
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 101

ENVIRONMENTAL PROTECTION

The Waste (Recyclate Quality) (Scotland) Regulations 2015

<i>Made</i>	- - - -	<i>3rd March 2015</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>3rd March 2015</i>
<i>Coming into force</i>	- -	<i>1st April 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 35(6) of the Environmental Protection Act 1990(1) and section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(2) (“the 1999 Act”), and all other powers enabling them to do so.

In accordance with section 2(4) of the 1999 Act, they have consulted with the Scottish Environment Protection Agency, such bodies and persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate, and such other bodies or persons as they consider appropriate.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Waste (Recyclate Quality) (Scotland) Regulations 2015 and come into force on 1st April 2015.

(2) These Regulations extend to Scotland only.

Amendment of the 2011 Regulations

2.—(1) The Waste Management Licensing (Scotland) Regulations 2011(3) are amended in accordance with paragraph (2).

(1) 1990 c.43. Section 35 was amended by paragraph 66 of Schedule 22 to the Environment Act 1995 (c.25), paragraph 3 of schedule 3 to the Regulatory Reform (Scotland) Act 2014 asp 3, by S.S.I. 2000/323, and by S.S.I. 2011/226. 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) (“the 1998 Act”).

(2) 1999 c.24. There are no relevant amendments to section 2 or Schedule 1. Directive 2010/75/EU (OJ L 334, 17.12.2010, p.17) was designated for the purposes of paragraph 20 of Part 1 of Schedule 1 to the 1999 Act by S.S.I. 2011/423. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act, as read with section 5(3) of the Pollution Prevention and Control Act 1999, and by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2008 (S.I. 2008/1776).

(3) S.S.I. 2011/228, as amended by S.I. 2011/1043 and by S.S.I. 2012/148, S.S.I. 2012/360 and S.S.I. 2013/307.

(2) After regulation 13A(4) (conditions of waste management licences: separately collected wastes) insert—

“Conditions of waste management licences: materials recovery facilities

13B.—(1) A waste management licence that is granted or varied on or after 1st April 2015 by the waste regulation authority which authorises the treatment of dry recyclable waste at a materials recovery facility must contain a condition requiring the holder of the licence to comply with the Materials Recovery Code.

(2) In this regulation—

“Materials Recovery Code” means the Code of Practice on Sampling and Reporting at Materials Recovery Facilities(5) issued by the Scottish Ministers on 2nd March 2015;

“materials recovery facility” means a facility where dry recyclable waste is treated in order to separate that waste into a dry waste stream or streams; and

“dry recyclable waste” and “dry waste stream” have the same meanings as they do for the purposes of section 75(7A) of the 1990 Act(6).”.

Amendment of the 2012 Regulations

3.—(1) The Pollution Prevention and Control (Scotland) Regulations 2012(7) are amended in accordance with paragraph (2).

(2) After regulation 32 (schedule 1 conditions: volatile organic compounds) insert—

“Schedule 1 conditions: materials recovery facilities

32A.—(1) SEPA must ensure that a permit granted or varied on or after 1st April 2015 which authorises the operation of a materials recovery facility contains a condition requiring the operator of the installation of which the facility forms part to comply with the Materials Recovery Code.

(2) In this regulation—

“Materials Recovery Code” means the Code of Practice on Sampling and Reporting at Materials Recovery Facilities issued by the Scottish Ministers on 2nd March 2015;

“materials recovery facility” means a facility where dry recyclable waste is treated in order to separate that waste into a dry waste stream or streams; and

“dry recyclable waste” and “dry waste stream” have the same meanings as they do for the purposes of section 75(7A) of the Environmental Protection Act 1990(8).”.

St Andrew’s House,
Edinburgh
3rd March 2015

RICHARD LOCHHEAD
A member of the Scottish Government

(4) Regulation 13A was inserted by S.S.I. 2012/148.

(5) ISBN 978-1-78544-114-1. The Code was prepared by the Scottish Ministers under section 34(7) of the Environmental Protection Act 1990 (c.43) and issued by them under that section on 2nd March 2015.

(6) 1990 c.43. Subsection (7A) was inserted by S.S.I. 2012/148.

(7) S.S.I. 2012/360 as amended by S.S.I. 2014/267 and S.I. 2014/469.

(8) 1990 c.43. Subsection (7A) was inserted by S.S.I. 2012/148.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Waste Management Licensing (Scotland) Regulations 2011 (S.S.I. 2011/228) (“the 2011 Regulations”) and the Pollution Prevention and Control (Scotland) Regulations 2012 (S.S.I. 2012/360) (“the 2012 Regulations”).

They do so for the purposes of the second paragraph of Article 11(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives (OJ L 312, 22.11.2008, p.3), which provides that Member States shall take measures to promote high quality recycling and, to this end, shall set up separate collections of waste.

Section 34(2E) of the Environmental Protection Act 1990 (c.43) (“the 1990 Act”) provides that from 1st January 2014 any person, other than an occupier of domestic property as respects household waste produced on the property, shall take all reasonable steps to ensure the separate collection of dry recyclable waste.

Section 45C of the 1990 Act imposes a similar requirement on a waste collection authority in respect of household waste produced on domestic property that is dry recyclable waste.

Section 34(2L) of the 1990 Act imposes a duty on any person who produces or manages household, industrial or commercial waste to take all reasonable steps to ensure that the waste is managed in a manner that promotes high quality recycling.

Section 75(7A) of the 1990 Act defines “dry recyclable waste”, and in particular distinguishes the different dry waste streams in such waste (glass, metals, plastics, paper or card).

The Scottish Ministers have prepared and issued the “Code of Practice on Sampling and Reporting at Materials Recovery Facilities” under section 34(7) of the 1990 Act, for the purpose of providing to persons operating such a facility practical guidance on how to discharge in particular the duty in section 34(2L) of that Act at the facility. A copy can be obtained from the Environmental Quality Division, Scottish Government, Victoria Quay, Edinburgh EH6 6QQ.

Regulation 2 of these Regulations amends the 2011 Regulations to impose a duty on the waste regulation authority (the Scottish Environment Protection Agency) to ensure that a waste management licence granted under section 35 of the 1990 Act authorising the treatment of such waste which is granted or varied on or after the coming into force date, contains a condition requiring the holder of the licence to comply with the Code.

Regulation 3 makes comparable amendments to the 2012 Regulations in respect of a permit or a future permit authorising the operation of such a facility.

A Business and Regulatory Impact Assessment has been prepared, and placed in the Scottish Parliament Information Centre. Again, a copy can be obtained from the Environmental Quality Division and from the Scottish Government’s website.