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STATUTORY INSTRUMENTS

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**1994 No. 1056**

**The Waste Management Licensing Regulations 1994**

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the Waste Management Licensing Regulations 1994 and, except for regulations 4 and 5, shall come into force on 1st May 1994.

(2) Regulations 4 and 5 shall come into force on 10th August 1994.

(3) In these Regulations, unless the context otherwise requires—

“the 1990 Act” means the Environmental Protection Act 1990;

“the 1991 Regulations” means the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(1);

“construction work” includes the repair, alteration or improvement of existing works;

“the Directive” means Council Directive [75/442/EEC](#) on waste(2) as amended by Council Directives [91/156/EEC](#)(3) and [91/692/EEC](#)(4);

“Directive waste” means any substance or object in the categories set out in Part II of Schedule 4 which the producer or the person in possession of it discards or intends or is required to discard but with the exception of anything excluded from the scope of the Directive by Article 2 of the Directive, “discard” has the same meaning as in the Directive, and “producer” means anyone whose activities produce Directive waste or who carries out preprocessing, mixing or other operations resulting in a change in its nature or composition;

“disposal” means any of the operations listed in Part III of Schedule 4, and any reference to waste being disposed of is a reference to its being submitted to any of those operations;

“disposal licence” and “disposal authority” have the meaning given by sections 3(1) and 30(2) to (2D) respectively of the Control of Pollution Act 1974(5);

“enforcing authority” and “local enforcing authority” have the meaning given by section 1(7) and (8) of the 1990 Act;

“exempt activity” means any of the activities set out in Schedule 3;

“inland waters”—

(a) in England and Wales, has the meaning given by section 221(1) of the Water Resources Act 1991(6);

(b) in Scotland, has the meaning given by section 30A of the Control of Pollution Act 1974(7) except that it includes any loch or pond whether or not it discharges into a river or watercourse;

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(1) S.I. 1991/472, amended by S.I. 1991/836, 1992/614, 1993/1749, 2405.

(2) OJ No. L 194, 25.7.1975, p. 39.

(3) OJ No. L 078, 26.3.1991, p. 32.

(4) OJ No. L 377, 31.12.1991, p. 48.

(5) 1974 c. 40; section 30(2A) to (2D) is inserted by paragraph 11(b) of Schedule 2 to the Waste Regulation and Disposal (Authorities) Order 1985 (S.I. 1985/1884).

(6) 1991 c. 57.

(7) 1974 c. 40; section 30A is inserted by paragraph 4 of Schedule 23 to the Water Act 1989 (c. 15).

“operational land” has the meaning given by sections 263 and 264 of the Town and Country Planning Act 1990<sup>(8)</sup> or, in Scotland, sections 211 and 212 of the Town and Country Planning (Scotland) Act 1972<sup>(9)</sup>;

“recovery” means any of the operations listed in Part IV of Schedule 4, and any reference to waste being recovered is a reference to its being submitted to any of those operations;

“scrap metal” has the meaning given by section 9(2) of the Scrap Metal Dealers Act 1964<sup>(10)</sup>;

“special waste” has the meaning given by regulation 2 of the Control of Pollution (Special Waste) Regulations 1980<sup>(11)</sup>;

“waste” means Directive waste;

“waste management licence” has the meaning given by section 35(1) of the 1990 Act, and “site licence” has the meaning given by section 35(12) of the 1990 Act;

“waste oil” means any mineral-based lubricating or industrial oil which has become unfit for the use for which it was originally intended and, in particular, used combustion engine oil, gearbox oil, mineral lubricating oil, oil for turbines and hydraulic oil;

“waste regulation authority”, “waste disposal authority” and “waste collection authority” have the meaning given by section 30 of the 1990 Act; and

“work” includes preparatory work.

(4) Any reference in these Regulations to carrying on business as a scrap metal dealer has the meaning given by section 9(1) of the Scrap Metal Dealers Act 1964, and any reference, in relation to Scotland, to carrying on business as a metal dealer has the meaning given by section 37(2) of the Civic Government (Scotland) Act 1982<sup>(12)</sup>.

(5) Regulations 13, 14 and 15, and Schedule 4, shall apply in relation to land in the area of a waste disposal authority in Scotland which is occupied by the authority as if—

- (a) references to a waste management licence were references to a resolution under section 54 of the 1990 Act;
- (b) references to an application being made for a waste management licence were references to consideration being given to passing such a resolution;
- (c) references to granting or issuing a waste management licence were references to passing, and references to rejecting an application were references to not passing, such a resolution;
- (d) references to the terms or conditions of a waste management licence were references to the terms or conditions specified in such a resolution; and
- (e) references to varying or revoking a waste management licence under section 37 or 38 of the 1990 Act were references to varying or rescinding such a resolution under section 54(8) of that Act.

(6) These Regulations do not extend to Northern Ireland.

### **Application for a waste management licence or for the surrender or transfer of a waste management licence**

2.—(1) An application for a waste management licence shall be made in writing.

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<sup>(8)</sup> 1990 c. 8.

<sup>(9)</sup> 1972 c. 52.

<sup>(10)</sup> 1964 c. 69.

<sup>(11)</sup> S.I. 1980/1709, to which there are amendments not relevant to these Regulations.

<sup>(12)</sup> 1982 c. 45.

(2) An application for the surrender of a site licence shall be made in writing and shall, subject to paragraphs (3) and (4) below, include the information and be accompanied by the evidence prescribed by Schedule 1.

(3) Nothing in paragraph (2) above shall require the information prescribed by paragraphs 3 to 6 of Schedule 1 to be provided to the waste regulation authority if the information has previously been provided by the applicant to the authority or a predecessor of the authority in connection with a waste management licence, or a disposal licence under section 5 of the Control of Pollution Act 1974, in respect of the site in question or any part of it.

(4) Insofar as the information prescribed by paragraphs 4, 5(a) and 6(a) of Schedule 1 relates to activities carried on, or works carried out, at the site at a time prior to the applicant's first involvement with the site, paragraph (2) above only requires that information to be included in the application so far as it is known to either the applicant or, where the applicant is a partnership or body corporate, to any of the partners or, as the case may be, to any director, manager, secretary or other similar officer of the body corporate.

(5) An application for the transfer of a waste management licence shall be made in writing and shall include the information prescribed by Schedule 2.

### Relevant offences

**3.** An offence is relevant for the purposes of section 74(3)(a) of the 1990 Act if it is an offence under any of the following enactments—

- (a) section 22 of the Public Health (Scotland) Act 1897**(13)**;
- (b) section 95(1) of the Public Health Act 1936**(14)**;
- (c) section 3, 5(6), 16(4), 18(2), 31(1), 32(1), 34(5), 78, 92(6) or 93(3) of the Control of Pollution Act 1974**(15)**;
- (d) section 2 of the Refuse Disposal (Amenity) Act 1978**(16)**;
- (e) the Control of Pollution (Special Waste) Regulations 1980;
- (f) section 9(1) of the Food and Environment Protection Act 1985**(17)**;
- (g) the Transfrontier Shipment of Hazardous Waste Regulations 1988**(18)**;
- (h) the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988**(19)**;
- (i) section 1, 5, 6(9) or 7(3) of the Control of Pollution (Amendment) Act 1989;
- (j) section 107, 118(4) or 175(1) of the Water Act 1989**(20)**;
- (k) section 23(1), 33, 34(6), 44, 47(6), 57(5), 59(5), 63(2), 69(9), 70(4), 71(3) or 80(4) of the 1990 Act;
- (l) section 85, 202 or 206 of the Water Resources Act 1991;
- (m) section 33 of the Clean Air Act 1993**(21)**.

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**(13)** 1897 c. 38.

**(14)** 1936 c. 49.

**(15)** 1974 c. 40; sections 31(1), 32(1) and 34(5) are substituted by paragraph 4 of Schedule 23 to the Water Act 1989 (c. 15).

**(16)** 1978 c. 3.

**(17)** 1985 c. 48.

**(18)** S.I. 1988/1562.

**(19)** S.I. 1988/2292.

**(20)** 1989 c. 15.

**(21)** 1993 c. 11.

### Technical competence

4.—(1) Subject to paragraph (2) and regulation 5 below, a person is technically competent for the purposes of section 74(3)(b) of the 1990 Act in relation to a facility of a type listed in Table 1 below if, and only if, he is the holder of one of the certificates awarded by the Waste Management Industry Training and Advisory Board specified in that Table as being a relevant certificate of technical competence for that type of facility.

**Table 1**

Type of facility	Relevant certificate of technical competence
A landfill site which receives special waste.	Managing landfill operations: special waste (level 4).
A landfill site which receives biodegradable waste or which for some other reason requires substantial engineering works to protect the environment but which in either case does not receive any special waste.	<ol style="list-style-type: none"> <li>1. Managing landfill operations: biodegradable waste (level 4); or</li> <li>2. Managing landfill operations: special waste (level 4).</li> </ol>
Any other type of landfill site with a total capacity exceeding 50,000 cubic metres.	<ol style="list-style-type: none"> <li>1. Landfill operations: inert waste (level 3); or</li> <li>2. Managing landfill operations: biodegradable waste (level 4); or</li> <li>3. Managing landfill operations: special waste (level 4).</li> </ol>
A site on which waste is burned in an incinerator designed to incinerate waste at a rate of more than 50 kilograms per hour but less than 1 tonne per hour.	Managing incinerator operations: special waste (level 4).
A waste treatment plant where special waste is subjected to a chemical or physical process.	Managing treatment operations: special waste (level 4).
A waste treatment plant where waste is subjected to a chemical or physical process and none of the waste is special waste.	<ol style="list-style-type: none"> <li>1. Treatment operations: inert waste (level 3); or</li> <li>2. Managing treatment operations: special waste (level 4).</li> </ol>
A transfer station where—	Managing transfer operations: special waste (level 4).
(a) biodegradable, clinical or special waste is dealt with; and	
(b) the total quantity of waste at the station at any time exceeds 5 cubic metres.	
A transfer station where—	<ol style="list-style-type: none"> <li>1. Transfer operations: inert waste (level 3); or</li> <li>2. Managing transfer operations: special waste (level 4).</li> </ol>
(a) no biodegradable, clinical or special waste is dealt with; and	
(b) the total quantity of waste at the station at any time exceeds 50 cubic metres.	
A civic amenity site.	Civic amenity site operations (level 3).

(2) Paragraph (1) above does not apply in relation to a facility which is used exclusively for the purposes of—

- (a) carrying on business as a scrap metal dealer or, in Scotland, as a metal dealer; or
- (b) dismantling motor vehicles.

(3) In this regulation—

“civic amenity site” means a place provided under section 1 of the Refuse Disposal (Amenity) Act 1978<sup>(22)</sup> or by virtue of section 51(1)(b) of the 1990 Act;

“clinical waste” has the meaning given by regulation 1(2) of the Controlled Waste Regulations 1992<sup>(23)</sup>; and

“transfer station” means a facility where waste is unloaded in order to permit its preparation for further transport for treatment, keeping or disposal elsewhere.

### Technical competence-transitional provisions

5.—(1) Where before 10th August 1994 a person has applied to the Waste Management Industry Training and Advisory Board for a certificate of technical competence and at any time in the 12 months ending on that date he acted as the manager of a facility of a type listed in Table 1 above for which the certificate is a relevant certificate, then, until 10th August 1999, regulation 4 shall not apply to him in relation to either—

- (a) any facility of that type; or
- (b) a facility of any other type if—
  - (i) the certificate is a relevant certificate for that other type of facility; and
  - (ii) the entry for that other type of facility appears, in Table 1 above, after the entry in that Table for the type of facility in respect of which he acted as the manager,and he shall be treated as technically competent for the purposes of section 74(3)(b) of the 1990 Act in relation to any such facility.

(2) Where a person is 55 or over on 10th August 1994 and in the 10 years ending on that date he has had at least 5 years experience as the manager of a facility of a type listed in Table 1 above, then, until 10th August 2004, regulation 4 shall not apply to him in relation to either—

- (a) any facility of that type; or
- (b) a facility of any other type if each certificate which is a relevant certificate for the type of facility in relation to which he has had such experience as manager is also a relevant certificate for that other type of facility,

and he shall be treated as technically competent for the purposes of section 74(3)(b) of the 1990 Act in relation to any such facility.

(3) A person shall be treated as the manager of a facility for the purposes of paragraph (1) or (2) above if at the relevant time he was the manager of activities which were carried on at that facility and which were authorised by a disposal licence under section 5 of the Control of Pollution Act 1974, a resolution under section 11 of that Act or under section 54 of the 1990 Act, or a waste management licence.

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<sup>(22)</sup> 1978 c. 3; section 1(1) is prospectively repealed by section 1(8), section 1(3) and (4) is modified for certain purposes by paragraph 14(1), and section 1(7) is amended by paragraph 14(4), of Schedule 2 to the Waste Regulation and Disposal (Authorities) Order 1985 (S.I. 1985/1884) (paragraph 14(1) of that Order is amended by article 5 of the Local Government Reorganisation (Miscellaneous Provision) (No. 5) Order 1986 (S.I. 1986/564)).

<sup>(23)</sup> S.I. 1992/588, to which there are amendments not relevant to the definition of clinical waste.

### Notice of appeal

6.—(1) A person who wishes to appeal to the Secretary of State under section 43 or 66(5) of the 1990 Act (appeals to the Secretary of State from decisions with respect to waste management licences or from determinations that information is not commercially confidential) shall do so by notice in writing.

(2) The notice shall be accompanied by—

- (a) a statement of the grounds of appeal;
- (b) where the appeal relates to an application for a waste management licence or for the modification, surrender or transfer of a waste management licence, a copy of the appellant's application and any supporting documents;
- (c) where the appeal relates to a determination under section 66(2) or (4) of the 1990 Act that information is not commercially confidential, the information in question;
- (d) where the appeal relates to an existing waste management licence (including a waste management licence which has been suspended or revoked), a copy of that waste management licence;
- (e) a copy of any correspondence relevant to the appeal;
- (f) a copy of any other document relevant to the appeal including, in particular, any relevant consent, determination, notice, planning permission, established use certificate or certificate of lawful use or development; and
- (g) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

(3) The appellant shall serve a copy of his notice of appeal on the waste regulation authority together with copies of the documents mentioned in paragraph (2) above.

(4) If the appellant wishes to withdraw an appeal, he shall do so by notifying the Secretary of State in writing and shall send a copy of that notification to the waste regulation authority.

### Time limit for making an appeal

7.—(1) Subject to paragraph (2) below, notice of appeal shall be given—

- (a) in the case of an appeal under section 43 of the 1990 Act, before the expiry of the period of 6 months beginning with—
  - (i) the date of the decision which is the subject of the appeal; or
  - (ii) the date on which the waste regulation authority is deemed by section 36(9), 37(6), 39(10) or 40(6) of the 1990 Act to have rejected the application;
- (b) in the case of an appeal under section 66(5) of the 1990 Act, before the expiry of the period of 21 days beginning with the date on which the determination which is the subject of the appeal is notified to the person concerned.

(2) The Secretary of State may in relation to an appeal under section 43 of the 1990 Act at any time allow notice of appeal to be given after the expiry of the period mentioned in paragraph (1) (a) above.

### Reports of hearings

8. The person hearing an appeal under section 43(2)(c) of the 1990 Act<sup>(24)</sup> shall, unless he has been appointed to determine the appeal under section 43(2)(b) of that Act, make a written report to

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(24) Section 43(2) is applied by section 66(6) to appeals under section 66(5).

the Secretary of State which shall include his conclusions and recommendations or his reasons for not making any recommendations.

### **Notification of determination**

**9.**—(1) The Secretary of State or other person determining an appeal shall notify the appellant in writing of his decision and of his reasons.

(2) If the Secretary of State determines an appeal after a hearing under section 43(2)(c) of the 1990 Act, he shall provide the appellant with a copy of any report made to him under regulation 8.

(3) The Secretary of State or other person determining an appeal shall, at the same time as notifying the appellant of his decision, send the waste regulation authority a copy of any document sent to the appellant under this regulation.

### **Particulars to be entered in public registers**

**10.**—(1) Subject to sections 65 and 66 of the 1990 Act and regulation 11, a register maintained by a waste regulation authority under section 64(1) of the 1990 Act shall contain full particulars of—

- (a) current or recently current waste management licences (“licences”) granted by the authority and any associated working plans;
- (b) current or recently current applications to the authority for licences, or for the transfer or modification of licences, including details of—
  - (i) documents submitted by applicants containing supporting information;
  - (ii) written representations considered by the authority under section 36(4)(b), (6)(b) or (7)(b) or 37(5) of the 1990 Act;
  - (iii) decisions of the Secretary of State under section 36(5), or, in Scotland, section 36(6), of the 1990 Act;
  - (iv) notices by the authority rejecting applications;
  - (v) emergencies resulting in the postponement of references under section 37(5)(a) of the 1990 Act;
- (c) notices issued by the authority under section 37 of the 1990 Act effecting the modification of licences;
- (d) notices issued by the authority under section 38 of the 1990 Act effecting the revocation or suspension of licences or imposing requirements on the holders of licences;
- (e) notices of appeal under section 43 of the 1990 Act relating to decisions of the authority and other documents relating to such appeals served on or sent to the authority under regulation 6(3) or (4) or 9(3);
- (f) convictions of holders of licences granted by the authority for any offence under Part II of the 1990 Act (whether or not in relation to a licence) including the name of the offender, the date of conviction, the penalty imposed and the name of the Court;
- (g) reports produced by the authority in discharge of any functions under section 42 of the 1990 Act, including details of—
  - (i) any correspondence with the National Rivers Authority or river purification authority as a result of section 42(2) of the 1990 Act;
  - (ii) remedial or preventive action taken by the authority under section 42(3) of the 1990 Act;
  - (iii) notices issued by the authority under section 42(5) of the 1990 Act;

- (h) any monitoring information relating to the carrying on of any activity under a licence granted by the authority which was obtained by the authority as a result of its own monitoring or was furnished to the authority in writing by virtue of any condition of the licence or section 71(2) of the 1990 Act;
  - (i) directions given by the Secretary of State to the authority under section 35(7), 37(3), 38(7), 42(8), 50(9), 54(11) or (15), 58 or 66(7) of the 1990 Act;
  - (j) any summary prepared by the authority of the amount of special waste produced or disposed of in their area;
  - (k) registers and records provided to the authority under regulation 13(5) or 14(1) of the Control of Pollution (Special Waste) Regulations 1980<sup>(25)</sup>;
  - (l) applications to the authority under section 39 of the 1990 Act for the surrender of licences, including details of—
    - (i) documents submitted by applicants containing supporting information and evidence;
    - (ii) information and evidence obtained under section 39(4) of the 1990 Act;
    - (iii) written representations considered by the authority under section 39(7)(b) or (8)(b) of the 1990 Act;
    - (iv) decisions by the Secretary of State under section 39(7) or (8) of the 1990 Act; and
    - (v) notices of determination and certificates of completion issued under section 39(9) of the 1990 Act;
  - (m) written reports under section 70(3) of the 1990 Act by inspectors appointed by the authority;
  - (n) in Scotland, resolutions made by the authority under section 54 of the 1990 Act, including details of—
    - (i) proposals made in relation to land in the area of the authority by a waste disposal authority under section 54(4) of the 1990 Act;
    - (ii) statements made and written representations considered by the authority under section 54(4) of the 1990 Act;
    - (iii) requests made to, and disagreements with, the authority which are referred to the Secretary of State under section 54(7) of the 1990 Act and his decisions on such references;
    - (iv) emergencies resulting in the postponement of references under section 54(4) of the 1990 Act.
- (2) The register shall also contain the following—
- (a) where an inspector appointed by the authority exercises any power under section 69(3) of the 1990 Act, a record showing when the power was exercised and indicating what information was obtained, and what action was taken, on that occasion;
  - (b) where any information is excluded from the register by virtue of section 66 of the 1990 Act and the information shows whether or not there is compliance with any condition of a waste management licence, a statement based on that information indicating whether or not there is compliance with that condition.
- (3) A register maintained under section 64(4) of the 1990 Act by a waste collection authority in England which is not a waste regulation authority shall contain full particulars of the following information contained in any register maintained under section 64(1) of the 1990 Act, to the extent that it relates to the treatment, keeping or disposal of controlled waste in the area of the authority—

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<sup>(25)</sup> S.I. 1980/1709, to which there are amendments not relevant to these Regulations.



- (a) current or recently current waste management licences;
- (b) notices issued under section 37 of the 1990 Act effecting the modification of waste management licences;
- (c) notices issued under section 38 of the 1990 Act effecting the revocation or suspension of waste management licences;
- (d) certificates of completion issued under section 39(9) of the 1990 Act.

(4) For the purposes of this regulation, waste management licences are “recently” current for the period of twelve months after they cease to be in force, and applications for waste management licences, or for the transfer or modification of such licences, are “recently” current if they relate to a waste management licence which is current or recently current or, in the case of an application which is rejected, for the period of twelve months beginning with the date on which the waste regulation authority gives notice of rejection or, as the case may be, on which the application is deemed by section 36(9), 37(6) or 40(6) of the 1990 Act to have been rejected.

#### **Information to be excluded or removed from a register**

**11.**—(1) Nothing in regulation 10(1)(g) or (m) or (2) shall require a register maintained by a waste regulation authority under section 64(1) of the 1990 Act to contain information relating to, or to anything which is the subject-matter of, any criminal proceedings (including prospective proceedings) at any time before those proceedings are finally disposed of.

(2) Nothing in regulation 10 shall require a register maintained by a waste regulation authority or waste collection authority under section 64 of the 1990 Act to contain—

- (a) any such monitoring information as is mentioned in regulation 10(1)(h) after 4 years have elapsed from that information being entered in the register; or
- (b) any information which has been superseded by later information after 4 years have elapsed from that later information being entered in the register.

#### **Mobile plant**

**12.** An incinerator which is an exempt incinerator for the purposes of Section 5.1 of Schedule 1 to the 1991 Regulations and which is designed to be moved on roads or other land, but no other plant, shall be treated as being mobile plant for the purposes of Part II of the 1990 Act.

#### **Health at work**

**13.** No conditions shall be imposed in any waste management licence for the purpose only of securing the health of persons at work (within the meaning of Part I of the Health and Safety at Work etc. Act 1974<sup>(26)</sup>).

#### **Waste oils**

**14.**—(1) Where a waste management licence or disposal licence authorises the regeneration of waste oil, it shall include conditions which ensure that base oils derived from regeneration do not constitute a toxic and dangerous waste and do not contain PCBs or PCTs at all or do not contain them in concentrations beyond a specified maximum limit which in no case is to exceed 50 parts per million.

(2) Where a waste management licence or disposal licence authorises the keeping of waste oil, it shall include conditions which ensure that it is not mixed with toxic and dangerous waste or PCBs or PCTs.

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(26) 1974 c. 37; see section 52(1) for the meaning of “at work”.

(3) In this regulation—

“PCBs or PCTs” means polychlorinated biphenyls, polychlorinated terphenyls and mixtures containing one or both of such substances; and

“toxic and dangerous waste” has the meaning given by Article 1(b) of Council Directive [78/319/EEC](#)(27).

## Groundwater

15.—(1) Where a waste regulation authority proposes to issue a waste management licence authorising—

- (a) any disposal or tipping for the purpose of disposal of a substance in list I which might lead to an indirect discharge into groundwater of such a substance;
- (b) any disposal or tipping for the purpose of disposal of a substance in list II which might lead to an indirect discharge into groundwater of such a substance;
- (c) a direct discharge into groundwater of a substance in list I; or
- (d) a direct discharge into groundwater of a substance in list II,

the authority shall ensure that the proposed activities are subjected to prior investigation.

(2) The prior investigation referred to in paragraph (1) above shall include examination of the hydrogeological conditions of the area concerned, the possible purifying powers of the soil and sub-soil and the risk of pollution and alteration of the quality of the groundwater from the discharge and shall establish whether the discharge of substances into groundwater is a satisfactory solution from the point of view of the environment.

(3) A waste management licence shall not be issued in any case within paragraph (1) above until the waste regulation authority has checked that the groundwater, and in particular its quality, will undergo the requisite surveillance.

(4) In a case within paragraph (1)(a) or (c) above—

- (a) where the waste regulation authority is satisfied, in the light of the investigation, that the groundwater which may be affected by a direct or indirect discharge of a substance in list I is permanently unsuitable for other uses, especially domestic and agricultural, the waste management licence may only be issued if the authority is also satisfied that—
  - (i) the presence of that substance once discharged into groundwater will not impede exploitation of ground resources; and
  - (ii) all technical precautions will be taken to ensure that no substance in list I can reach other aquatic systems or harm other ecosystems; and
- (b) where the waste regulation authority is not satisfied, in the light of the investigation, that the groundwater which may be affected by such a discharge is permanently unsuitable for other uses, especially domestic and agricultural, a waste management licence may only be issued if it is made subject to such conditions as the authority, in the light of the investigations, is satisfied will ensure the observance of all technical precautions necessary to prevent any discharges into groundwater of substances in list I.

(5) In a case within paragraph (1)(b) or (d) above, if a waste management licence is issued, it shall be issued subject to such conditions as the waste regulation authority, in the light of the investigation, is satisfied will ensure the observance of all technical precautions for preventing groundwater pollution by substances in list II.

(6) Where a waste management licence is granted in any case within paragraph (1)(a) or (b) above, the licence shall be granted on such terms and subject to such conditions as specify—

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(27) OJ No. L 084, 31.3.1978, p. 43, as amended by Council Directive [91/692/EEC](#) (OJ No. L 377, 31.12.1991, p. 48).

- (a) the place where any disposal or tipping which might lead to a discharge into groundwater of any substances in list I or II is to be done;
  - (b) the methods of disposal or tipping which may be used;
  - (c) the essential precautions which must be taken, paying particular attention to the nature and concentration of the substances present in the matter to be disposed of or tipped, the characteristics of the receiving environment and the proximity of the water catchment areas, in particular those for drinking, thermal and mineral water;
  - (d) the maximum quantity permissible, during one or more specified periods of time, of matter containing substances in list I or II and, where possible, of those substances themselves, to be disposed of or tipped and the appropriate requirements as to the concentration of those substances;
  - (e) the technical precautions required by paragraph (4)(b) or (5) above;
  - (f) if necessary, the measures for monitoring the groundwater, and in particular its quality.
- (7) Where a waste management licence is granted in any case within paragraph (1)(c) or (d) above, the licence shall be granted on such terms and subject to such conditions as specify—
- (a) the place where any substances in list I or II are to be discharged into groundwater;
  - (b) the method of discharge which may be used;
  - (c) the essential precautions which must be taken, paying particular attention to the nature and concentration of the substances present in the effluents, the characteristics of the receiving environment and the proximity of the water catchment areas, in particular those for drinking, thermal and mineral water;
  - (d) the maximum quantity of a substance in list I or II permissible in an effluent during one or more specified periods of time and the appropriate requirements as to the concentration of those substances;
  - (e) the arrangements enabling effluents discharged into groundwater to be monitored;
  - (f) if necessary, the measures for monitoring the groundwater, and in particular its quality.
- (8) Any authorisation granted by a waste management licence for an activity within paragraph (1) above shall be granted for a limited period only.
- (9) Any authorisation granted by a waste management licence for an activity within paragraph (1) above shall be reviewed at least every 4 years.
- (10) Waste regulation authorities shall review all waste management licences current on 1st May 1994 which authorise any activity within paragraph (1) above and shall, so far as may be necessary to give effect to Council Directive [80/68/EEC](#)(**28**), exercise their powers under sections 37 and 38 of the 1990 Act (variation and revocation etc. of waste management licences) in relation to any such authorisation.
- (11) The foregoing provisions of this regulation apply, with any necessary modifications, to the granting or review by disposal authorities of disposal licences under Part I of the Control of Pollution Act 1974(**29**) as they apply to the granting or review by waste regulation authorities of waste management licences.
- (12) Expressions used both in this regulation and in Council Directive [80/68/EEC](#) have for the purposes of this regulation the same meaning as in that Directive.

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(28) OJ No. L 020, 26.1.80, p. 43.

(29) [1974 c. 40](#).

### **Exclusion of activities under other control regimes from waste management licensing**

16.—(1) Subject to paragraph (2) below, section 33(1)(a), (b) and (c) of the 1990 Act shall not apply in relation to the carrying on of any of the following activities—

- (a) the recovery or disposal of waste under an authorisation granted under Part I of the 1990 Act where the activity is or forms part of a process designated for central control under section 2(4) of the 1990 Act;
- (b) the disposal of waste under an authorisation granted under Part I of the 1990 Act where the activity is or forms part of a process within paragraph (a) of Part B of Section 5.1 (incineration) of Schedule 1 to the 1991 Regulations insofar as the activity results in releases of substances into the air;
- (c) the disposal of liquid waste under a consent under Chapter II of Part III of the Water Resources Act 1991<sup>(30)</sup> or under Part II of the Control of Pollution Act 1974<sup>(31)</sup>; and
- (d) the recovery or disposal of waste where the activity is or forms part of an operation which is for the time being either—
  - (i) the subject of a licence under Part II of the Food and Environment Protection Act 1985<sup>(32)</sup>; or
  - (ii) carried on in circumstances where such a licence would be required but for an order under section 7 of that Act.

(2) Paragraph (1)(a) and (b) above does not apply insofar as the activity involves the final disposal of waste by deposit in or on land.

### **Exemptions from waste management licensing**

17.—(1) Subject to the following provisions of this regulation and to any conditions or limitations in Schedule 3, section 33(1)(a) and (b) of the 1990 Act shall not apply in relation to the carrying on of any exempt activity set out in that Schedule.

(2) In the case of an exempt activity set out in paragraph 4, 7, 9, 11, 13, 14, 15, 17, 18, 19, 25, 37, 40 or 41 of Schedule 3, paragraph (1) above only applies if—

- (a) the exempt activity is carried on by or with the consent of the occupier of the land where the activity is carried on; or
- (b) the person carrying on the exempt activity is otherwise entitled to do so on that land.

(3) Unless otherwise indicated in Schedule 3, paragraph (1) above does not apply to the carrying on of an exempt activity insofar as it involves special waste.

(4) Paragraph (1) above only applies in relation to an exempt activity involving the disposal or recovery of waste by an establishment or undertaking if the type and quantity of waste submitted to the activity, and the method of disposal or recovery, are consistent with the need to attain the objectives mentioned in paragraph 4(1)(a) of Part I of Schedule 4.

(5) For the purposes of Schedule 3, a container, lagoon or place is secure in relation to waste kept in it if all reasonable precautions are taken to ensure that the waste cannot escape from it and members of the public are unable to gain access to the waste, and any reference to secure storage means storage in a secure container, lagoon or place.

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<sup>(30)</sup> 1991 c. 57.

<sup>(31)</sup> 1974 c. 40.

<sup>(32)</sup> 1985 c. 48; Part II is amended by sections 146 and 147 of, and Part VIII of Schedule 16 to, the 1990 Act.

### **Registration in connection with exempt activities**

18.—(1) Subject to paragraph (7) below, it shall be an offence for an establishment or undertaking to carry on, after 31st December 1994, an exempt activity involving the recovery or disposal of waste without being registered with the appropriate registration authority.

(2) It shall be the duty of each appropriate registration authority to establish and maintain a register for the purposes of paragraph (1) above of establishments and undertakings carrying on exempt activities involving the recovery or disposal of waste in respect of which it is the appropriate registration authority.

(3) Subject to paragraph (4) below, the register shall contain the following particulars in relation to each such establishment or undertaking—

- (a) the name and address of the establishment or undertaking;
- (b) the activity which constitutes the exempt activity; and
- (c) the place where the activity is carried on.

(4) The appropriate registration authority shall enter the relevant particulars in the register in relation to an establishment or undertaking if it receives notice of them in writing or otherwise becomes aware of those particulars.

(5) For the purposes of paragraph (4) above, the appropriate registration authority shall be taken to be aware of the relevant particulars in relation to an exempt activity mentioned in paragraph (10) (a), (b) or (c) below.

(6) A person guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) The preceding provisions of this regulation shall not apply in the case of an exempt activity to which paragraph 7(3)(c) of Schedule 3 applies, but the appropriate registration authority shall enter in its register the particulars furnished to it pursuant to that provision.

(8) Each appropriate registration authority shall secure that any register maintained by it under this regulation is open to inspection at its principal office by members of the public free of charge at all reasonable hours and shall afford to members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

(9) Registers under this regulation may be kept in any form.

(10) For the purposes of this regulation, the appropriate registration authority is—

- (a) in the case of an exempt activity falling within—
  - (i) paragraph 1, 2, 3 or 24 of Schedule 3; or
  - (ii) paragraph 4 of Schedule 3 if it involves the coating or spraying of metal containers as or as part of a process within Part B of Section 6.5 (coating processes and printing) of Schedule 1 to the 1991 Regulations and the process is for the time being the subject of an authorisation granted under Part I of the 1990 Act, or if it involves storage related to that process; or
  - (iii) paragraph 12 of Schedule 3 if it involves the composting of biodegradable waste as or as part of a process within paragraph (a) of Part B of Section 6.9 (treatment or processing of animal or vegetable matter) of Schedule 1 to the 1991 Regulations, the compost is to be used for the purpose of cultivating mushrooms and the process is for the time being the subject of an authorisation granted under Part I of the 1990 Act, or if it involves storage related to that process,

the local enforcing authority responsible for granting the authorisation under Part I of the 1990 Act for the prescribed process involving the exempt activity, or to which the exempt activity relates;

- (b) in a case falling within paragraph 16 of Schedule 3, the issuing authority responsible for granting the licence under article 7 or 8 of the Diseases of Animals (Waste Food) Order 1973(33) under which the exempt activity is carried on;
- (c) in a case falling within paragraph 23 of Schedule 3—
  - (i) where the exempt activity is carried on by virtue of a licence under article 5(2)(c) or 6(2)(d), or an approval under article 8, of the Animal By-Products Order 1992(34), the Minister;
  - (ii) where the exempt activity is carried on by virtue of a registration under article 9 or 10 of that Order, the appropriate Minister;
  - (iii) where the exempt activity is carried on at a knacker’s yard in respect of which the occupier holds a licence under section 1 of the Slaughterhouses Act 1974(35) authorising the use of that yard as a knacker’s yard or, in Scotland, in respect of which a licence has been granted under section 6 of the Slaughter of Animals (Scotland) Act 1980(36), the local authority;

and in this sub-paragraph “the Minister” and “the appropriate Minister” have the meaning given by section 86(1) of the Animal Health Act 1981(37), and “knacker’s yard” and “local authority” have the meaning given by section 34 of the Slaughterhouses Act 1974 or, in Scotland, have the meaning given by section 22 of the Slaughter of Animals (Scotland) Act 1980;
- (d) in any other case, the waste regulation authority for the area in which the exempt activity is carried on.

### Waste Framework Directive

19. Schedule 4 (which implements certain provisions of Council Directive [75/442/EEC](#) on waste(38)) shall have effect.

### Registration of brokers

20.—(1) Subject to paragraphs (2) to (4) below, it shall be an offence for an establishment or undertaking after 31st December 1994 to arrange (as dealer or broker) for the disposal or recovery of controlled waste on behalf of another person unless it is a registered broker of controlled waste.

(2) Paragraph (1) above shall not apply in relation to an arrangement under which an establishment or undertaking will itself carry out the disposal or recovery of the waste and either—

- (a) it is authorised to carry out the disposal or recovery of the waste by a waste management licence, an authorisation under Part I of the 1990 Act, a consent under Chapter II of Part III of the Water Resources Act 1991(39) or under Part II of the Control of Pollution Act 1974(40) or a licence under Part II of the Food and Environment Protection Act 1985; or
- (b) the recovery of the waste is covered by an exemption conferred by—
  - (i) regulation 17(1) of, and Schedule 3 to, these Regulations; or
  - (ii) article 3 of the Deposits in the Sea (Exemptions) Order 1985(41).

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(33) S.I. 1973/1936; see article 2(1) for the definition of “issuing authority”.

(34) S.I. 1992/3303.

(35) 1974 c. 3.

(36) 1980 c. 13.

(37) 1981 c. 22.

(38) OJ No. L 194, 25.7.1975, p. 39; as amended by Council Directives [91/156/EEC](#) (OJ No. L 078, 26.3.1991, p. 32) and [91/692/EEC](#) (OJ No. L377, 31.12.1991, p. 48).

(39) 1991 c. 57.

(40) 1974 c. 40.

(41) S.I. 1985/1699.

(3) Paragraph (1) above shall not apply in relation to an arrangement for the disposal or recovery of controlled waste made by a person who is registered as a carrier of controlled waste, or who is registered for the purposes of paragraph 12(1) of Part I of Schedule 4, if as part of the arrangement he transports the waste to or from any place in Great Britain.

(4) Paragraph (1) above shall not apply to an establishment or undertaking which—

- (a) is a charity;
- (b) is a voluntary organisation within the meaning of section 48(11) of the Local Government Act 1985<sup>(42)</sup> or section 83(2D) of the Local Government (Scotland) Act 1973<sup>(43)</sup>;
- (c) is an authority which is a waste collection authority, waste disposal authority or waste regulation authority; or
- (d) applies before 1st January 1995 in accordance with Schedule 5 for registration as a broker of controlled waste but only whilst its application is pending (and paragraph 1(4) and (5) of Part I of Schedule 5 shall apply for the purpose of determining whether an application is pending).

(5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) Section 157 of the 1990 Act shall apply in relation to an offence under this section as it applies in relation to an offence under that Act.

(7) Schedule 5 (which makes provision for the registration of brokers of controlled waste) shall have effect.

(8) Sections 68(3) to (5), 69 and 71(2) and (3) of the 1990 Act (power to appoint inspectors, powers of entry and power to obtain information) shall have effect as if the provisions of this regulation and Schedule 5 were provisions of Part II of that Act.

### **Amendment of the Deposits in the Sea (Exemptions) Order 1985**

**21.**—(1) The Deposits in the Sea (Exemptions) Order 1985<sup>(44)</sup> shall be amended as follows.

(2) In article 3, before “A licence is not needed”, there shall be inserted “Subject to article 4,”.

(3) After article 3, there shall be added the following articles—

#### **“Provisions relating to exemptions involving waste**

**4.**—(1) Article 3 only applies to an establishment or undertaking in relation to an operation specified in the Schedule to this Order involving the recovery or disposal of waste if—

- (a) it is carrying out—
  - (i) its own waste disposal at the place of production; or
  - (ii) waste recovery; and
- (b) the type and quantity of waste involved, and the method of disposal or recovery, are consistent with the need to attain the objective of ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without—
  - (i) risk to water, air, soil, plants or animals; or
  - (ii) causing nuisance through noise or odours; or
  - (iii) adversely affecting the countryside or places of special interest.

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<sup>(42)</sup> 1985 c. 51.

<sup>(43)</sup> 1973 c. 65; section 83(2D) is added by section 3(3) of the Local Government Act 1986 (c. 10).

<sup>(44)</sup> S.I. 1985/1699.

(2) In this article and in article 5 below, “disposal”, “recovery” and “waste” have the meaning given by regulation 1(3) of the Waste Management Licensing Regulations 1994.

### **Registration of establishments and undertakings carrying on exempt operations**

5.—(1) It shall be an offence for an establishment or undertaking to carry on, after 31st December 1994, an exempt activity without being registered with the licensing authority.

(2) It shall be the duty of each licensing authority to establish and maintain a register for the purposes of paragraph (1) above of establishments and undertakings carrying on exempt activities in the area for which it is the licensing authority.

(3) The register shall contain the following particulars in relation to each such establishment or undertaking—

- (a) the name and address of the establishment or undertaking;
- (b) the activity which constitutes the exempt activity; and
- (c) the place where the activity is carried on.

(4) The licensing authority shall enter those particulars in the register in relation to an establishment or undertaking if it receives notice of them in writing or otherwise becomes aware of those particulars.

(5) A person guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) Each licensing authority shall secure that any register maintained by the authority under this article is available, at all reasonable times, for inspection by the public free of charge and shall afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

(7) Registers under this article may be kept in any form.

(8) In this article, “exempt activity” means any operation specified in the Schedule to this Order involving the disposal or recovery of waste to which article 3 applies.”.

### **Amendment of the Collection and Disposal of Waste Regulations 1988**

22.—(1) The Collection and Disposal of Waste Regulations 1988<sup>(45)</sup> shall be amended as follows.

(2) At the beginning of regulation 3, there shall be inserted “Subject to regulations 4 and 7A,”.

(3) At the beginning of each of regulations 6 and 7, there shall be inserted “Subject to regulation 7A,”.

(4) After regulation 7, the following shall be inserted—

#### **“Waste not to be treated as household, industrial or commercial waste**

7A.—(1) For the purposes of all the provisions of Part I of the Act, waste which is not Directive waste shall not be treated as household waste, industrial waste or commercial waste.

(2) In this regulation, “Directive waste” has the meaning given by regulation 1(3) of the Waste Management Licensing Regulations 1994.”.

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(45) S.I. 1988/819, amended by S.I. 1989/1968.



### **Amendment of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991**

**23.**—(1) The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991<sup>(46)</sup> shall be amended as follows.

(2) For regulation 2(1)(c) there shall be substituted—

“(c) any wholly owned subsidiary of the British Railways Board which has applied in accordance with these Regulations for registration as a carrier of controlled waste but only—

- (i) if it is registered under paragraph 12 of Schedule 4 to the Waste Management Licensing Regulations 1994; and
- (ii) whilst its application is pending;”.

(3) At the end of regulation 2(1), there shall be added—

“(i) a person who—

- (i) is the holder of a knacker’s yard licence or a licence under article 5(2)(c) or 6(2)(d) of the Animal By-Products Order 1992; or
- (ii) has obtained an approval under article 8 of that Order; or
- (iii) is registered under article 9 or 10 of that Order,

in relation to the transport of animal by-products in accordance with Schedule 2 to that Order in connection with the activity to which the licence, approval or registration relates.”

(4) In regulation 2(2), the following definitions shall be inserted at the appropriate places—

““animal by-products” has the same meaning as in article 3(1) of the Animal By-Products Order 1992;”

““knacker’s yard licence”—

- (a) in relation to England and Wales, has the same meaning as in section 34 of the Slaughterhouses Act 1974<sup>(47)</sup>;
- (b) in relation to Scotland, means a licence under section 6 of the Slaughter of Animals (Scotland) Act 1980<sup>(48)</sup>;

““registered broker of controlled waste” has the same meaning as in regulation 20 of, and Schedule 5 to, the Waste Management Licensing Regulations 1994;”

““wholly owned subsidiary” has the same meaning as in section 736 of the Companies Act 1985<sup>(49)</sup>.”

(5) At the beginning of regulation 4(9), there shall be inserted “Subject to paragraph 3(11)(a) and (b) of Schedule 5 to the Waste Management Licensing Regulations 1994,”.

(6) After regulation 4(9)(b), there shall be inserted—

“(c) in the case of an application by a registered broker of controlled waste for registration as a carrier of controlled waste, £25.”.

### **Amendment of the Controlled Waste Regulations 1992**

**24.**—(1) The Controlled Waste Regulations 1992<sup>(50)</sup> shall be amended as follows.

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<sup>(46)</sup> S.I. 1991/1624.

<sup>(47)</sup> 1974 c. 3.

<sup>(48)</sup> 1980 c. 13.

<sup>(49)</sup> 1985 c. 6.

<sup>(50)</sup> S.I. 1992/588, amended by S.I. 1993/566.

- (2) In regulation 1(2)—
- (a) after the definition of “construction”, there shall be inserted the following—
- ““Directive waste” has the meaning given by regulation 1(3) of the Waste Management Licensing Regulations 1994;”;
- (b) in the definition of “part residential subjects”, for “section 26(1) of the Abolition of Domestic Rates etc.(Scotland) Act 1987(51)” there shall be substituted “section 99(1) of the Local Government Finance Act 1992(52)”.
- (3) In regulation 2(1), for “Subject to paragraph (2),” there shall be substituted “Subject to paragraph (2) and regulations 3 and 7A,”.
- (4) In regulation 5(1), for “regulation 7” there shall be substituted “regulations 7 and 7A”.
- (5) In regulation 5(2)(b), for “regulation 7(1)(c)” there shall be substituted “regulation 7(1)(a) or (c)”.
- (6) In regulation 6, for “regulation 7” there shall be substituted “regulations 7 and 7A”.
- (7) At the end of regulation 7, there shall be added—
- “(3) Animal by-products which are collected and transported in accordance with Schedule 2 to the Animal By-Products Order 1992(53) shall not be treated as industrial waste or commercial waste for the purposes of section 34 (duty of care etc.as respects waste).
- (4) In this regulation, “animal by-products” has the same meaning as in article 3(1) of the Animal By-Products Order 1992.”
- (8) After regulation 7, the following shall be inserted—
- “Waste not to be treated as household, industrial or commercial waste**
- 7A.** For the purposes of Part II of the Act, waste which is not Directive waste shall not be treated as household waste, industrial waste or commercial waste.”.
- (9) In paragraphs 8(b) and 11(a) of Schedule 3 and paragraph 9 of Schedule 4, in each place after “section 22(3) of the Control of Pollution Act 1974(54)” there shall be inserted “or section 25(2) of the Local Government and Planning (Scotland) Act 1982(55)”.

31st March 1994

*John Selwyn Gummer*  
Secretary of State for the Environment

12th April 1994

*John Redwood*  
Secretary of State for Wales

29th March 1994

*Hector Monro*  
Parliamentary Under Secretary of State, Scottish  
Office

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(51) 1987 c. 47.  
(52) 1992 c. 14.  
(53) S.I. 1992/3303.  
(54) 1974 c. 40.  
(55) 1982 c. 43.