
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the waste management licensing and exemption system currently contained in the Waste Management Licensing Regulations 1994 as amended. They also make certain changes to that system (including the introduction of new exemptions from the requirement for licensing and the adjustment of various existing exemptions) and contain provision for the purpose of implementing Directive [2008/98/EC](#) on waste (“the Directive”).

Regulation 2 contains definitions, including transposition of relevant definitions contained in the Directive. Regulation 3 makes provision in connection with determining whether an applicant for a waste management licence is a fit and proper person. Regulations 4 to 7 contain procedural provision in relation to appeals under sections 43 and 66 of the Environmental Protection Act 1990 (“the 1990 Act”).

Regulations 8 and 9 make provision in relation to the contents of public registers maintained under section 64 of the 1990 Act. Regulation 10 defines what is to be treated as mobile plant for the purposes of waste management licensing. Regulations 11 to 13 require the inclusion of particular types of condition in site licences dealing with activities involving waste electrical and electronic equipment and batteries. They provide continued transposition of requirements of Directive [2002/96/EC](#) on waste electrical and electronic equipment (WEEE) and Directive [2006/66/EC](#) on batteries and accumulators and waste batteries and accumulators.

Regulation 14 prohibits the imposition in waste management licences of conditions for the purpose of securing the health of persons at work. Regulation 15 makes provision, pursuant to Article 21 of the Directive, as to conditions to be included in a licence which relates to waste oil. Regulations 16 and 17 exempt certain activities from the requirement to have a waste management licence. Regulation 16 disapplies section 33(1) of the 1990 Act in respect of certain waste activities controlled by other systems. Regulation 17 disapplies section 33(1)(a) and (b) of the 1990 Act in the case of the activities set out in Schedule 1, subject to various conditions including compliance with Directives relating to protection of groundwater and water policy. References to benefit to agriculture or ecological improvement in Schedule 1 are to be construed in accordance with Schedule 2. Regulation 17 and Schedule 1 contain the detail of the exemptions envisaged by Articles 24 and 25 of the Directive. Regulation 18 deals with the interaction between this exemption regime and the separate regulatory requirements relating to controlled activities affecting the water environment. Regulations 19 to 28 provide a system of registration for exempt activities relating to the recovery and disposal of waste, including special provision for specific exemptions (such as a requirement for annual renewal of registration on payment of a fee) and the imposition of criminal liability for breach of registration obligations.

Regulation 29 and Schedule 4 contain provisions transposing aspects of the Directive. Schedule 4 Part I requires specified public authorities to perform their functions under specified enactments with the objectives set out in the Directive. It also sets out requirements relating to the content of permits relating to waste activities, modification of enactments to facilitate compliance with requirements of the Directive, registration of waste collectors and transporters required to be registered by the Directive who would not otherwise be subject to any registration requirement, and the inspection of and keeping of records by establishments or undertakings carrying out waste activities. Parts II and III of Schedule 4 provide illustrative lists of disposal and recovery operations, in connection with the definitions of those operations contained in regulation 2.

Regulation 30 and Schedule 5 require the registration of waste brokers and dealers from 1st April 2011. Schedule 5 makes provision as to the keeping of registers, and in respect of applications for registration, the duration and revocation of registration and appeals.

Changes to legislation: *There are currently no known outstanding effects for the The Waste Management Licensing (Scotland) Regulations 2011. (See end of Document for details)*

Regulations 31 to 33 contain transitional provisions and savings. Regulation 34 revokes the Waste Management Licensing Regulations 1994, which are replaced by these Regulations, and gives effect to the minor and consequential amendments contained in Schedule 6.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from Scottish Government Environmental Quality Division, Area 1-H North, Victoria Quay, Edinburgh EH6 6QQ.

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