must be treated as commercial waste for the purposes of the following provisions of the 1997 Order —

- (a) Article 20(4) to the extent that it concerns liability to pay a reasonable charge for disposal of commercial waste and the recovery of such a charge.

Table 3**Collection and disposal charges**

No.	Description of household waste	Collection charge	Disposal charge
1	Any article of waste which exceeds 25kg in weight	Yes	No, subject to entries 11 to 17
2	Any article of waste which does not fit or cannot be fitted into— (a) a receptacle for household waste provided in accordance with Article 21 of the 1997 Order; or (b) where no such receptacle is provided, a cylindrical container 750mm in diameter and 1m in length	Yes	No, subject to entries 11 to 17
3	Garden waste	Yes	No, subject to entries 11 to 17
4	Dead domestic pets	Yes	No, subject to entries 11 to 17
5	Waste oil or grease	Yes	No, subject to entries 11 to 17
6	Asbestos	Yes	No, subject to entries 11 to 17
7	Waste which may not be put into a receptacle provided under Article 21 of the 1997 Order because of a notice served under that Article	Yes	No, subject to entries 11 to 17
8	Waste from premises used wholly or mainly for public meetings	Yes	No
9	Clinical waste and offensive waste produced at a domestic property, a caravan or a vehicle or vessel used wholly for the purposes of living accommodation	Yes	No
10	Waste from a residential hostel which provides accommodation only to persons with no other permanent address or who are unable to live at their permanent address	Yes	No
11	Waste from a Bed and Breakfast	Yes	No
12	Waste from a charity shop selling donated goods originating from domestic property	Yes	Yes, but only to the extent that the waste originated from non-domestic property
13	Waste from premises occupied by— (a) a community interest company (being a company which is registered as such with the registrar of companies); or (b) a charity or other not for profit body, which collects goods for re-use or waste to prepare for re-use from domestic property	Yes	Yes, but only to the extent that the waste originated from non-domestic property
14	Litter collected under Article 7(1)(e) of the 1994 Order	Yes	Yes
15	Waste from a residential home or land belonging to or	Yes	Yes

No.	Description of household waste	Collection charge	Disposal charge
	wholly or mainly used in connection with a residential home		
16	Waste from premises forming part of a university, school or other educational establishment	Yes	Yes
17	Waste from premises forming part of a hospital or nursing home (except for waste from a residential hostel forming such part which provides accommodation only to persons with no other permanent address)	Yes	Yes
18	Waste from Prisons, Borstals or other such penal institution	Yes	Yes

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Controlled Waste Regulations (Northern Ireland) 2002. They classify waste as household waste, commercial waste or industrial waste for the purposes of Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (“the 1997 Order”) and thus determining the meaning of ‘controlled waste’ as applied by the 1997 Order.

They also prescribe the types of household waste for which a charge for collection may be made and provide that certain litter is to be treated under Part 2 of the 1997 Order in the same way as waste collected under Article 20 of that Order.

Regulation 2 clarifies which wastes which are not to be classified as controlled wastes.

Regulation 3 gives effect to the Schedule, which classifies wastes that are to be treated as household, commercial or industrial wastes; describes waste which is to be classified according to its place of production; describes waste which is to be classified according to its nature or the activity from which it is produced; and prescribes household waste for which a collection charge may be made and specifies household waste which is to be treated as commercial waste only for the purposes of charging for disposal.

In addition, the Regulations update the Controlled Waste (Duty of Care) Regulations 2002 to specify the information required on a Waste Transfer Note.

Regulation 5(1) places a new duty on waste holders and transporters to carry Waste Transfer Notes along with the waste they relate to and to produce such a note if stopped by an authorised officer or a constable. The purpose of this regulation is to ensure accuracy of records and to assist in addressing the illegal movement or holding of waste.

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