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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 235**

**ENVIRONMENTAL PROTECTION**

**The Landfill (Scotland) Regulations 2003**

*Made - - - - 10th April 2003*

*Coming into force in accordance with article 1(1)*

The Scottish Ministers, in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999<sup>(1)</sup> (the “1999 Act”), having in accordance with section 2(4) of the 1999 Act consulted 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, and such other bodies and persons as they consider appropriate, and having by order made by statutory instrument<sup>(2)</sup> designated Directive 99/31/EC<sup>(3)</sup> (“the Landfill Directive”) as a relevant directive for the purposes of paragraph 20(2)(c) of Schedule 1 to the 1999 Act, hereby make the following Regulations, a draft of which has in accordance with section 2(8) of the 1999 Act been laid before, and approved by a resolution of, the Scottish Parliament:

**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>(4)</sup>;

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(1) 1999 c. 24; 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 said Act of 1999.

(2) S.S.I. 2003/185.

(3) O.J. No. L 182, 16.7.99, p.1.

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

“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](#)(5) 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;

“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(6);

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

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(5) 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).

(6) [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.I. [2003/206](#).

other expressions which are also used in Directive [99/31/EC](#) on the landfill of waste<sup>(7)</sup> 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—
- (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>(8)</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.

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(7) 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.

(8) S.I. [1994/1056](#); relevant amendments were made by S.I. [1995/288](#).

## **Location**

5. A planning permission under the Town and Country Planning (Scotland) Act 1997(9) 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
  - (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(10) 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
  - (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–

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

- (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, Edinburgh  
10th April 2003

*ROSS FINNIE*  
A member of the Scottish Executive

SCHEDULE 1

Regulation 6

PROVISIONS OF THESE REGULATIONS FROM WHICH  
LANDFILLS FALLING WITH REGULATION 6 ARE EXEMPT

- (a) Regulation 10 (conditions to be included in landfill permits) paragraph (2)(a)(ii) in so far as it relates to paragraph 4 of Schedule 4;
- (b) Regulation 10(2)(b);
- (c) Regulation 10(2)(d)(ii) in so far as it relates to regulation 16(2) and (6);
- (d) Regulation 10(3)(a)(i) in so far as it relates to paragraphs 3 and 4 of Schedule 3;
- (e) Regulation 10(3)(a)(iii) in so far as it relates to—
  - (i) regulation 12(2)
  - (ii) regulation 12(3)(b);
  - (iii) regulation 12(3)(c); and
  - (iv) 12(5);in so far as they relate to paragraph 1 of Schedule 2;
- (f) Regulation 10(3)(a)(iv);
- (g) Regulation 10(3)(a)(v) except as it relates to regulation 14(3)(a);
- (h) Regulation 10(3)(a)(vii) in so far as it relates to regulation 16(2) and 16(6);
- (i) Regulation 12(2), 12(3)(b), 12(3)(c) and 12(5) (waste which may be accepted in the different classes of landfill) in so far as they relate to paragraph 1 of schedule 2;
- (j) Regulation 13 (costs of disposal of waste in landfill);
- (k) Regulation 14(1), (2), (3)(b) – (f), (4) and (5) (waste acceptance procedures);
- (l) Regulation 16(2) and (6) (control and monitoring of operational landfill sites);
- (m) Regulation 19(1)(a) as it relates to regulation 14(1), (2), (3)(b)-(f), (4) and (5);
- (n) Regulation 19(1)(b) in so far as it relates to regulation 12(2) as it relates to paragraph 1 of Schedule 2;
- (o) Schedule 2 (national waste acceptance criteria) paragraph (1);
- (p) Schedule 3 (general requirements for all landfills) paragraphs (3) and (4);
- (q) Schedule 4 (minimum monitoring procedures for landfills);
- (r) Schedule 5 (existing landfills: transitional provisions), paragraph 3(1)(a)(ii) except as it relates to regulation 14(3)(a).

SCHEDULE 2

Regulations 2 and 12

WASTE ACCEPTANCE CRITERIA

**Criteria for acceptance of waste which apply to all kinds of landfill**

1.—(1) The following criteria shall apply to the acceptance of waste at any landfill.

(2) Waste may only be accepted at a landfill provided its acceptance would not compromise the protection—

- (a) of the surrounding environment, in particular groundwater and surface water;

- (b) of the protection of environmental protection systems such as liners and leachate treatment systems;
- (c) of the protection of the desired waste-stabilisation processes within the landfill; and
- (d) against human health hazards.

#### **Additional criteria for acceptance of waste at landfills for hazardous waste**

2. Waste may only be accepted at a landfill for hazardous waste if–
  - (a) it is listed on the Hazardous Waste List of the European Waste Catalogue(11) or has similar characteristics to those so listed; and
  - (b) its total content or leachability–
    - (i) does not present a short term occupational risk or an environmental risk; and
    - (ii) would not prevent the stabilisation of the landfill within its projected lifetime taking account of its after care period following closure.

#### **Additional criteria for acceptance of waste at landfills for non-hazardous waste**

3. Waste may only be accepted at a landfill for non-hazardous waste if it is–
  - (a) listed on the Hazardous Waste List of the European Waste Catalogue or has similar characteristics to those so listed and its deposit at the landfill otherwise meets the requirements of regulation 12(3)(c) and (4); or
  - (b) any other waste listed on the European Waste Catalogue or has similar characteristics to those so listed.

#### **Additional criteria for acceptance of waste at landfills for inert waste**

4. Waste may only be accepted at a landfill for inert waste if it is listed in the following Table or it otherwise falls within the definition of inert waste in regulation 2(1).

##### **Waste acceptable at landfills for inert waste**

<i>European Waste Catalogue Chapter</i>	<i>European Waste Catalogue Code</i>	<i>Description</i>	<i>Exclusions</i>
10 – Wastes from thermal processes	10 11 03	Waste glass based fibrous materials	
15 – Waste packaging; absorbents, wiping cloths, filter materials and protective clothing not otherwise specified	15 01 07	Glass packaging	
17 – Construction and demolition wastes	17 01 07	Concrete	Excluding topsoil, peat
(including excavated soil from contaminated sites)	17 01 02	Bricks	
	17 01 03	Tiles and ceramics	
	17 02 02	Glass	

(11) Council Decision 2000/532/EC (O.J. L 226, 6.9.2000 p.3) as amended by Council Decisions 2001/118/EC (O.J. L 47, 16.2.2001, p.32) and 2001/119/EC (O.J. L 203, 28.7.2001, p.18).

<i>European Waste Catalogue Chapter</i>	<i>European Waste Catalogue Code</i>	<i>Description</i>	<i>Exclusions</i>
	17 05 04	Soil and stones	
20 – Municipal wastes (household waste and similar commercial, industrial and institutional wastes) including separately collected fractions	20 01 02	Glass	Excluding topsoil, peat
	20 02 02	Soil and stones	

## SCHEDULE 3

Regulations 5 and 10(3)(a)(i)

## GENERAL REQUIREMENTS FOR ALL LANDFILLS

**Location**

- 1.—(1) The location of a landfill must take into consideration requirements relating to—
- the distances from the boundary of the site to residential and recreational areas, waterways, water bodies and other agricultural or urban sites;
  - the existence of groundwater, coastal water or nature protection zones in the area;
  - the geological or hydrogeological conditions in the area;
  - the risk of flooding, subsidence, landslides or avalanches on the site; and
  - the protection of the natural or cultural heritage in the area.
- (2) A landfill permit may be issued for the landfill only if—
- the characteristics of the site with respect to the requirements in sub-paragraph (1), or
  - the corrective measures to be taken,

indicate that the landfill does not pose a serious environmental risk.

(3) In this paragraph “nature protection zone” means land which has been notified under section 28 of the Wildlife and Countryside Act 1981<sup>(12)</sup> or a European site within the meaning of regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994<sup>(13)</sup>.

**Water control and leachate management**

- 2.—(1) Subject to sub-paragraphs (2) and (3), appropriate arrangements shall be made having regard to the characteristics of the landfill and prevailing meteorological conditions in order to –
- control rainwater entering the landfill body;
  - prevent surface water or groundwater from entering into landfilled waste;
  - collect contaminated water and leachate and treat it to the appropriate standard so it can be discharged.

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<sup>(12)</sup> 1981 c. 69.

<sup>(13)</sup> See S.I. 1994/2716.

(2) Arrangements need not be made in accordance with sub-paragraph (1)(c) if SEPA decides that the landfill poses no potential hazard to the environment in view of its location and the kinds of waste to be accepted at the landfill.

(3) This paragraph does not apply to inert landfills.

### **Protection of soil and water and leachate collection and sealing systems**

3.—(1) The landfill must be situated and designed so as to –

- (a) provide the conditions for prevention of pollution of the soil, groundwater or surface water; and
- (b) ensure efficient collection of leachate as and when required by paragraph 2.

(2) Soil, groundwater and surface water is to be protected by the use of a geological barrier combined with–

- (a) a bottom liner during the operational phase of the landfill; and
- (b) a top liner following closure and during the after-care phase.

(3) The geological barrier shall comply with the requirements of sub-paragraph (4) and shall also provide sufficient attenuation capacity to prevent a potential risk to soil and groundwater.

(4) The landfill base and sides shall consist of a mineral layer which provides protection of soil, groundwater and surface water at least equivalent to that resulting from the following permeability and thickness requirements–

- (a) in a landfill for hazardous waste:  $K \leq 1.0 \times 10^{-9}$  metre/second: thickness  $\geq 5$  metres;
- (b) in a landfill for non-hazardous waste:  $K \leq 1.0 \times 10^{-9}$  metre/second: thickness  $\geq 1$  metre;
- (c) in a landfill for inert waste:  $K \leq 1.0 \times 10^{-7}$  metre/second: thickness  $\geq 1$  metre.

(5) Where the geological barrier does not meet the requirements of sub-paragraph (4) naturally, it may be completed artificially and reinforced by other means giving equivalent protection, but in any such case a geological barrier established by artificial means must be at least 0.5 metres thick.

(6) A leachate collection and sealing system to ensure that leachate accumulation at the base of the landfill is kept to a minimum must also be provided in any hazardous or non-hazardous landfill in accordance with the following table:

*Leachate collection and bottom sealing*

<i>Landfill category</i>	<i>Non-hazardous</i>	<i>Hazardous</i>
Artificial sealing liner	Required	Required
Drainage liner $\geq 0.5$ metres	Required	Required

(7) Where the potential hazards to the environment indicate that the prevention of leachate formation is necessary, surface sealing may be required taking account of the following guidelines:–

<i>Landfill category</i>	<i>Non-hazardous</i>	<i>Hazardous</i>
Gas drainage layer	Required	Not required
Artificial sealing liner	Not required	Required
Impermeable mineral layer	Required	Required
Drainage layer $> 0.5$ metres	Required	Required

<i>Landfill category</i>	<i>Non-hazardous</i>	<i>Hazardous</i>
Top soil cover > 1 metre	Required	Required

(8) The requirements of sub-paragraphs (3) to (7) may be reduced to an appropriate extent if on the basis of an assessment of environmental risks, having regard in particular to Directive [80/68/EEC](#)(14)–

- (a) it has been decided in accordance with paragraph 2 that the collection and treatment of leachate is not necessary; or
- (b) it is established that the landfill poses no potential hazard to soil, groundwater or surface water.

### **Gas control**

4.—(1) Appropriate measures must be taken in order to control the accumulation and migration of landfill gas.

(2) Landfill gas must be collected from all landfills receiving biodegradable waste and the landfill gas must be treated and, to the extent possible, used.

(3) The collection, treatment and use of landfill gas under sub-paragraph (2) must be carried on in a manner which minimises damage to or deterioration of the environment and risk to human health.

(4) Landfill gas which cannot be used to produce energy must be flared.

### **Nuisances and hazards**

5.—(1) Measures must be taken to minimise the nuisances and hazards arising from the landfill in relation to–

- (a) emissions of odours and dust;
- (b) wind-blown materials;
- (c) noise and traffic;
- (d) birds, vermin and insects;
- (e) formation of aerosols; and
- (f) fires.

(2) The landfill must be equipped so that dirt originating from the site is not dispersed onto public roads and the surrounding land.

### **Stability**

6.—(1) The placement of waste must ensure stability of all the waste on the site, and associated structures, and in particular must avoid slippages.

(2) Where an artificial barrier is used, the geological substratum must be sufficiently stable, taking into account the morphology of the landfill, to prevent settlement that may cause damage to the barrier.

### **Site security**

7.—(1) The landfill must be secured to prevent free access to the site.

(2) The gates of the landfill must be locked outside operating hours.

(14) O.J. No. L 20, 26.1.80, p.43 as amended by Directive [91/692/EEC](#) O.J. No. L 377, 31.12.91, p.48.

(3) The system of control and access to each facility must contain a programme of measures to detect and discourage illegal dumping in the facility.

#### SCHEDULE 4

Regulations 16(2) and 17(5)(c)

### MINIMUM MONITORING PROCEDURES FOR LANDFILLS

#### Application of this Schedule

1. This Schedule sets out minimum procedures for monitoring to be carried out to check—
  - (a) that waste has been accepted for disposal only if it fulfils the relevant waste acceptance criteria;
  - (b) that the processes within the landfill proceed as required;
  - (c) that environmental protection systems are functioning fully as intended; and
  - (d) that the conditions of the landfill permit are fulfilled.

#### Emission data: water, leachate and gas control

2.—(1) Samples of leachate or surface water (if present) must be collected at representative points.

(2) Sampling and measuring of the volume and composition of any leachate must be performed separately at each point at which leachate is discharged from the site.

(3) Monitoring of surface water (if present) shall take place at at least two points, one upstream from the landfill and one downstream.

(4) Gas monitoring must be carried out for each section of the landfill and representative samples must be collected and analysed in accordance with Table 1.

(5) A sample of leachate and water representative of the average composition, shall be taken for monitoring purposes in accordance with Table 1.

**TABLE 1**

	<i>Operational phase</i>	<i>After-care phase<sup>(3)</sup></i>
Leachate volume <sup>(2)</sup>	Monthly <sup>(1), (3)</sup>	Every six months
Leachate composition <sup>(2)(4)</sup>	Quarterly <sup>(1)</sup>	Every six months
Volume and composition of surface water <sup>(5)</sup>	Quarterly <sup>(1)</sup>	Every six months

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	<i>Operational phase</i>	<i>After-care phase<sup>(3)</sup></i>
Potential gas emissions and atmospheric Pressure <sup>(6)</sup> (CH <sub>4</sub> , CO <sub>2</sub> , O <sub>2</sub> , H <sub>2</sub> S, H <sub>2</sub> etc)	Monthly <sup>(1)</sup> , <sup>(7)</sup>	Every six months <sup>(8)</sup>

Notes to Table 1

- (1) Longer intervals may be allowed if the evaluation of data indicates that they would be equally effective. For leachates, the conductivity must always be measured at least once a year.
- (2) These do not apply where leachate collection is not required under paragraph 2(1)(c) of Schedule 3.
- (3) The frequency of sampling may be adapted on the basis of the morphology of the landfill waste (in tumulus, buried, etc) (but only if SEPA considers that the conditions of the landfill permit should allow for it).
- (4) The parameters to be measured and substances to be analysed vary according to the composition of the waste deposited. They must be specified in the conditions of the landfill permit and reflect the leaching characteristics of the wastes.
- (5) On the basis of the characteristics of the landfill site, SEPA may determine that these measurements are not required.
- (6) These measurements are related mainly to the content of the organic material in the waste.
- (7) CH<sub>4</sub>, CO<sub>2</sub>, O<sub>2</sub> regularly, other gases as required, according to the composition of the waste deposited, with a view to reflecting its leaching properties.
- (8) Efficiency of the gas extraction system must be checked regularly.

### **Protection of groundwater : Sampling**

3.—(1) The sampling measurements must be sufficient to provide information on groundwater likely to be affected by the discharge from the landfill, with at least one measuring point in the groundwater inflow region and two in the outflow region.

(2) The number of measurements referred to in sub-paragraph (1) may be increased on the basis of a specific hydrogeological survey on the need for an early identification of accidental leachate release in the groundwater.

(3) Sampling must be carried out in at least three locations before the filling operations in order to establish reference values for future sampling.

### **Protection of groundwater : Monitoring**

4.—(1) The monitoring of groundwater shall be carried out in accordance with Table 2.

(2) The parameters to be analysed in the samples taken must be derived from the expected composition of the leachate and the groundwater quality in the area.

(3) In selecting the parameters for analysis the mobility in the groundwater zone must be taken into account.

(4) Parameters may include indicator parameters in order to ensure an early recognition of change in water quality. The recommended parameters are pH, TOC, phenols, heavy metals, fluoride, As, oil/hydrocarbons.

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(1)  
(1)  
(1)  
(1)  
(1)

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**TABLE 2**

	<i>Operational phase</i>	<i>After-care phase</i>
Level of groundwater	Every six months <sup>(1)</sup>	Every six months <sup>(1)</sup>
Groundwater composition	Site-specific frequency <sup>(2), (3)</sup>	Site-specific frequency <sup>(2), (3)</sup>

Notes to Table 2

- (1) If there are fluctuating groundwater levels, the frequency must be increased.
- (2) The frequency must be based on the possibility for remedial action between two samplings if a trigger level is reached, i.e. the frequency must be determined on the basis of knowledge and the evaluation of the velocity of groundwater flow.
- (3) When a trigger level is reached (see paragraph 5), verification is necessary by repeating the sampling. When the level has been confirmed, a contingency plan set out in the landfill permit conditions must be followed.

### **Protection of groundwater :Trigger levels**

5.—(1) Significant adverse environmental effects, as referred to in regulations 16(3) and 17(5)(b), should be considered to have occurred in the case of groundwater, when an analysis of a groundwater sample shows a significant change in water quality.

(2) The level at which the effects referred to in sub-paragraph (1) are considered to have occurred (“the trigger level”) must be determined taking account of the specific hydrogeological formations in the location of the landfill and groundwater quality.

(3) The trigger level must be set out in the conditions of a landfill permit whenever possible.

(4) The observations must be evaluated by means of control charts with established control rules and levels for each downgradient well.

(5) The control levels must be determined from local variations in groundwater quality.

### **Topography of the site: data on the landfill body**

6. The topography of the site and settling behaviour of the landfill body shall be monitored in accordance with Table 3.

**TABLE 3**

	<i>Operating phase</i>	<i>After-care phase</i>
Structure and composition of landfill body <sup>(1)</sup>	Yearly	
Settling behaviour of the level of the landfill body	Yearly	Yearly reading

Note to Table 3

- (1) Data for the status plan of the concerned landfill: surface occupied by waste, volume and composition of waste, methods of depositing, time and duration of depositing, calculation of the remaining capacity still available at the landfill.

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- (1)
- (1)
- (1)
- (1)
- (1)
- (1)

SCHEDULE 5

Regulation 20

TRANSITIONAL PROVISIONS

**Existing landfills : transitional provisions**

1.—(1) Subject to sub-paragraph (2), this regulation shall apply to a landfill if—

- (a) it is already in operation on the relevant date; or
- (b) it has not been brought into operation by that date but the relevant authorisation for its operation was granted before that date.

(2) A landfill to which this paragraph applies which falls within paragraph (b) of Part A of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations shall be treated as an existing installation for the purposes of Part 1 of Schedule 3 to those Regulations.

(3) Subject to sub-paragraph (4), where—

- (a) the operator has notified SEPA that the operator does not propose to accept waste for disposal after 16th July 2002;
- (b) SEPA decides, following the submission by the operator of a conditioning plan, as required by article 14(a) of Directive 99/31/EC on the landfill of waste, that there is no reasonable prospect of the landfill or part of it meeting the relevant requirements of these Regulations, (such decision and the reasons for it to be set out in a notice served on the operator); or
- (c) the operator has failed to submit a conditioning plan or has failed to notify SEPA that the operator does not propose to accept waste after 16th July 2002,

SEPA shall ensure that closure of the landfill site (in whole or in part) takes place as soon as possible in accordance with regulation 17.

(4) Where the operator proposes to continue to accept waste but has failed to submit a conditioning plan the relevant authorisation shall cease to have effect so as to authorise the disposal of waste at the landfill, and SEPA shall proceed with the closure of the site under sub-paragraph (3) unless and until the operator submits a conditioning plan and SEPA has agreed to consider it.

(5) In any case falling within paragraph (3)—

- (a) regulation 17 shall apply as if—
  - (i) references to a landfill permit were references to a relevant authorisation; and
  - (ii) where the relevant authorisation is a waste management licence, references to the operator were references to the licence holder; and
  - (iii) in paragraph (6) after “revocation of permits)” there were inserted “and sections 38, 39 and 42 of the Environmental Protection Act 1990 (revocation, suspension and surrender of waste management licences)”;
- (b) SEPA shall, if necessary, by notice in writing served on the operator or, in the case of a waste management licence, the licence holder, vary the conditions of the relevant authorisation so that—

- (i) waste is no longer accepted for disposal on the whole or the relevant part of the landfill site from such date as is specified in the notice; and
- (ii) the closure and after care procedures will operate in accordance with regulation 17.

(6) In any case where the whole of a landfill site is not subject to closure under sub-paragraph (3), SEPA shall by notice served on the operator specify the period (which shall not be less than six months) within which an application must be made (accompanied by a copy of the conditioning plan)—

- (a) where no landfill permit is in force, for a landfill permit under regulation 7 of the 2000 Regulations; or
- (b) where a landfill permit is in force, for a variation of the permit under regulation 13(2) of the 2000 Regulations,

so that waste may continue to be accepted for disposal at the landfill.

(7) In any case falling within sub-paragraph (6)(b), if an application is not duly made within the period specified in the notice served on the operator under that provision, the landfill permit shall cease to authorise the disposal of waste at the landfill until the application is duly made.

(8) Where SEPA decides to grant or vary a landfill permit pursuant to an application made in accordance with sub-paragraph (6), SEPA shall specify the date or dates on which the permit conditions authorised or required by these Regulations take effect.

(9) SEPA shall exercise its powers under sub-paragraphs (6) and (8)–

- (a) on the basis of an assessment of environmental risks; and
- (b) with a view to achieving full compliance with the relevant requirements of these Regulations–
  - (i) as soon as possible; and
  - (ii) for landfills falling within Part A(a) of Section 5.2 of Part I of Schedule 1 to the 2000 Regulations by 31st March 2007 at the latest; and
  - (iii) for landfills falling within Part A(b) of Section 5.2 of Part I of Schedule 1 to the 2000 Regulations by 16th July 2009.

(10) In this Schedule “the relevant requirements of these Regulations” do not include the requirements of paragraph 1 of Schedule 3.

2.—(1) Paragraph 1 does not apply to a landfill if–

- (a) a landfill permit for its operation was granted on or after 16th July 2001 and before the relevant date;
- (b) it falls within Part A(b) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations and a waste management licence for its operation was granted on or after 16th July 2001 and before the relevant date; or
- (c) the prescribed date determined in accordance with Schedule 3 to the 2000 Regulations for the installation at which the landfill activity is carried out is before the relevant date and an application for a landfill permit was duly made (but not determined) before the relevant date.

(2) In any case falling within sub-paragraph (1)(b), the waste management licence shall have effect on or after the relevant date as if it were a landfill permit.

(3) In any case falling within sub-paragraph (1) SEPA shall exercise its power to vary the relevant authorisation (or determine the outstanding application) so that the relevant requirements of these Regulations are complied with as soon as possible in relation to the landfill in question.

(4) In any case falling within sub-paragraph (1)(c), where an application for a waste management licence is also outstanding on the relevant date there shall be no obligation on SEPA to determine the application for a waste management licence.

3.—(1) The following provisions of these Regulations impose obligations directly on the operator of any landfill which is for the time being classified as a landfill for hazardous waste pending determination of an application made pursuant to paragraph 1(6)–

- (a) on or after the relevant date–

- (i) regulation 11 (prohibition of acceptance of certain wastes); and
  - (ii) regulation 14 (waste acceptance procedures);
- (b) on or after 16th July 2004, regulation 12(1) and (2) (waste acceptance requirements).
- (2) For the purposes of applying regulation 11(1)(g) under sub-paragraph 3(1)(a)(i) in relation to the period beginning on the relevant date and ending on 15th July 2004, only the criteria in paragraph 1 of Schedule 2 are to be treated as relevant waste acceptance criteria.
- (3) The operator of a landfill which is not classified as a landfill for hazardous waste shall only accept hazardous waste at that landfill on or after the relevant date in the circumstances specified in regulation 12(3)(c) and (4).
- 4.—(1)** This paragraph shall apply to any landfill if –
- (a) it falls within of Part A(b) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations; and
  - (b) it has not been brought into operation by relevant date but an application for a waste management licence was duly made before that date.
- (2) Paragraph 1 of Part 1 of Schedule 3 to the 2000 Regulations shall apply as if in subparagraphs (a) and (b) “the relevant date” were substituted for “1st January 2001”.
- (3) Anything duly done by or in relation to the application for a waste management licence shall be treated as if it had been duly done in relation to an application for a landfill permit.
- (4) SEPA may give the applicant notice requiring him–
- (a) to provide such further information of any description specified in the notice; or
  - (b) to take such further steps as it may require for the purpose of determining the application.

## SCHEDULE 6

Regulation 21

### AMENDMENTS TO OTHER LEGISLATION

#### **Amendment to the Environment Act 1995(15)**

- 1.** In section 41(2) of the Environment Act 1995 after subsection (f) there is added–
- “(g) any other approval, consent, consideration or determination carried out by the Agency relating to any obligations of the United Kingdom under the Community Treaties or any application for such an approval of consent, consideration or determination.”

#### **Amendment to the Environmental Protection (Duty of Care) Regulations 1991(16)**

- 2.** In regulation 2(2)(a) (contents of transfer notes) of the Environmental Protection (Duty of Care) Regulations 1991 after “identify the waste to which it relates” there is inserted “by reference to the appropriate six-digit codes in the European Waste Catalogue.(17)”.

(15) 1995 c. 25.

(16) S.I. 1991/2839; relevant amendments were made by S.I. 2000/1973.

(17) Council Decision 2000/532/EC (O.J. L 226, 6.9.2000, p.3) as amended by Council Decisions 2001/118/EC (O.J. L 47, 16.2.2001, p.1), 2001/119/EC (O.J. L 47, 16.2.2001 p.32) and 2001/573/EC (O.J. L 203, 28.7.2001, p.18)

### **Amendment to the 2000 Regulations**

- 3.—(1) The 2000 Regulations are amended as follows.
- (2) In regulation 2(1) (Interpretation: general)—
- (a) before the definition of “change in operation” there is inserted ““the 2003 Regulations” means the Landfill (Scotland) Regulations 2003;”
  - (b) after the definition of “installation” there is inserted ““landfill” means a landfill to which the Landfill (Scotland) Regulations 2003 apply;”; and
  - (c) after the definition of “pollution” there is inserted ““the relevant date” has the meaning given by regulation 1(1) of the 2003 Regulations;”.
- (3) In regulation 4 (fit and proper person)—
- (a) in paragraph (3) for subparagraphs (b) and (c) there is substituted —
    - “(b) for those sites to which regulation 6 of the 2003 Regulations does not apply that person has not made, or will not before commencement of the specified waste management activity make, adequate financial provision (either by way of financial security or its equivalent) to ensure that—
      - (i) the obligations (including after-care provisions) arising from the permit in relation to that activity are discharged; and
      - (ii) any closure procedures required by the permit in relation to that activity are followed;
    - (c) that person and all staff engaged in carrying out that activity will not be provided with adequate professional technical development and training; or
    - (d) the management of that activity will not be in the hands of a technically competent person.”; and
  - (b) in paragraph (5)(b) for “paragraph (3)(b)” there is substituted “paragraph (3)(d)”.
- (4) In regulation 7(2) (permits: general provisions) after “regulation 9” there is inserted “(or the applicable provisions of regulation 10 of the 2003 Regulations)” .
- (5) In regulation 9(15) (Conditions: specific requirements) after “this regulation” there is inserted “or the appropriate provisions of regulation 10 of the 2003 Regulations”.
- (6) In regulation 13(1) and (4) (variation of permit) after “regulations 8 and 9” there is inserted “or regulation 10 of the 2003 Regulations”.
- (7) In regulation 22 (appeals to the Scottish Ministers and the sheriff)—
- (a) in paragraph (1) after sub-paragraph (e) there is inserted—
    - “(f) a person whose request to initiate the closure procedure is not approved under regulation 17(3)(b) of the 2003 Regulations;
    - (g) a person who is aggrieved by a decision under paragraph 1(3)(b) of Schedule 5 to the 2003 Regulations”;
  - (b) in paragraph (2) for “or a suspension notice” there is substituted “a suspension notice or a closure notice under regulation 18(1) of the 2003 Regulations”;
  - (c) after paragraph (10) there is inserted—
    - “(10A) Where an appeal is brought under paragraph (1)(g) in relation to a requirement to initiate the closure procedure or under paragraph (2) in relation to a closure notice, the closure procedure shall not be initiated pending the final determination or the withdrawal of the appeal.”;
  - (d) in paragraph (11) after “(other than paragraph 2)” there is inserted “or the appropriate provisions of regulation 10 of the 2003 Regulations”;

(e) after paragraph (13) there is inserted–

“(14) Where an appeal is brought under paragraph (1)(g) in relation to which a waste management licence within the meaning of Part II of the Environmental Protection Act 1990 (“a licence”) is in force, this regulation and Schedule 8 shall apply as if:

- (a) references to a permit were references to a licence;
- (b) references to the operator were references to the licence holder; and
- (c) references to an installation or mobile plant were references to a landfill.”

(8) In regulation 23(1) and (2) (directions to SEPA) after “these Regulations” there is inserted “or the 2003 Regulations”.

(9) In regulation 24(1) and (2) (guidance to SEPA) after “these Regulations” there is inserted “or the 2003 Regulations”.

(10) In regulation 26(1) and (2) (information) after “functions under these Regulations” there is inserted “or the 2003 Regulations”.

(11) In regulation 30(1) (offences)–

- (a) in subparagraph (d) for “or a suspension notice” there is substituted, “, a suspension notice or a closure notice under regulation 18 of the 2003 Regulations”; and
- (b) in subparagraph (f)(i) after “these Regulations” there is inserted “or the 2003 Regulations”.

(12) In regulation 34 (application to the Crown)–

- (a) in paragraph (1) after “these Regulations” there is inserted “and the 2003 Regulations”;
- (b) in paragraph (2)–
  - (i) after “these Regulations” there is inserted “or the 2003 Regulations”; and
  - (ii) after “liable under regulation 30” there is inserted “below or under regulation 19 of the 2003 Regulations”.
- (c) in paragraph (3) after “these Regulations” there is inserted “and the 2003 Regulations”; and
- (d) in paragraph (4) after “these Regulations” there is inserted “or the 2003 Regulations”.

(13) In regulation 35(1) (notices) after “these Regulations” there is inserted “or the 2003 Regulations”.

(14) In Schedule 3 (prescribed date and transitional arrangements)–

- (a) in the table in paragraph 2(2) for the entry relating to Section 5.2 there is substituted–

Section 5.2	The period specified in the notice served on the operator under paragraph 1(9) of
Part A	Schedule 5 to the 2003 Regulations.

(b) at the end of paragraph 2(11) there is inserted–

“(12) If–

- (a) an activity falling within Part A of Section 5.2 of Part 1 of Schedule 1 is carried out in an existing Part A installation; and
- (b) an activity falling within some other Section of Part 1 of Schedule 1 is also carried out in the same installation (“a transitional landfill installation”),

the preceding provisions of this paragraph shall apply as if there were two separate existing Part A installations one consisting of the part of the installation where the activity falling within Part A of Section 5.2 in Part 1 of Schedule 1 is carried out and the other consisting of the remainder of the installation.

(13) If–

- (a) the relevant period has expired for a transitional landfill installation; and
  - (b) an application for a permit to operate the installation has been duly made but has not been determined at the relevant date, then—
    - (i) the application shall be treated as an application to operate the parts of the installation other than those where the activity falling within Part A of Section 5.2 in Part 1 of Schedule 1 is carried out; and
    - (ii) the prescribed date for the remaining part of the installation shall be determined as if it were a separate installation.”.
- (15) After paragraph 1 of Part 1 of Schedule 4 (applications for permits) there is inserted—
- “**1A.** An application for a landfill permit under regulation 7 relating to an installation where an activity falling within Part A of Section 5.2 in Part 1 of Schedule 1 is carried out shall contain the following additional information—
- (a) the description of the types and total quantity of waste to be deposited;
  - (b) the proposed capacity of the disposal site;
  - (c) a description of the site, including its hydrogeological and geological characteristics;
  - (d) the proposed operation, monitoring and control plan;
  - (e) the proposed plan for the closure and after-care procedures; and
  - (f) for those sites to which regulation 6 of the 2003 Regulations does not apply the financial provision required by virtue of regulation 4(3)(b).”.
- (16) In paragraph 1 of Schedule 9 (registers)—
- (a) in sub-paragraph (k) after “suspension notice” there is inserted “or closure notice under the 2003 Regulations”;
  - (b) in sub-paragraph (q) after “regulation 30(1)” there is inserted “above or regulation 19(1) of the 2003 Regulations”;
  - (c) in sub-paragraph (t) after “regulation 26(2)” there is inserted “or a closure notice under the 2003 Regulations”;
  - (d) after sub-paragraph (w) there is inserted—
    - “(x) all particulars of any conditioning plan or notification as referred to in sub-paragraph 1(3)(b) or (5)(3)(a) of Schedule 5 to the 2003 Regulations;
    - (y) all particulars of any notice requiring a landfill to close (in whole or part) issued under paragraph 1(3) of Schedule 5 to the 2003 Regulations;
    - (z) all particulars of any notification or report required before definitive closure of a landfill under regulation 17(4) of the 2003 Regulations.”

### **The Waste Management Licensing Regulations 1994**

- 4.—(1) the Waste Management Licensing Regulations 1994(**18**) are amended as follows.
- (2) In regulation 3 (relevant offences), after sub-paragraph (o) there is inserted—
- “(p) regulation 19(1) of the Landfill (Scotland) Regulations 2003.”
- (3) In regulation 10(1) (registers),
- (a) in sub-paragraph (f) after “(whether or not in relation to a licence)” there is inserted “or regulation 19(1) of the Landfill (Scotland) Regulations 2003”;

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(18) S.I. 1994/1056 to which there are amendments which are not relevant.

- (b) after subparagraph (o) there is inserted—
- “(p) all particulars of any conditioning plan or notification as referred to in sub-paragraph 1(3)(b) or (5)(3)(a) of Schedule 5 to the Landfill (Scotland) Regulations 2003;
  - (q) all particulars of any notice of a decision under paragraph 1(3) of Schedule 5 to the Landfill (Scotland) Regulations 2003;
  - (r) all particulars of any notification or report required before definitive closure of a landfill under regulation 17(4) of the Landfill (Scotland) Regulations 2003.”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out a pollution control regime for landfills for the purpose of implementing Council Directive [99/31/EC](#) on the landfill of waste (“the Landfill Directive”) in Scotland. Landfills have previously been subject to either the Waste Management Licensing Regulations 1994 or the Pollution Prevention and Control (Scotland) Regulations 2000 (“the 2000 Regulations”) (which in turn implemented Council Directive [96/61/EC](#) concerning integrated pollution prevention and control (“the IPPC Directive”)).

Part I of the Regulations sets out the preliminary provisions. Regulation 2 provides definitions for the purposes of the Regulations. “Waste” is defined by reference to controlled waste within the meaning of section 75(4) of the Environmental Protection Act 1990 as amended for the purposes of these regulations by paragraph 88 of Schedule 22 to the Environment Act 1995 by S.S.I. [ ]. The effect of this amendment is to import all waste which is set out in the new Schedule 2B to the Environment Act 1995 into the definition of controlled waste. One of the main changes which will be effected by this amendment is to import agricultural waste into the scope of these Regulations.

Regulation 3 sets out the scope of the Regulations (subject to the certain exceptions contained in regulation 4). Regulation 5 requires planning authorities to take the location requirements of these Regulations into consideration when granting planning permission.

Regulation 6 sets out the requirements for landfill sites which will be exempt from the provisions of these regulations set out in Schedule 1. Regulation 7 requires SEPA to maintain a list of those landfill sites which are exempt.

Regulation 8 amends the 2000 Regulations so that all landfills covered by these Regulations are Part A installations for the purposes of those Regulations and therefore require a permit under those Regulations. The powers to set conditions in permits under the 2000 Regulations are disapplied for landfills as alternative powers are included in these Regulations.

Part II deals with landfill permits. Regulation 9 requires SEPA to classify landfills as landfills for hazardous waste, non-hazardous waste or inert waste respectively. Regulation 10 sets out the requirements for conditions to be incorporated in landfill permits. These include conditions for ensuring compliance by landfill operators with the relevant requirements of these Regulations which are set out in remaining regulations in this Part and Schedules 2 (waste acceptance criteria), 3 (general requirements) and 4 (monitoring procedures).

Regulation 11 prohibits the acceptance of certain types of waste at landfills and regulation 12 sets out waste which may be accepted in the different classes of landfill. Regulation 13 deals with the

costs of disposal of waste in landfill and provides for the operator of a landfill to ensure that the charges which are made by the operator cover certain defined costs, including aftercare.

Regulation 14 lists the waste acceptance procedures which the operator of a landfill site must carry out including a visual inspection, tests, keeping a register of certain information. It also places an obligation on an operator to inform SEPA in the event waste is not accepted at a landfill.

Regulation 15 prevents an operator commencing disposal operations before SEPA has inspected the site to ensure that it complies with the relevant conditions of the landfill permit and regulation 16 lists the control and monitoring procedures which the operator must ensure are carried out from the start of the operational phase until closure.

Regulation 17 provides for closure and after care procedures for landfills which may related to the whole or part of the landfill. Regulation 18 provides for closure notices which may be used by SEPA to initiate closure of landfills.

Part III of these Regulations contains miscellaneous provisions. Regulation 19 creates offences where waste is accepted contrary to the requirements which apply directly to landfill operators under paragraph 3 of Schedule 5. Regulation 20 gives effect to the transitional provisions in Schedule 5 and regulation 21 gives effect to the amendments contained in Schedule 6.

Schedule 5 contains transitional provisions for existing landfills. It sets up a procedure for operators of landfills that will remain operational after the relevant date to bring their operations into compliance with the relevant requirements of these Regulations. Sites which cannot comply will be closed, while the remainder will be granted new permits in accordance with these Regulations as soon as possible within a transitional period up to either 31st March 2007 or 16th July 2009 depending on the size of the landfill.

Schedule 6 makes amendments to other legislation. An amendment is made to section 41 of the Environment Act 1995 so as to enable SEPA to make any charges relating to the carrying out of its functions under these Regulations. Amendments are also made to the 2000 Regulations and the Waste Management Licensing Regulations 1994 (which cover those landfills previously not subject to the 2000 Regulations) to deal with the introduction of the requirements of these Regulations. Amendments are also made to the “fit and proper person” test applied by regulation 4 of the 2000 Regulations relating to arrangements an operator has to have in place to ensure the landfill is properly managed and financed.

A regulatory impact assessment has been prepared and copies can be obtained from Miss Fiona Mackay, SEPA Sponsorship and Waste Unit, Waste Regulation Team, 1-J(N) Victoria Quay, Edinburgh, EH6 6QQ.

These Regulations replace the Landfill (Scotland) Regulations 2003 ([S.S.I. 2003/208](#)) as those Regulations were a nullity.