
STATUTORY INSTRUMENTS

2005 No. 894

The Hazardous Waste (England and Wales) Regulations 2005

PART 9

EMERGENCIES AND GRAVE DANGER

General

61.—(1) This Part has effect for the purpose of making provision for an emergency or grave danger.

(2) For the purposes of these Regulations, an “emergency or grave danger” is a present or threatened situation arising from a substance or object which is, or which there are reasonable grounds to believe is, hazardous waste, and the situation constitutes a threat to the population or the environment in any place.

General duties on the holder in the event of an emergency or grave danger

62.—(1) In cases of emergency or grave danger, a holder of hazardous waste which gives rise to an emergency or grave danger shall—

- (a) take all lawful and reasonable steps to avert the emergency or grave danger; or
- (b) where it is not reasonably practicable to comply with paragraph (a), take all lawful and reasonable steps to mitigate the emergency or grave danger.

(2) For the purposes of paragraph (1), an act or omission may be considered lawful notwithstanding that it would, apart from this regulation, constitute a breach of these Regulations.

(3) Where the holder of hazardous waste knows or has reasonable grounds to believe that an emergency or grave danger has arisen, he shall notify the Agency as soon as reasonably practicable of the circumstances.

(4) Where the holder takes any step in compliance with paragraph (1), he shall, save where such step has completely averted the emergency or grave danger without breach of these Regulations, notify the Agency as soon as reasonably practicable.

(5) For the purposes of paragraph (4), an emergency or grave danger shall not be considered to have been completely averted if any release has taken place of a substance or object which is, or which there are reasonable grounds to believe is, hazardous waste, whether or not the holder believes he has completely destroyed, retrieved or rendered harmless the substance or object.

(6) In the event of notification pursuant to paragraph (3) or (4) being made orally, the holder shall confirm in writing to the Agency the matters notified within one week of the oral notification.

(7) For the purposes of this regulation a person shall not be released from any requirement imposed by this regulation merely because he has ceased to be the holder through the waste having left his possession or control due to release.

General duties of the Agency

63.—(1) The Agency shall exercise its functions (whether under these Regulations or otherwise) so as to take all reasonably practicable steps necessary or expedient to avert or mitigate an emergency or grave danger.

(2) An authorised person shall in exercising functions in relation to an emergency or grave danger so exercise his powers under sections 108 and 109 of the 1995 Act as to take all reasonably practicable steps to avert or mitigate the emergency or grave danger.