
STATUTORY INSTRUMENTS

1996 No. 972

The Special Waste Regulations 1996

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations may be cited as the Special Waste Regulations 1996 and shall come into force on 1st September 1996.

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

(3) These Regulations do not apply in relation to any special waste in respect of which, in accordance with regulation 26 below, the Control of Pollution (Special Waste) Regulations 1980(1) continue to have effect.

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

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

“the 1994 Regulations” means the Waste Management Licensing Regulations 1994(2);

“Agency” means

(a) in relation to places, premises and sites in England and Wales, the Environment Agency established by section 1 of the Environment Act 1995(3); and

(b) in relation to places, premises and sites in Scotland, the Scottish Environment Protection Agency established by section 20 of that Act;

“the approved classification and labelling guide” means the document entitled “Approved guide to the classification and labelling of substances and preparations dangerous for supply (Second edition)”(4) approved by the Health and Safety Commission on 18th October 1994 for the purposes of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994(5);

“the approved supply list” means the document entitled “Approved Supply List (2nd Edition) —Information approved for the classification and labelling of substances and preparations dangerous for supply”(6) approved by the Health and Safety Commission on 18th October 1994 for the purposes of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994;

“carrier”, in relation to a consignment of special waste, means the person who collects that waste from the premises at which it is being held and transports it to another place;

“carrier’s round” in relation to consignments of special waste, means a journey made by a carrier during which he collects more than one consignment of special waste and transports all consignments collected to the same consignee who is specified in the consignment note;

“carrier’s schedule” means a schedule prepared in accordance with regulation 8;

(1) S.I.1980/1709, amended by S.I. 1988/1562, 1988/1790 and 1994/1137 and by Part IV of Schedule 6 to the Radioactive Substances Act 1993 (c. 12).

(2) S.I. 1994/1056, amended by S.I. 1995/288, 1995/1950, 1996/634.

(3) 1995 c. 25.

(4) The approved classification and labelling guide is available from HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 6FS.

(5) S.I. 1994/3247.

(6) The approved supply list is available from HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 6FS.

“consignee”, in relation to a consignment of special waste, means the person to whom that waste is to be transported;

“consignment note”, in relation to a consignment of special waste, means a note in a form corresponding to the form set out in Schedule 1 to these Regulations, or in a form substantially to the like effect, and giving at any time the details required by these Regulations to be shown in respect of that consignment (including, where the consignment is one in a succession of consignments, any details required to be shown in respect of other consignments in the succession);

“consignor”, in relation to a consignment of special waste, means the person who causes that waste to be removed from the premises at which it is being held;

“controlled waste” has the same meaning as in Part II of the 1990 Act(7);

“conveyance” includes a vehicle designed to carry goods by road or rail and a vessel designed to carry goods by water;

“harbour area” has the same meaning as in the Dangerous Substances in Harbour Areas Regulations 1987(8);

“the Hazardous Waste Directive” means Council Directive 91/689/EEC on hazardous waste, as amended by Council Directive 94/31/EC(9);

“household waste” has the same meaning as it has for the purposes of subsection (2) of section 33 (prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste) of the 1990 Act(10);

“premises” includes any ship;

“relevant code”, in relation to a consignment note or carrier’s schedule, means the code assigned in accordance with regulation 4 to the consignment of special waste to which the consignment note or carrier’s schedule relates or, where the consignment is one in a carrier’s round, to the consignments in that round;

“risk phrase” means the risk phrase shown under Part III of the approved supply list;

“ship” means a vessel of any type whatsoever operating in the marine environment including submersible craft, floating craft and any structure which is a fixed or floating platform;

“special waste” has the meaning given by regulation 2 of these Regulations; and

“waste management licence” has the meaning given by section 35(1) of the 1990 Act(11).

Meaning of special waste

2.—(1) Subject to paragraphs (5) and (6), any controlled waste

(a) to which a six-digit code is assigned in the list set out in Part I of Schedule 2 to these Regulations (which reproduces the list of hazardous waste annexed to Council Decision 94/904/EC(12) establishing a list of hazardous waste pursuant to Article 1(4) of the Hazardous Waste Directive); and

(b) which, subject to paragraph (3), displays any of the properties specified in Part II of that Schedule (which reproduces Annex III to the Hazardous Waste Directive),

(7) See section 75 of the Environmental Protection Act 1990 and the Controlled Waste Regulations 1992 (S.I. 1992/588, amended by S.I. 1993/566, 1994/1056 and 1995/288).

(8) S.I. 1987/37.

(9) Council Directive 91/689/EEC is to be found at OJ No. L 377, 31.12.1991, p.20; Council Directive 94/31/EC at OJ No. L 168, 2.7.1994, p.28. See also Council Decision 94/904/EC (OJ No. L 356, 31.12.94, p.14).

(10) See section 75(5) and (8) of the Environmental Protection Act 1990, and the Controlled Waste Regulations 1992.

(11) Section 35 is modified by paragraph 9 of Part I of Schedule 4 to the Waste Management Licensing Regulations 1994.

(12) OJ No. L 356, 31.12.1994, p.14.

is special waste.

- (2) Subject to paragraph (6), any other controlled waste which
- (a) displays the property H3A (first indent), or subject to paragraphs (3) and (5), H4, H5, H6, H7 or H8 specified in Part II of Schedule 2, or
 - (b) is a medicinal product, as defined in section 130 of the Medicines Act 1968⁽¹³⁾ (meaning of “medicinal product” etc.), of a description, or falling within a class, specified in an order under section 58 of that Act⁽¹⁴⁾ (medicinal products on prescription only),

is special waste.

(3) For the purposes of paragraphs (1) and (2), waste displays a property mentioned in Part II of Schedule 2 as toxic, very toxic, harmful, corrosive, irritant or carcinogenic, if it is so classified or, being so classified, has a risk phrase assigned to it or is placed in a category by the approved classification and labelling guide, as the case may be—

- (i) in the case of a substance which is both listed in the approved supply list and present at or above the concentration limit applicable under Part V of that List, on the basis of that list; or
- (ii) in the case of any other substance, on the basis of the criteria laid down in the approved classification and labelling guide.

(4) Except in the case of a substance listed in the approved supply list and present at or above the concentration limit applicable under Part V of that List, the test methods to be used, for the purposes of deciding which (if any) of the properties mentioned in Part II of Schedule 2 to these Regulations are to be assigned to a substance, are those described in Annex V to Council Directive [67/548/EEC](#), as amended⁽¹⁵⁾.

(5) Controlled waste which, apart from this paragraph, would be special waste is not special waste if it displays any of the properties H4 to H8 below the threshold shown as applicable to that property in Part III of Schedule 2 (which reproduces those thresholds set out in Article 1 of Council Decision [94/904/EC](#) in so far as they are relevant).

(6) Household waste is not special waste.

Certain radioactive waste to be special waste

3. Section 62 (special provision with respect to certain dangerous and intractable waste) of the 1990 Act⁽¹⁶⁾ shall have effect, without modification, so as to empower the Secretary of State to make provision for waste which would be controlled waste but for the fact that it is radioactive waste within the meaning of the Radioactive Substances Act 1993⁽¹⁷⁾; and paragraphs (1) and (2) of regulation 2 shall apply to any such waste as if it were controlled waste.

Coding of consignments

4.—(1) An Agency shall assign or supply forthwith to any person, on request, for the purpose of assigning to a consignment of special waste or, where the consignment is one in a carrier’s round, to the consignments in that round, a code unique to that consignment or round, as the case may be.

(13) [1968 c. 67](#); section 130 is amended by paragraph 3(7) to (10) of Schedule 1, and Schedule 2, to the Animal Health and Welfare Act [1984 \(c. 40\)](#).

(14) Section 58 is amended by section 1 of the Medicinal Products: Prescription by Nurses etc. Act [1992 \(c. 28\)](#).

(15) OJ No. 196, 16.8.1967, p.1 as amended by Commission Directive [92/69/EEC](#) (OJ No. L 383, 29.12.1992, p.1).

(16) Section 62 is amended by paragraph 80 of Schedule 22 to the Environment Act [1995 \(c. 25\)](#).

(17) [1993 c. 12](#). Section 78 of the Environmental Protection Act 1990 (which is amended by paragraph 7 of Schedule 4 to the Radioactive Substances Act 1993) provides that Part II of the 1990 Act does not apply to radioactive waste as defined in the 1993 Act save to the extent that the Secretary of State so provides in regulations.

(2) A code assigned or supplied in accordance with paragraph (1) may consist of letters, numbers or symbols, or any combination of letters, numbers and symbols, or a bar code which enables the consignment or carrier's round, as the case may be, to be identified electronically.

Consignment notes: standard procedure

5.—(1) Except in a case to which regulation 6, 8 or 9 applies, this regulation applies where a consignment of special waste is to be removed from the premises at which it is being held.

(2) Before the consignment is removed—

- (a) five copies of the consignment note shall be prepared, and, on each copy, Parts A and B shall be completed and the relevant code entered;
- (b) the consignor shall ensure that one of those copies (on which Parts A and B have been completed and the relevant code entered) is furnished to the Agency for the place to which the consignment is to be transported;
- (c) the carrier shall complete Part C on each of the four remaining copies; and
- (d) the consignor—
 - (i) shall complete Part D on each of those copies;
 - (ii) shall retain one copy (on which Parts A to D have been completed and the relevant code entered); and
 - (iii) shall give the three remaining copies (on which Parts A to D have been completed and the relevant code entered) to the carrier.

(3) The carrier shall ensure that the copies which he has received—

- (a) travel with the consignment; and
- (b) are given to the consignee on delivery of the consignment.

(4) Subject to regulation 10, on receiving the consignment the consignee shall—

- (a) complete Part E on the three copies of the consignment note given to him;
- (b) retain one copy;
- (c) give one copy to the carrier; and
- (d) forthwith furnish one copy to the Agency for the place to which the consignment has been transported.

(5) The carrier shall retain the copy of the consignment note given to him by the consignee.

Consignment notes: cases in which pre-notification is not required

6.—(1) For the purposes of regulation 7, except in a case to which regulation 8 applies, this regulation applies—

- (a) subject to paragraph (2)(a), to the removal, from the premises at which it is being held, of each of the second and any subsequent consignment of special waste in a succession of consignments of special waste,
- (b) subject to paragraph (2)(b), to the removal as a consignment of special waste of a product or material for the purposes of the return by the person to whom the product or material had been supplied to the person who supplied it to him or who manufactured it,
- (c) subject to paragraph (2)(c), to the removal of a consignment of special waste where the consignor and the consignee are bodies corporate belonging to the same group,
- (d) to the removal from a ship in a harbour area of a consignment of special waste to a conveyance for transportation to a place outside that area, and

- (e) to the removal of a consignment of special waste which consists entirely of lead acid motor vehicle batteries.
- (2) This regulation does not apply unless—
- (a) in the case mentioned in paragraph (1)(a), in respect of each consignment—
- (i) the waste is of the same description as the waste in the first of the consignments in the succession;
 - (ii) the consignor is the same person;
 - (iii) the consignee is the same person;
 - (iv) the premises from which the consignment is removed are the same;
 - (v) the place to which the consignment is transported is the same; and
 - (vi) the removal of the consignment takes place within one year of the removal of the first consignment in the succession;
- (b) in the case mentioned in paragraph (1)(b), the person to whom the product or material was supplied is satisfied that, as supplied, the product or material fails to meet any specification which he expected it to meet;
- (c) in the case mentioned in paragraph (1)(c), the removal is for the purposes of an operation within either paragraph 15 of Part III, or paragraph 13 of Part IV, of Schedule 4 to the 1994 Regulations, and the consignee either—
- (i) is the holder of a waste management licence which authorises the relevant operation; or
 - (ii) carries on any activity to which section 33(1)(a) and (b) of the 1990 Act⁽¹⁸⁾ does not apply by virtue of regulation 16 or 17 of the 1994 Regulations.
- (3) In paragraph (1)(c) “group”, in relation to a body corporate, means that body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company; and for these purposes—
- “body corporate” does not include a corporation sole or a Scottish partnership, but includes a company incorporated elsewhere than in Great Britain; and
- “holding company” and “subsidiary” have the meaning given by section 736 of the Companies Act 1985⁽¹⁹⁾.

Consignment notes: procedure where pre-notification is not required

7. Paragraph (2), with the exception of sub-paragraph (b), and paragraphs (3) to (5) of regulation 5 shall apply in cases to which regulation 6 applies as if—
- (a) “four” were substituted for “five” in sub-paragraph (a) of paragraph (2);
- (b) references to the consignor were references—
- (i) in relation to the case mentioned in regulation 6(1)(b), to the person to whom the product or material was supplied; and
 - (ii) in relation to the case mentioned in regulation 6(1)(d), to the master of the ship; and
- (c) references to the consignee were references, in relation to the case mentioned in regulation 6(1)(b), to the person to whom the product or material is to be returned.

⁽¹⁸⁾ Section 33(1)(a) and (b) is modified by paragraph 9 of Part I of Schedule 4 to the Waste Management Licensing Regulations 1994.

⁽¹⁹⁾ 1985 c. 6; section 736 is substituted by section 144(1) of the Companies Act 1989 (c. 40).

Consignment notes: carrier's rounds

8.—(1) This regulation applies to a carrier's round or to a succession of such rounds by the same carrier starting and ending within a twelve month period in respect of which:

- (a) every consignor is a person specified in the consignment note or in the schedule prepared in accordance with paragraph (2)(b)(iii) or whose particulars are notified in writing to the Agency not less than 72 hours before the removal of the first waste on the carrier's round;
- (b) the premises from which the special waste is removed are:
 - (i) specified in the consignment note or in the schedule prepared in accordance with paragraph (2)(b)(iii) or notified in writing to the Agency not less than 72 hours before the removal of the first waste on the carrier's round; and
 - (ii) so located that the Agency for each of those premises is the same;
- (c) the special waste is of a description specified in the consignment note; and
- (d) in the case of a single round other than a round that satisfies the requirements of regulation 14(2)(a), the time between the collection of the first consignment and delivery to the consignee is no more than 24 hours.

(2) Before the first removal of waste, the carrier shall,

- (a) on any carrier's round which is not in a succession or on the first round in such a succession, ensure that
 - (i) Parts A and B of the consignment note are completed and that the relevant code is entered;
 - (ii) one copy of the consignment note is furnished to the Agency for the place to which the special waste is to be transported;
- (b) on every round—
 - (i) prepare four copies of the consignment note in addition to one copy for each consignor from whom waste is to be collected during the round;
 - (ii) complete on those copies Parts A and B, the carrier's particulars and particulars of transport in Part C, the code assigned or supplied under regulation 4 in respect of the round and, if it is a second or subsequent round, the code in respect of the first round; and
 - (iii) ensure that four copies of a schedule are prepared in the form set out in Part II of Schedule 1 to these Regulations, or in a form substantially to the like effect, in addition to one consignor's copy for each site from which waste is to be collected during that round.

(3) The consignor shall, before the removal of waste from a site, complete on all the copies that part of the schedule indicated on it as for completion by him.

(4) The carrier shall ensure, before the removal of the waste, that—

- (a) the part of the schedule indicated on it as for completion by him is completed on all the copies; and
- (b) he has all copies of the schedule (on which the part to be completed by the consignor has been completed) except the copy to be retained by the consignor under paragraph (5).

(5) The consignor shall retain in respect of each site one copy of the consignment note and of that part of the schedule on which the parts to be completed by him and by the carrier have been completed.

(6) The carrier shall ensure that the copies of the consignment note and of the schedule which he has received—

- (a) are completed with respect to that round;
 - (b) travel with the waste to which they refer;
 - (c) are given to the consignee on delivery of the waste.
- (7) Subject to regulation 10, on receiving the waste collected on each round, the consignee shall—
- (a) complete Part E on the three copies of the consignment note given to him;
 - (b) retain one copy of the consignment note and one copy of the schedule;
 - (c) give to the carrier a copy of the consignment note and a copy of the schedule; and
 - (d) forthwith furnish to the Agency for the place to which the consignment has been transported one copy of the consignment note and one copy of the schedule.
- (8) The carrier shall retain the copies given to him in accordance with paragraph (7)(c).

Consignment notes: removal of ships' waste to reception facilities

- 9.**—(1) This regulation applies where special waste is removed from a ship in a harbour area to—
- (a) reception facilities provided within that harbour area; or
 - (b) by pipeline to any such facilities provided outside a harbour area.
- (2) Before the waste is removed from the ship—
- (a) three copies of the consignment note shall be prepared and Parts A and B shall be completed and the relevant code entered on each of those copies;
 - (b) the operator of the facilities shall complete Part C on each of those copies; and
 - (c) the master of the ship—
 - (i) shall ensure that Part D is completed on each of those copies;
 - (ii) shall retain one copy (on which Parts A to D have been completed); and
 - (iii) shall give the two remaining copies (on which Parts A to D have been completed) to the operator of the facilities.
- (3) On receiving a consignment of special waste the operator of the facilities shall—
- (a) complete Part E on the copies of the consignment note which he has received;
 - (b) retain one copy; and
 - (c) forthwith furnish the other copy to the Agency for the place where the facilities are situated.

Consignment notes etc.: duty of consignee not accepting delivery of a consignment

- 10.**—(1) This regulation applies where the consignee does not accept delivery of a consignment of special waste.
- (2) In a case to which this regulation applies the requirements of regulation 5(4) (including that paragraph as applied in cases to which regulation 6 applies) or 8(7), as the case may be, shall not apply to the consignee.
- (3) If, in a case to which this regulation applies, copies of the consignment note have been given to the consignee he shall—
- (a) indicate on Part E of each copy that he does not accept the consignment and the reasons why he does not accept the consignment;
 - (b) retain one copy;

- (c) ensure that one copy, accompanied by one copy of any carrier's schedule given to him in accordance with regulation 8, are furnished forthwith to the Agency for the place to which the special waste has been transported; and
- (d) ensure that the other copy is returned to the carrier forthwith.

(4) If, in a case to which this regulation applies, no copies of the consignment note have been given to the consignee he shall ensure that a written explanation of his reasons for not accepting delivery, including such details of the consignment and of the carrier as are known to him, is furnished forthwith to the Agency for the place to which the special waste has been transported.

(5) In a case to which this regulation applies—

- (a) on being informed that the consignee will not accept delivery of the consignment, the carrier shall inform the Agency and seek instructions from the consignor;
- (b) the consignor shall forthwith inform the carrier and the Agency of his intentions as regards the consignment; and
- (c) the carrier shall take all reasonable steps to ensure that the consignor's intentions are fulfilled.

(6) For the purposes of paragraph (5), the consignor may propose one of the following, namely—

- (a) the delivery of the consignment to the premises from which it had been collected;
- (b) the delivery of the consignment to the premises at which it had been produced;
- (c) the delivery of the consignment to other specified premises in respect of which there is held any waste management licence necessary to authorise the receipt of the waste.

Consignment notes: duties of the Agencies

11.—(1) Subject to paragraph (2), where—

- (a) an Agency ("the receiving Agency") has been furnished with a copy of a consignment note under regulation 5, 7, 8, 9 or 10 or with a copy of the explanation under regulation 10(4); and
- (b) the other Agency is the Agency for the premises from which the special waste was removed,

the receiving Agency shall, within two weeks of receipt, send to the other Agency one copy of the consignment note or explanation as the case may be.

(2) Where copies have been furnished—

- (a) under regulation 7 in a case to which regulation 6 applies by virtue of paragraph (1)(d) of that regulation, or
- (b) under regulation 9(3)(c),

paragraph (1) shall have effect as if the reference to the premises from which the special waste was removed were a reference to the harbour area in which the special waste was removed from the ship.

Consignment notes: provisions as to furnishing

12.—(1) Subject to paragraphs (2), (3) and (6), a copy of a consignment note required by regulation 5 or 8 to be furnished to an Agency must be furnished not more than one month and not less than 72 hours before the removal of the consignment.

(2) Subject to paragraphs (3) and (6), a copy of a consignment note required to be furnished by regulation 8(2)(a)(ii) shall be furnished not less than 72 hours before the removal of the first consignment to which the consignment note relates.

(3) The copy of the consignment note mentioned in paragraphs (1) and (2) may be furnished to the Agency within 72 hours before the removal where—

- (a) the consignment is to be delivered to other specified premises pursuant to a proposal under regulation 10(6)(c);
- (b) the consignment cannot lawfully remain where it is for 72 hours.

(4) The requirements of paragraphs (1) and (2) shall be treated as satisfied if—

- (a) a facsimile of the copy is furnished to the Agency by telephonic, electronic or other similar means of transmission in compliance with the time limits set out in those paragraphs, and
- (b) the copy is furnished to the Agency before or, in accordance with paragraph (5) below, forthwith upon removal of the consignment.

(5) A copy of a consignment note or a written explanation of reasons for refusing to accept delivery of any special waste is furnished to an Agency in accordance with this paragraph if it, and any document required to be furnished with it, is—

- (a) delivered to the Agency, or
- (b) posted to the Agency by pre-paid first class post,

within one day of the receipt, removal or refusal to accept delivery of the special waste in question, as the case may be.

(6) In reckoning any period of hours for the purposes of paragraphs (1), (2) and (3), the hours of any Saturday, Sunday, Good Friday, Christmas Day, bank holiday or other public holiday shall be disregarded.

Consignment notes: importers and exporters

13.—(1) Subject to paragraphs (3) and (4), regulations 5 to 12 shall apply to special waste imported into Great Britain from Northern Ireland or Gibraltar as if—

- (a) any reference to the consignor were a reference to the person importing the special waste;
- (b) any reference to the premises at which the special waste is being held and from which it is removed were a reference to the place where it first enters Great Britain; and
- (c) the special waste is removed from that place at the time when it first enters Great Britain.

(2) Subject to paragraph (4), these Regulations shall apply to special waste exported from Great Britain to Northern Ireland or Gibraltar as if—

- (a) any reference to the consignee were a reference to the person exporting the waste; and
- (b) the consignment of special waste is received by that person at the place where and the time when it leaves Great Britain.

(3) Paragraph (1) does not apply in a case to which either regulation 6(1)(d) or regulation 9 applies.

(4) Nothing in regulations 5 to 12 shall apply in relation to shipments of waste to which the provisions of Council Regulation (EEC) No. 259/93(20), other than Title III of that Regulation, apply.

Fees

14.—(1) Subject to paragraph (2), when it assigns or supplies a code for a consignment or a carrier's round in accordance with regulation 4(1), an Agency shall require payment of a fee of—

- (a) £10 in respect of a code relating to a consignment, or a round, which consists entirely of lead acid motor vehicle batteries;
 - (b) £15 in other cases.
- (2) An Agency shall not require payment of a fee where the code is assigned or supplied in connection with:
- (a) a second or subsequent carrier's round in a succession of such rounds, in respect of which—
 - (i) the carrier is also the consignee in relation to every consignment in all the rounds;
 - (ii) no more than one consignment is collected from any consignor during the succession;
 - (iii) the total weight of special waste collected in each round does not exceed 400 kg; and
 - (iv) the time between the collection of the first consignment on the first round in the succession and the delivery of the last consignment to the place to which it is to be transported is no more than one week.
 - (b) the removal of a single consignment of special waste for the purposes set out in regulation 6(1)(b) provided that the person to whom the product or material was supplied is satisfied that it fails to meet any specification which he expected it to meet; or
 - (c) the removal of special waste from a ship in a harbour area—
 - (i) to a conveyance for transportation to a place outside that area;
 - (ii) to reception facilities provided within the same harbour area; or
 - (iii) by pipeline to reception facilities provided outside the harbour area.

Registers

15.—(1) At each site from which any consignment of special waste has been removed, the consignor shall keep a register containing—

- (a) a copy of the consignment note; and
- (b) where the consignment is one to which regulation 8 applies, a copy of that part of the carrier's schedule retained under regulation 8(5),

applicable to each consignment removed from that site.

(2) Every carrier shall keep a register containing—

- (a) a copy of the consignment note; and
- (b) where the consignment is one to which regulation 8 applies, a copy of the carrier's schedule,

applicable to each consignment which he has transported.

(3) At each site at which any consignment of special waste has been received, the consignee shall keep a register containing—

- (a) a copy of the consignment note; and
- (b) where the consignment is one to which regulation 8 applies, a copy of the carrier's schedule,

applicable to each consignment, other than a consignment to which regulation 10 applies, received at that site.

(4) A consignment note or carrier's schedule required by paragraph (1) or (2) to be kept in a register shall be retained in the register for not less than three years from the date on which the waste to which it relates was removed from the premises at which it was being held.

(5) Subject to paragraphs (6) and (7), consignment notes and carrier's schedules required by paragraph (3) to be kept by a person shall be retained until his waste management licence for the site in question is surrendered or revoked entirely, at which time he shall send the register to the Agency for the site; and that Agency shall retain the register for not less than three years after its receipt.

(6) Where, by virtue of regulation 16(1)(a) or (b) of the 1994 Regulations, section 33(1)(a), (b) and (c) of the 1990 Act does not apply to any of the activities carried on at a site at which special waste is received, paragraph (5) shall have effect as if any reference to the surrender or revocation of a person's waste management licence were a reference to the surrender or revocation of his authorisation under Part I of the 1990 Act for the site in question.

(7) Where, in circumstances other than those mentioned in paragraph (6), section 33(1)(a) and (b) of the 1990 Act does not apply to any of the activities carried on at a site at which special waste is received, each consignment note and carrier's schedule required to be kept in a register shall be kept in that register for not less than three years from the date on which the consignment of special waste to which it relates was received at the site to which it was transported.

(8) Insofar as is consistent with the foregoing provisions of this regulation, registers under this regulation may be kept in any form.

Site records

16.—(1) Any person who makes a deposit of special waste in or on any land shall record the location of each such deposit, shall keep such records until his waste management licence is surrendered or revoked and shall then send the records to the Agency for the site.

(2) Such records shall comprise either—

- (a) a site plan marked with a grid, or
- (b) a site plan with overlays on which deposits are shown in relation to the contours of the site.

(3) Deposits shall be described in such records by reference to the register of consignment notes kept under regulation 15, save that where waste is disposed of—

- (a) by pipeline, or
- (b) within the curtilage of the premises at which it is produced,

the deposits shall be described by reference to a record of the quantity and composition of the waste and the date of its disposal.

(4) In the case of liquid wastes discharged without containers into underground strata or disused workings the record shall comprise only a written statement of the quantity and composition of special waste so discharged and the date of its disposal.

(5) Every record made pursuant to regulation 14 of the Control of Pollution (Special Waste) Regulations 1980(21) shall—

- (a) be kept with the records referred to in paragraph (1) above for so long as is mentioned in that paragraph, and
- (b) shall accompany those records when they are sent to the Agency in accordance with that paragraph.

Restrictions on mixing special waste

17.—(1) Subject to paragraph (2), an establishment or undertaking which carries out the disposal or recovery of special waste, or which collects or transports special waste, shall not—

(21) S.I. 1980/1709, as amended by S.I. 1988/1562, 1988/1790, 1994/1137 and by Part IV of Schedule 6 to the Radioactive Substances Act 1993 (c. 12).

- (a) mix different categories of special waste; or
 - (b) mix special waste with waste which is not special waste.
- (2) Paragraph (1) above shall not apply if the mixing—
- (a) is authorised by a waste management licence or under an authorisation granted under Part I of the 1990 Act; or
 - (b) is an activity to which, by virtue of regulation 17 of the 1994 Regulations, section 33(1) (a) and (b) of the 1990 Act does not apply.

Offences

18.—(1) Subject to paragraph (2) below, it shall be an offence for a person (other than a member, officer or employee of an Agency who is acting as authorised by that Agency,) to fail to comply with any of the foregoing provisions of these Regulations insofar as that provision imposes any obligation or requirement upon him.

(2) It shall be a defence for a person charged with an offence under paragraph (1) to prove that he was not reasonably able to comply with the provision in question by reason of an emergency or grave danger and that he took all steps as were reasonably practicable in the circumstances for—

- (a) minimising any threat to the public or the environment; and
- (b) ensuring that the provision in question was complied with as soon as reasonably practicable after the event.

(3) A person who, in purported compliance with a requirement imposed by or under any of the foregoing provisions of these Regulations to furnish any information, makes a statement which he knows to be false or misleading in a material particular, or recklessly makes any statement which is false or misleading in a material particular, commits an offence.

(4) A person who intentionally makes a false entry in any record or register required to be kept by virtue of any of the foregoing provisions of these Regulations commits an offence.

(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 an offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(6) Where an offence under this regulation which has been 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 a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, paragraph (6) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(8) Where, in Scotland, an offence under this regulation which has been committed by a partnership or an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he, as well as the partnership or association, shall be liable to be proceeded against and punished accordingly.

- (9) A person who commits an offence under this regulation shall be liable—
- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

Responsibilities of the Agencies

19. The Agencies shall be responsible for supervising the persons and activities subject to any provision of these Regulations.

Transitional provisions for certificates of technical competence

20.—(1) This regulation applies in relation to—

- (a) waste defined as special waste under regulation 2 of these Regulations which was not so defined under regulation 2 of the Control of Pollution (Special Waste) Regulations 1980⁽²²⁾ (“waste now defined as special waste”); and
- (b) persons to be treated as technically competent for the purposes of section 74(3)(b) of the 1990 Act—
 - (i) pursuant to regulation 4 of the 1994 Regulations; or
 - (ii) pursuant to regulation 5 of the 1994 Regulations, or to regulation 4(1) or (3) of the Waste Management Licensing (Amendment etc.) Regulations 1995⁽²³⁾.

(2) For the purposes only of operations concerning waste now defined as special waste and provided that both the conditions set out in paragraph (3) are satisfied, the persons referred to in paragraph (1)(b) shall continue to be treated as technically competent—

- (a) in the case of those referred to in paragraph (1)(b)(i), until 10th August 2000; and
 - (b) in the case of those referred to in paragraph (1)(b)(ii), in accordance with the Regulations mentioned there, except that paragraph (1) of regulation 5 of the 1994 Regulations and paragraphs (1) and (4) of regulation 4 of the Waste Management Licensing (Amendment etc.) Regulations 1995 shall have effect as if for the date “10th August 1999” there were substituted the date “10th August 2000”.
- (3) The conditions referred to in paragraph (2) are that:
- (a) before 1st March 1997, the person applies to the Waste Management Industry Training and Advisory Board for a certificate of technical competence at Level 4 in respect of special waste; and
 - (b) before 1st September 1996, the person was entitled to act as the manager of a facility in respect of which there was in force a waste management licence authorising activities concerning waste now defined as special waste.

Amendment of regulations relating to the assessment of environmental effects

21.—(1) In regulation 2(1) of the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988⁽²⁴⁾, for the definition of “special waste” there shall be substituted—

““special waste” means waste which is special waste for the purposes of the Special Waste Regulations 1996;”.

(2) In regulation 4(1) of the Environmental Assessment (Scotland) Regulations 1988⁽²⁵⁾, for the definition of “special waste” there shall be substituted—

““special waste” means waste which is special waste for the purposes of the Special Waste Regulations 1996;”.

⁽²²⁾ S.I. 1980/1709, amended by S.I. 1988/1790.

⁽²³⁾ S.I. 1995/288, amended by S.I. 1995/1950. Paragraph (3) of regulation 4 is subject to paragraphs (4) and (5), the latter being inserted by regulation 3 of S.I. 1995/1950 and amended by regulation 3 of S.I. 1996/634.

⁽²⁴⁾ S.I. 1988/1199, to which there are amendments not relevant to these Regulations.

⁽²⁵⁾ S.I. 1988/1221.

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

22. In Schedule 1 to the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991**(26)** there shall be added at the end—

“the Special Waste Regulations 1996”.

Amendment of the Environmental Protection (Duty of Care) Regulations 1991

23. In regulation 2 of the Environmental Protection (Duty of Care) Regulations 1991**(27)**—

- (a) at the beginning of paragraph (1), there shall be added “Subject to paragraph (3),”;
- (b) after paragraph (2), the following paragraph shall be added:

“(3) Paragraph (1) shall not apply where the waste transferred is special waste within the meaning of the Special Waste Regulations 1996 and the consignment note and, where appropriate, schedule required by those Regulations are completed and dealt with in accordance with those Regulations.”.

Amendment of the Controlled Waste Regulations 1992

24. In paragraph 18(2) of Schedule 3 to the Controlled Waste Regulations 1992**(28)**, for the definition of “tank washings”, there shall be substituted—

““tank washings” has the same meaning as in paragraph 36 of Schedule 3 to the Waste Management Licensing Regulations 1994;”.

Amendment of the Waste Management Licensing Regulations 1994

25. The 1994 Regulations shall be amended in accordance with Schedule 3 to these Regulations.

Revocations and savings

26.—(1) Subject to paragraph (2), the following are hereby revoked—

- (a) the Control of Pollution (Special Waste) Regulations 1980**(29)** (“the 1980 Regulations”);
- (b) the Control of Pollution (Landed Ships’ Waste) Regulations 1987**(30)**;
- (c) the Control of Pollution (Landed Ships’ Waste) (Amendment) Regulations 1989**(31)**; and
- (d) paragraphs (1) and (2) of regulation 18 of the Transfrontier Shipment of Waste Regulations 1994**(32)**.

(2) Subject to paragraph (3) of this regulation, the 1980 Regulations shall continue to have effect in relation to any special waste in respect of which the consignment note (within the meaning of those Regulations) was furnished or is treated as having been furnished to the Agency, in accordance with regulation 4 of those Regulations, before the coming into force of these Regulations.

(3) Paragraph (2) of this regulation shall not apply in relation to any special waste in respect of which consignment notes or copies of consignment notes are furnished pursuant to regulation 9 of

(26) S.I. 1991/1624, to which there are amendments not relevant to these Regulations.

(27) S.I. 1991/2839.

(28) S.I. 1992/588, as amended by S.I. 1993/566, 1994/1056 and 1995/288.

(29) S.I. 1980/1709, as amended by S.I. 1988/1562, 1988/1790 and 1994/1137 and by Part IV of Schedule 6 to the Radioactive Substances Act 1993 (c. 12).

(30) S.I. 1987/402.

(31) S.I. 1989/65.

(32) S.I. 1994/1137.

the 1980 Regulations and after 31st August 1996 any direction made under regulation 9 of the 1980 Regulations shall have no effect.

28th March 1996 *Ferrers*
Minister of State,
Department of the Environment

28th March 1996 *Gwilym Jones*
Parliamentary Under-Secretary of State, Welsh
Office

28th March 1996 *Lindsay*
Parliamentary Under-Secretary of State, Scottish
Office