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STATUTORY INSTRUMENTS

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**2005 No. 894**

**The Hazardous Waste (England and Wales) Regulations 2005**

**PART 1**

**GENERAL**

**General Interpretation**

5.—(1) In these Regulations—

“the 1990 Act” means the Environmental Protection Act 1990(1);

“the 1995 Act” means the Environment Act 1995(2);

“the 1994 Regulations” means the Waste Management Licensing Regulations 1994(3);

“the 1996 Regulations” means the Special Waste Regulations 1996(4);

“the Agency” means the Environment Agency;

“asbestos waste” means waste which contains or is contaminated by asbestos;

“authorised person” has the meaning given by section 108(15) of the 1995 Act;

“business day” means any day other than any—

(a) Saturday or Sunday;

(b) Good Friday or Christmas Day;

(c) day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(5); or

(d) other public holiday;

“carrier” in relation to a consignment of hazardous waste, means a person who takes one or more of the following actions, that is to say, collects the consignment from the premises at which it was produced or premises at which it is being held, delivers it to the consignee, or transports it in the course of its transfer from those premises to the consignee;

“consignee”, in relation to a consignment of hazardous waste, means the person to whom the waste is or is to be transferred for recovery or disposal;

“consignment code” shall be construed in accordance with regulation 34(1);

“consignment note”, in relation to a consignment of hazardous waste, means the identification form which is required to accompany the hazardous waste when it is transferred pursuant to Article 5(3)(6) of the Hazardous Waste Directive;

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(1) 1990 c. 43.

(2) 1995 c. 25.

(3) S.I. 1994/1056; relevant amending instruments are S.I. 1995/288, 1996/672, 2000/1973 and 2003/2635.

(4) S.I. 1996/972 as amended by S.I. 1996/2019, 1997/251, 2001/3148.

(5) 1971 c. 80.

(6) The consignment note is required by Article 5(3) to contain the details specified in Commission Decision 94/774/EC (OJNo. L 310, 3/12/1994 p. 7; this decision is expected to be replaced in June 2005). The relevant requirements are contained in Schedule 4 to these Regulations.

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

“emergency or grave danger” has the meaning given by regulation 61;

“emergency services” means those police, fire and ambulance services who are liable to be required to respond to an emergency;

“harbour area” has the same meaning as in the Dangerous Substances in Harbour Areas Regulations 1987(7);

“hazardous waste” has the meaning given by regulation 6; “mixing” shall be construed in accordance with regulation 18;

“mobile service” means a service operated from premises which consists of any one or more of the following activities, that is to say, the construction, maintenance or repair of any other premises, or of any fixtures, fittings or equipment located on those other premises, being a service in the course of which the operator of the service produces hazardous waste at those other premises;

“multiple collection” has the meaning given by regulation 38;

“multiple collection consignment note” means the form of consignment note set out in Schedule 6 and required to be used in relation to multiple collections;

“non-hazardous waste” has the meaning given by regulation 7;

“premises” includes any ship and any other means of transport from which a mobile service is operated;

“quarter” means any period of three months ending on 31st March, 30th June, 30th September or 31st December;

“registered exemption” means an activity set out in Schedule 3 to the 1994 Regulations which is registered with the appropriate registration authority in accordance with those Regulations;

“schedule of carriers” means the form of schedule set out in Schedule 5 and required to be completed where more than one carrier transports, or is to transport, the consignment;

“SEPA” means the Scottish Environment Protection Agency;

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

“six digit code” means the six digit code referable to a type of waste in accordance with the List of Wastes, and in relation to hazardous waste, includes the asterisk;

“SIC” means the publication entitled “the UK Standard Industrial Classification of Economic Activities 2003” prepared by the Office of National Statistics and published by Her Majesty’s Stationery Office on 31st December 2002 and implemented on 1st January 2003(8);

“United Kingdom ship” has the meaning given by section 1 of the Merchant Shipping Act 1995(9);

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

“waste permit” has the same meaning as in Schedule 4 to the 1994 Regulations.

(2) In these Regulations, the following expressions (being the expressions defined in Article 1(b) to (g) of the Waste Directive) have the same meaning as they have in that directive, that is to say—

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(7) S.I. 1987/37, to which there are amendments not relevant to these Regulations.

(8) ISBN 0-11-62-11-16417.

(9) 1995 c. 21.

“producer” means anyone whose activities produce waste (“original producer”) or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

“holder” means the producer of the waste or the person who is in possession of it;

“management” means the collection, transport, recovery and disposal of waste, including the supervision of such operations and after-care of disposal sites;

“disposal” means any of the operations provided for in Annex IIA of the Waste Directive;

“recovery” means any of the operations provided for in Annex IIB of the Waste Directive<sup>(10)</sup>;

“collection” means the gathering, sorting or mixing of waste or any one or more of those operations, for the purpose of transport,

and expressions cognate to these expressions shall be construed accordingly.

(3) In these Regulations—

- (a) any document which is to be provided or given to any person (other than a fixed penalty notice under Part 10) may be provided or given to that person in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;
- (b) any requirement to make, keep or retain a record or to maintain a register may be satisfied in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;
- (c) any requirement for a signature on a notification, consignment note, schedule of carriers or multiple collection consignment note, may be satisfied by an electronic signature incorporated into the document; and
- (d) “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

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(10) The meaning of “disposal” and “recovery” has been interpreted by the European Court of Justice in C-6/00. The Court held (at paragraph 60 of the judgment) “. . . the intention of Annexes II A and II B to the Directive is to list the most common disposal and recovery operations and not precisely and exhaustively to specify all the disposal and recovery operations covered by the Directive.”.