

2013 No. 222

ENVIRONMENTAL PROTECTION

The Landfill (Scotland) Amendment Regulations 2013

Made - - - - *27th June 2013*

Laid before the Scottish Parliament *1st July 2013*

Coming into force - - *1st August 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Landfill (Scotland) Amendment Regulations 2013 and come into force on 1st August 2013.

Amendment of the Landfill Regulations

2.—(1) The Landfill (Scotland) Regulations 2003(b) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “landfill” insert—

““Landfill Directive” means Council Directive 1999/31/EC on the landfill of waste(c), as read with Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to that Directive(d);”;

(ii) after the definition of “leachate” insert—

““Mercury Regulation” means Regulation (EC) No 1102/2008 of the European Parliament and of the Council on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury(e);” and

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.S.I. 2003/235, as amended by paragraph 8 of schedule 2 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), and by S.I. 2011/2043 and S.S.I. 2003/343, 2009/247, 2010/60, 2011/226, 2012/148 and 360.

(c) Directive 1999/31/EC (OJ L 182, 16.7.1999, p.1), as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1), Regulation (EC) No 1137/2008 (OJ L 311, 11.11.2008, p.1), and Directive 2011/97/EU (OJ L 328, 10.12.2011, p.49).

(d) OJ L 11, 16.1.2003, p.27.

(e) OJ L 304, 14.11.2008, p.75.

- (iii) omit from “; and” in the fourth place where it occurs to the end of that paragraph;
and
- (b) after paragraph (1A), insert—
“(1B) Expressions not defined in paragraph (1) and used in these Regulations and in the Landfill Directive have the same meaning as in that Directive.”.
- (3) In regulation 10 (conditions to be included in landfill permits), in paragraph (3), insert after sub-paragraph (a)—
“(aa) appropriate conditions for ensuring compliance with the Landfill Directive; and”.
- (4) After regulation 10, insert—

“Permits relating to storage of metallic mercury

10A. For the purposes of Article 5(1) of the Mercury Regulation, SEPA must send to the Scottish Ministers—

- (a) a copy of any landfill permit issued for a landfill authorised to store metallic mercury^(a) either temporarily or permanently; and
 - (b) the safety assessment prepared for the purposes of Article 4(1) of that Regulation.”.
- (5) In regulation 11 (prohibition of acceptance of certain wastes at landfills)—
- (a) after paragraph (2A) insert—
“(2B) Paragraph (1)(a) does not prohibit the temporary storage for more than one year at a landfill of metallic mercury that is considered a waste in accordance with the Landfill Directive and the Mercury Regulation.”; and
 - (b) after paragraph (3) insert—
“(3A) For the purposes of paragraph (2B), metallic mercury is considered a waste if it is mercury—
 - (a) that is no longer used in the chlor-alkali industry;
 - (b) gained from the cleaning of natural gas;
 - (c) gained from non-ferrous mining and smelting operations; or
 - (d) extracted from cinnabar ore in the European Union as from 15th March 2011.”.
- (6) In Schedule 3 (general requirements for all landfills), insert at the end—

“Temporary storage of metallic mercury

8.—(1) The temporary storage of metallic mercury for more than one year must comply with the requirements in sub-paragraphs (2) to (7).

- (2) Metallic mercury must be stored separately from other waste.
- (3) Containers of metallic mercury must—
 - (a) be stored in collecting basins suitably coated so as to be free of cracks and gaps and impervious to metallic mercury; and
 - (b) have a containment volume adequate for the quantity of mercury stored.
- (4) The storage site must—
 - (a) be provided with engineered or natural barriers that are adequate to protect the environment against mercury emissions; and
 - (b) have a containment volume adequate for the total quantity of mercury stored.

(a) Mercury (Hg), Chemical Abstract Services reference CAS RN 7439-97-6.

- (5) The storage site floor must—
 - (a) be covered with mercury-resistant sealants; and
 - (b) have a slope and a collection sump.
- (6) The storage site must be equipped with a fire protection system.
- (7) Storage must be arranged in a way that ensures that all containers are easily retrievable.”.
- (7) In Schedule 4 (minimum monitoring procedures for landfills), insert at the end—

“Specific requirements for metallic mercury

7.—(1) The temporary storage of metallic mercury for more than one year must comply with the requirements in sub-paragraphs (2) to (7).

(2) A continuous mercury vapour monitoring system (“the system”) with a sensitivity of at least 0.02 mg mercury/m³ must be installed in the storage site.

(3) The system must—

- (a) include sensors positioned at ground level and head level;
- (b) include a visual and acoustic alert system; and
- (c) be maintained annually.

(4) The storage site and the containers must be visually inspected by a person authorised by SEPA at least once a month.

(5) The operator of the landfill must on a leak being detected—

- (a) immediately take all necessary action to avoid any emission of mercury to the environment and restore the safety of the storage of the mercury; and
- (b) treat the leak as having significant adverse environmental effects for the purposes of regulation 16.

(6) Emergency plans and adequate protective equipment suitable for handling metallic mercury must be available on site.

(7) The operator must retain for 3 years after termination of storage of metallic mercury—

- (a) the acceptance certificate;
- (b) all documents relating to the keeping, monitoring and inspection of the mercury during storage; and
- (c) all records concerning the destocking, dispatch, destination and intended treatment of the mercury.

(8) In this paragraph, “acceptance certificate” means the certificate for the purposes of the first paragraph of Point C of Section 6 of Annex II of the Landfill Directive that must accompany a metallic mercury container on acceptance at the landfill.”.

RICHARD LOCHHEAD
A member of the Scottish Government

St Andrew’s House,
Edinburgh
27th June 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further transpose Council Directive 1999/31/EC on the landfill of waste (OJ No L 182 16.7.99, p.1) (“the Landfill Directive”), as amended by Council Directive 2011/97/EU (OJ No L 328, 10.12.11, p.49) as regards specific criteria for the storage of metallic mercury considered as waste (“the Waste Mercury Directive”).

Article 5(3)(a) of the Landfill Directive prohibits the storage of liquid waste in landfill. Regulation (EC) No 1102/2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury (OJ No L 304, 14.11.08, p.75) (“the Mercury Regulation”) contains a derogation from that prohibition, and these Regulations make provision relating to the use of that derogation.

The Mercury Regulation is also implemented as regards Scotland by regulation 3 of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2013 (S.I. 2013/766), which amends the Control of Major Accident Hazards Regulations 1999 (S.I. 1999/743) (“the COMAH Regulations”) to bring sites used for the storage of metallic mercury pursuant to Article 3(1)(b) of the Mercury Regulation within the scope of application of the COMAH Regulations.

A business and regulatory impact assessment has not been produced for this instrument as it has no impact on the private, voluntary or public sectors.

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