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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 235**

**The Landfill (Scotland) Regulations 2003**

**PART I**

**PRELIMINARY**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Landfill (Scotland) Regulations 2003 and shall come into force on the day after the day on which they are made (hereinafter referred to as “the relevant date”).

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“the 2000 Regulations” means the Pollution Prevention and Control (Scotland) Regulations 2000<sup>(1)</sup>;

“biodegradable waste” means any waste that is capable of undergoing anaerobic or aerobic decomposition, such as food, garden waste, paper and cardboard.

“hazardous waste” means any waste as defined by Article 1(4) of Directive 91/689/EEC<sup>(2)</sup> on hazardous waste;

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

“inert waste” means waste which—

- does not undergo any significant physical, chemical or biological transformations;
- does not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health; and
- has insignificant total leachability and pollutant content and ecotoxicity of its leachate are insignificant and, in particular, does not endanger the quality of any surface water or groundwater;

“isolated settlement” means a settlement –

- (a) with no more than 500 inhabitants per municipality or settlement and no more than 5 inhabitants per square kilometre; and
- (b) where the distance to the nearest urban agglomeration with at least 250 inhabitants per square kilometre is not less than 50km, or with difficult access by road to those nearest agglomerations, due to harsh meteorological conditions during a significant part of the year;

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(1) S.S.I. 2000/323.

(2) O.J. No. L 337, 31.12.91, p.20 as amended by Council Directive 94/31/EC (O.J. L 168, 2.7.1994, p.28).

“landfill” means a landfill to which these Regulations apply (see regulations 3 and 4);

“landfill gas” means any gas generated from landfilled waste;

“landfill permit” means the permit which is required by the 2000 Regulations for the carrying out of the disposal of waste in a landfill;

“leachate” means any liquid percolating through deposited waste and emitted from or contained within a landfill;

“municipal waste” means waste from households as well as other waste which because of its nature or composition is similar to waste from households;

“non-hazardous waste” means waste which is not hazardous waste;

“operator” has the meaning given by regulation 2(1) of the 2000 Regulations;

“relevant authorisation” means, in relation to a landfill, the landfill permit or waste management licence for the time being in force in relation to the landfill;

“relevant waste acceptance criteria” means, in relation to a landfill, the waste acceptance criteria set out in Schedule 2 which apply to the class of landfill to which that landfill belongs;

“treatment” means physical, thermal, chemical or biological processes (including sorting) that change the characteristics of waste in order to reduce its volume or hazardous nature, facilitate its handling or enhance recovery;

“waste” means controlled waste within the meaning of section 75(4) of the Environmental Protection Act 1990(3);

“waste management licence” means a waste management licence within the meaning of Part II of the Environmental Protection Act 1990; and

other expressions which are also used in Directive 99/31/EC on the landfill of waste(4) shall have the same meaning as in that Directive.

- (2) In these Regulations, unless the context otherwise requires, any reference to—
- (a) a numbered regulation or Schedule is a reference to the regulation in, or Schedule to, these Regulations bearing that number; and
  - (b) 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.

### **Application of regulations**

- 3.—(1) Subject to regulation 4, these Regulations apply to landfills.
- (2) Subject to paragraphs (3) and (4), for the purposes of this regulation a landfill is a waste disposal site for the deposit of the waste onto or into land.
- (3) Landfills include—
- (a) subject to paragraph (4), any site which is used for more than a year for the temporary storage of waste; and
  - (b) any internal waste disposal site, that is to say a site where a producer of waste is carrying out its own waste disposal at the place of production.
- (4) Landfills do not include—

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(3) 1990 c. 43 and see regulation 7A of S.I.1992/588 as amended by S.I. 1993/566, regulations 1 and 24(8) of, and paragraph 9 to, Schedule 4 of S.I. 1994/1056 and the amendments made to section 75(2) for the purposes of these Regulations by paragraph 88 of Schedule 22 to the Environment Act 1995 (c. 25) by S.S.I. 2003/206.

(4) O.J. No. L 182, 16.7.1999, p.1; the Directive was designated by S.S.I. 2003/185 as a relevant directive for the purposes of paragraph 20(2)(c) of Schedule 1 to the 1999 Act.

- (a) any facility where waste is unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere;
- (b) any site where waste is stored as a general rule for a period of less than three years prior to recovery or treatment; or
- (c) any site where waste is stored prior to disposal for a period of less than one year.

#### **Cases where regulations do not apply**

4. These Regulations do not apply to—
- (a) the spreading of sludges (including sewage sludges and sludges resulting from dredging operations) and similar matter on the soil for the purposes of fertilisation or improvement;
  - (b) the use of suitable inert waste for redevelopment, restoration and filling-in work or for construction purposes;
  - (c) the deposit of—
    - (i) non-hazardous dredging sludges alongside the bank or towpath of a small waterway from which they have been dredged where that activity falls within the exemption from waste management licensing in paragraph 25 of Schedule 3 to the Waste Management Licensing Regulations 1994<sup>(5)</sup>;
    - (ii) non-hazardous sludges in surface waters, including the bed and its sub-soil;
  - (d) any landfill which finally ceased to accept waste for deposit before 16th July 2001.

#### **Location**

5. A planning permission under the Town and Country Planning (Scotland) Act 1997<sup>(6)</sup> may be granted for a landfill only if the requirements of paragraph 1(1) of Schedule 3 to these Regulations have been taken into consideration.

#### **Exemptions from certain provisions of regulations**

6. The provisions of these Regulations specified in Schedule 1 shall not apply to—
- (a) a landfill site on an island which on the date these Regulations come into force has remaining landfill capacity, and which—
    - (i) is the only landfill on the island;
    - (ii) is used exclusively for the disposal of waste generated on that island; and
    - (iii) is for non-hazardous or inert wastes with a total capacity not exceeding 15,000 tonnes or with an annual intake not exceeding 1,000 tonnes,until the total capacity of that landfill site has been used; and
  - (b) a landfill site for non-hazardous or inert waste in isolated settlements provided that site is used for the disposal of waste generated only by that isolated settlement.

#### **List of sites**

7. SEPA shall—
- (a) prepare a list of all sites that fall within Regulation 6, no later than 16th April 2003 and send that list to Scottish Ministers; and

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<sup>(5)</sup> S.I. 1994/1056; relevant amendments were made by S.I. 1995/288.

<sup>(6)</sup> 1997 c. 8.

- (b) for each site, by 16th July 2003 and thereafter at least annually, carry out visual inspections of waste at the point of deposit to ensure that only non-hazardous waste from the relevant island or isolated settlement is accepted at it.

**Extension of categories of landfill subject to the 2000 Regulations etc.**

**8.—(1)** In Part A of Section 5.2 of Part I of Schedule 1 to the 2000 Regulations (landfill and disposal to land)–

- (a) at the beginning there is inserted “(a)”; and  
 (b) at the end there is inserted–

“(b) The disposal of waste in any other landfill to which the 2003 Regulations apply.”

(2) Regulations 8(2)(a), 9(1), 9(3) to 9(12) and 9(14) of the 2000 Regulations shall not apply to landfills.

(3) Paragraph 5(b) of Part 1 of Schedule 4 and paragraph 4(8)(b) of Part 2 of Schedule 7 to the 2000 Regulations (requirements to advertise in the Edinburgh Gazette), shall not apply to landfills falling within paragraph (b) of Part A of Section 5.2 of Part 1 of Schedule 1 to those Regulations.

## PART II

### LANDFILL PERMITS

**Classification of landfills**

- 9.** Before granting a landfill permit, SEPA shall classify the landfill as a–
- (a) landfill for hazardous waste;  
 (b) landfill for non-hazardous waste; or  
 (c) landfill for inert waste,

and shall ensure that the classification is stated in the landfill permit.

**Conditions to be included in landfill permits**

**10.—(1)** A landfill permit shall include conditions specifying the list of defined types, and the total quantity, of waste authorised to be deposited in the landfill.

(2) A landfill permit shall also include appropriate conditions–

- (a) specifying requirements for–
- (i) preparations for the landfill, and the carrying out of, landfilling operations;  
 (ii) monitoring and control procedures, including contingency plans and indicator parameters as set out in paragraph 4 of Schedule 4;
- (b) ensuring that the financial provision or its equivalent required by regulation 4(3)(b) of the 2000 Regulations<sup>(7)</sup> is maintained until the permit is surrendered in accordance with those Regulations;
- (c) ensuring that the landfill is operated in such a manner that the necessary measures are taken to prevent accidents and to limit their consequences; and

(7) See paragraph 2(3) of Schedule 6 to these Regulations.

- (d) requiring the operator to report to SEPA, at such period as SEPA may require, and in any event annually—
  - (i) the types and quantities of waste disposed of; and
  - (ii) the results of the monitoring programme required by regulations 16 and 17.
- (3) A landfill permit shall also include—
  - (a) appropriate conditions for ensuring compliance with the requirements of the following provisions of these Regulations—
    - (i) Schedule 3 (general requirements for all landfills);
    - (ii) regulation 11 (prohibition of acceptance of certain wastes at landfills);
    - (iii) regulation 12 (waste which may be accepted in the different classes of landfill);
    - (iv) regulation 13 (costs of disposal of waste in landfills);
    - (v) regulation 14 (waste acceptance procedures);
    - (vi) regulation 15 (initial site inspections by SEPA);
    - (vii) regulation 16 (control and monitoring of operational landfill sites); and
    - (viii) regulation 17 (closure and after care procedures for landfills); and
  - (b) such other conditions as appear appropriate to SEPA, including in particular conditions giving effect to—
    - (i) any requirement imposed by Community or national legislation; and
    - (ii) in the case of landfills falling within paragraph (a) of Part A of Section 5.2 of Part 1 of Schedule 1 to the 2000 Regulations, the principle that energy should be used efficiently.
- (4) The provisions of these Regulations mentioned in paragraph (3)(a) above impose obligations directly on an operator of a landfill (rather than through the conditions of a landfill permit) only to the extent specified in paragraph 3 of Schedule 5.

### **Prohibition of acceptance of certain wastes at landfills**

- 11.—**(1) The operator of a landfill shall not accept any of the following types of waste at the landfill—
- (a) any waste in liquid form (including waste waters but excluding sludge);
  - (b) waste which, in the conditions of landfill, is explosive, corrosive, oxidising, flammable or highly flammable;
  - (c) hospital and other clinical wastes which arise from medical or veterinary establishments and which are infectious;
  - (d) chemical substances arising from research and development or teaching activities, such as laboratory residues, which are new or not identified, and the effects of which on man or on the environment are not known;
  - (e) as from 16th July 2003, whole used tyres other than—
    - (i) tyres used as engineering material;
    - (ii) bicycle tyres; and
    - (iii) tyres with an outside diameter above 1400mm;
  - (f) as from 16th July 2006, shredded tyres other than—
    - (i) bicycle tyres; and
    - (ii) tyres with an outside diameter above 1400mm;

- (g) any waste which does not fulfil the relevant waste acceptance criteria.
- (2) The operator of a landfill shall ensure that the landfill is not used for landfilling waste which has been diluted or mixed solely to meet the relevant waste acceptance criteria.
- (3) For the purposes of this regulation, waste is–
- “corrosive” if it consists of substances and preparations which may destroy living tissue on contact;
- “explosive” if it consists of substances and preparations which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene;
- “flammable” if it consists of liquid substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C;
- “highly flammable” if it consists of–
- (a) liquid substances and preparations having a flash point below 21°C (including extremely flammable liquids);
  - (b) substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any application of energy;
  - (c) solid substances and preparations which may readily catch fire after brief contact with a source of ignition and which continue to burn or to be consumed after removal of the source of ignition;
  - (d) gaseous substances and preparations which are flammable in air at normal pressure; or
  - (e) substances and preparations which, in contact with water or damp air, evolve highly flammable gases in dangerous quantities;
- “infectious” if it consists of substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms;
- “oxidising” if it consists of substances and preparations which exhibit highly exothermic reactions when in contact with other substances, particularly flammable substances.

### **Waste which may be accepted in the different classes of landfill**

- 12.**—(1) The operator of a landfill shall ensure that the landfill is only used for landfilling waste which is subject to prior treatment unless–
- (a) it is inert waste for which treatment is not technically feasible; or
  - (b) it is waste other than inert waste and treatment would not reduce its quantity or the hazards which it poses to human health or the environment.
- (2) The operator of a landfill for hazardous waste shall ensure that only waste which fulfils the waste acceptance criteria in paragraphs 1 and 2 of Schedule 2 is accepted at the landfill.
- (3) The operator of a landfill for non-hazardous waste shall ensure that the landfill is only used for landfilling–
- (a) municipal waste;
  - (b) non-hazardous waste of any other origin which fulfils the waste acceptance criteria in paragraphs 1 and 3(b) of Schedule 2; and
  - (c) stable, non-reactive hazardous waste (such as that which is solidified with leaching behaviour equivalent to that of non-hazardous waste referred to in sub-paragraph (b)) and which fulfils the waste acceptance criteria in paragraphs 1 and 3(a) of Schedule 2.
- (4) Where hazardous waste of the type described in paragraph (3)(c) is disposed of at a landfill for non-hazardous waste, the operator shall ensure it is not deposited in cells used or intended to be used for the disposal of biodegradable non-hazardous waste.

(5) The operator of a landfill for inert waste shall ensure that the landfill is only used for landfilling inert waste which meets the waste acceptance criteria in paragraphs 1 and 4 of Schedule 2.

### **Costs of disposal of waste in landfill**

**13.** The operator of a landfill shall ensure that the charges the operator makes for the disposal of waste in its landfill covers all of the following—

- (a) the costs of setting up and operating the landfill;
- (b) the costs of the financial provision required by regulation 4(3)(b) of the 2000 Regulations; and
- (c) the estimated costs for the closure and after-care of the landfill site for a period of at least 30 years from its closure.

### **Waste acceptance procedures**

**14.—(1)** The operator shall visually inspect the waste at the entrance to the landfill and at the point of the deposit and shall be satisfied that it conforms with the description provided in the documentation submitted by the holder.

(2) The operator shall, in accordance with such procedures as are specified by SEPA, test waste to establish whether it corresponds to the description in the accompanying documents, and if representative samples are taken for analysis, the operator shall retain the samples and results of any analysis for at least one month.

(3) The operator shall keep a register showing—

- (a) the quantities of waste deposited;
- (b) its characteristics;
- (c) its origin;
- (d) the date or dates of its delivery;
- (e) the identity of the producer or, in the case of municipal waste, the collector; and
- (f) in the case of hazardous waste, its precise location on the site.

(4) The information required to be kept under paragraph (3) shall be made available to SEPA on request.

(5) The operator on accepting each delivery of waste shall provide a written receipt to the person delivering it.

(6) Where waste is not accepted at a landfill the operator shall inform SEPA of that fact as soon as reasonably possible, and in any event within 7 days.

### **Initial site inspections by SEPA**

**15.—(1)** The operator of a landfill shall not commence disposal operations before SEPA has inspected the site in order to ensure that it complies with the relevant conditions of the landfill permit.

(2) Nothing in paragraph (1) in any way reduces the obligations of the operator to comply with the conditions of the permit.

### **Control and monitoring of operational landfill sites**

**16.—(1)** The following requirements shall apply to landfill sites from the start of the operational phase until definitive closure.

(2) The operator shall carry out the control and monitoring procedures set out in Schedule 4.

(3) Where the procedures required by paragraph (2) reveal any significant adverse environmental effects, the operator shall notify SEPA as soon as reasonably possible.

(4) Where it receives a notification of significant adverse environmental effects in accordance with paragraph (3), SEPA shall determine the nature and timing of corrective measures that are necessary and shall require the operator to carry them out.

(5) The operator shall report to SEPA on the basis of aggregated data—

- (a) on its request; and
- (b) in any event at least once a year,

the results of monitoring and on such other matters which SEPA requires to demonstrate compliance with the conditions of the landfill permit or to increase knowledge of the behaviour of waste in landfill.

(6) The operator shall ensure that quality control of—

- (a) analytical operations of control and monitoring procedures; and
- (b) analyses of representative samples taken in accordance with regulation 14(2)

is carried out by competent laboratories.

#### **Closure and after care procedures for landfills**

17.—(1) The following closure and after-care procedures shall apply to all landfill sites.

(2) The procedures may relate to the closure of the whole of the landfill or part of it.

(3) The closure procedure shall begin—

- (a) when the relevant conditions specified in the landfill permit are satisfied;
- (b) when SEPA approves the initiation of the closure procedure following a request from the operator; or
- (c) by a reasoned decision of SEPA which shall be set out in a closure notice served on the operator by SEPA in accordance with Regulation 18.

(4) A landfill shall not be definitely closed until—

- (a) such reports as may be required by SEPA have been submitted to it by the operator; and
- (b) SEPA—
  - (i) has assessed all the reports submitted by the operator;
  - (ii) has carried out a final on-site inspection; and
  - (iii) has notified the operator by notice in writing served on the operator that it approves the closure.

(5) Following definite closure of a landfill, after care procedures shall ensure that—

- (a) the operator remains responsible for the maintenance, monitoring and control for such period as SEPA determines is reasonable, taking into account the time during which the landfill could present hazards;
- (b) the operator notifies SEPA of any significant adverse environmental effects revealed by the control procedures and takes the remedial steps required or approved by SEPA; and
- (c) the operator is responsible for monitoring and analysing landfill gas and leachate from the landfill and the groundwater regime in its vicinity in accordance with Schedule 4 for as long as SEPA considers that the landfill is likely to cause a hazard to the environment.

(6) Notwithstanding regulations 15 to 17 of the 2000 Regulations (requirements on surrender or revocation of permits), SEPA shall not accept any application for complete or partial surrender of

the landfill permit, or revoke it in whole or in part, for as long as SEPA considers that the landfill (or the relevant part of it) is likely to cause a hazard to the environment.

(7) The operator shall not be relieved from liability under the conditions of the landfill permit by reason of SEPA's approval of closure under paragraph (4)(b)(iii).

### **Closure Notices**

**18.**—(1) Where SEPA has taken a reasoned decision under regulation 17(3)(c), it shall serve a closure notice under this regulation (“a closure notice”) on the operator of the landfill.

(2) A closure notice shall—

- (a) state SEPA's reasons for requiring initiation of the closure procedure;
- (b) specify the steps the operator is required to take to initiate the procedure;
- (c) the period within which they must be taken; and
- (d) the date after which waste may not be accepted on the site.

(3) SEPA may withdraw a closure notice at any time.

## **PART III**

### **MISCELLANEOUS**

### **Offences**

**19.**—(1) It is an offence for a landfill operator to contravene—

- (a) regulation 11 or 14 in each case as applied by paragraph (3)(1)(a) of Schedule 5;
- (b) regulation 12 (1) or (2) as applied by paragraph 3(1)(b) of Schedule 5; or
- (c) paragraph 3(3) of Schedule 5.

(2) A person who is guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months or to both, and
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding five years or both.

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

(4) Where the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with that member's functions of management as if that member were a director of the body corporate.

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

### **Transitional Provisions**

**20.** Schedule 5 (which contains transitional provisions) has effect.

## **Amendments**

- 21.** Schedule 6 (which makes amendments to other legislation) has effect.

St Andrew's House,  
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10th April 2003

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