

2009 No. 507

ENVIRONMENTAL PROTECTION, ENGLAND

**The Hazardous Waste (England and Wales) (Amendment)
Regulations 2009**

<i>Made</i> - - - -	<i>5th March 2009</i>
<i>Laid before Parliament</i>	<i>10th March 2009</i>
<i>Coming into force</i> - -	<i>6th April 2009</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the environment. In exercise of the powers conferred by section 2(2) of that Act, the Secretary of State makes the following Regulations.

Citation, application and commencement

1. These Regulations—
 - (a) may be cited as the Hazardous Waste (England and Wales) (Amendment) Regulations 2009;
 - (b) apply in England; and
 - (c) come into force on 6th April 2009.

Amendment to the Hazardous Waste (England and Wales) Regulations 2005

2. The Hazardous Waste (England and Wales) Regulations 2005(c) are amended as follows.

Amendment of regulation 5 (general interpretation)

3. In regulation 5(1), for the definition of “premises”, substitute—

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

Amendment of regulation 12 (general application of Parts 4 to 11)

4. For regulation 12(2), substitute—

“(2) Except as provided in regulations 13 (asbestos waste) and 14 (separated domestic fractions), these Regulations do not apply to domestic waste.”.

(a) S.I. 2008/301.

(b) 1972 c. 68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51).

(c) S.I. 2005/894, amended by S.I. 2007/3538; there are other amending instruments but none is relevant.

Replacement of regulation 13 (asbestos waste)

5. For regulation 13, substitute—

“Asbestos waste

13.—(1) These Regulations apply to asbestos waste whether or not it is domestic waste.

(2) Nothing in these Regulations imposes obligations on an occupier of domestic premises in relation to asbestos waste produced on those premises.

(3) A contractor who is engaged to carry out any works at domestic premises which produce asbestos waste or which relate to asbestos waste is to be treated as the producer of the asbestos waste, and, where the contractor does not engage another person as consignor, as the consignor of the asbestos waste.”.

Replacement of regulation 14 (separately collected domestic fractions)

6. For regulation 14, substitute—

“Separated domestic fractions

14.—(1) This regulation applies to any separated domestic fraction, that is to say, hazardous waste which—

(a) is domestic waste; and

(b) has been separated from other domestic waste.

(2) Nothing in these Regulations imposes obligations on an occupier of domestic premises in relation to separated domestic fractions which have been produced at those premises.

(3) Part 4 of these Regulations applies to separated domestic fractions from the time at which the waste is accepted for collection, disposal or recovery—

(a) from the domestic premises at which the waste was produced; or

(b) at a site for the reception of domestic waste to which the separated domestic fractions are taken by an occupier of domestic premises.

(4) After separated domestic fractions have been removed from the premises at which the waste was produced and taken to other premises for collection, disposal or recovery, any establishment or undertaking which accepts the separated domestic fractions for collection, disposal or recovery must be treated from the time at which the waste is so accepted as the producer of the waste for the purposes of these Regulations.”.

Insertion of regulation 14A (hazardous waste produced at shop premises)

7. After regulation 14, insert—

“Hazardous waste produced at shop premises

14A.—(1) Hazardous waste produced at shop premises by customers of the occupier shall be treated as being produced by the occupier for the purposes of these Regulations.

(2) For the purposes of this regulation, “shop premises” has the meaning given by section 1(3) of the Offices, Shops and Railway Premises Act 1963(a).”.

Amendment of regulation 21 (requirement to notify premises)

8. In regulation 21(1), after “produced at,” insert “collected at,”.

(a) 1963 c. 41.

Replacement of regulation 23 (exemption from requirement to notify)

9. For regulation 23, substitute—

“Exemption from the requirement to notify

23.—(1) Exempt premises need not be notified to the Agency pursuant to this Part.

(2) In these Regulations, premises are exempt premises if they comply with the condition in paragraph (3) and with either of the conditions in paragraphs (4) and (5).

(3) The condition in this paragraph is that no hazardous waste is removed from the premises by any person other than—

- (a) a carrier registered under the Control of Pollution (Amendment) Act 1989(a); or
- (b) a carrier exempt from the requirement to register under that Act.

(4) The condition in this paragraph is that the premises are a ship.

(5) The condition in this paragraph is that the qualifying limitation applies.”.

Amendment of regulation 26 (common provisions on notifications)

10. For regulation 26(8), substitute—

“(8) The Agency must inform on request a person who is the holder of hazardous waste or who carries on the business of consigning or collecting hazardous waste whether any premises from which that person proposes to remove, cause to be removed or transport any hazardous waste are notified premises, and if so, the particulars held by the Agency concerning—

- (a) the address of the premises, including the postcode;
 - (b) the premises code;
 - (c) the name of the holder of the premises code; and
 - (d) the date of expiry of the premises code, being the end of the period of notification.
- ”.

Replacement of regulation 30 (the qualifying limitation)

11. For regulation 30, substitute—

“The qualifying limitation

30.—(1) The qualifying limitation for—

- (a) a mobile service is that the total aggregated quantity of hazardous waste produced at, collected at, or removed from any one set of related premises in the course of that service is less than 500kg in any period of twelve months; and
- (b) any exempt premises is that the total aggregated quantity of hazardous waste produced at, collected at, or removed from the premises is less than 500kg in any period of twelve months.

(2) When calculating the total aggregated quantity, a given quantity of hazardous waste must not be counted against more than one of the activities in paragraph (1)(a) or (b).”.

Amendment of regulation 32 (general interpretation of Part 5)

12. In regulation 32—

- (a) omit the following definitions—

(a) 1989 c. 14.

- “the 1963 Act”,
“office premises”,
“registered carrier”,
“shop premises”, and
“waste electrical and electronic equipment”; and
(b) after the definition of “period of notification”, insert—
 ““premises code” has the meaning given by regulation 27(1);
 “qualifying limitation” has the meaning given by regulation 30;”.

Amendment of regulation 42 (duty of consignee not accepting delivery)

13. In regulation 42—

- (a) in paragraph (3)(a), for “indicate on Part E”, substitute “indicate, in the part headed “consignee’s certificate””;
- (b) in paragraph (6)(a), for “is entitled to carry on a registered exemption in respect of”, substitute “carries on an exempt waste operation for”; and
- (c) after paragraph (7), insert—
 “(8) In this regulation, “exempt waste operation” has the meaning given in regulation 5 of the Environmental Permitting (England and Wales) Regulations 2007(a).”.

Amendment of regulation 48 (records of disposal or recovery of hazardous waste by other means)

14. For regulation 48(3)(c), substitute—

- “(c) the disposal or recovery method in respect of the waste by reference to the numbering and description applicable in accordance with Annex IIA or IIB of the Waste Directive; and”.

Amendment of regulation 49 (producers’, holders’ and consignors’ records)

15. In regulation 49(1), after the words “where different from the producer”, insert “or holder”.

Amendment of regulation 70 (fixed penalties)

16. In regulation 70(10), for “(8)”, substitute “(9)”.

5th March 2009

Jane Kennedy
Minister of State
Department for Environment, Food and Rural Affairs

(a) S.I. 2007/3538.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Hazardous Waste (England and Wales) Regulations 2005 (S.I. 2005/894) (“2005 Regulations”), which implement Council Directive 91/689/EEC on hazardous waste (OJ No L 377, 31.12.1991, p 20). These Regulations apply in England only.

Regulation 3 amends the definition of “premises” in regulation 5(1) to clarify that the term includes land.

Regulation 5 replaces regulation 13 of the 2005 Regulations with a new regulation 13 to clarify that nothing in the 2005 Regulations imposes obligations on occupiers of domestic premises in relation to asbestos waste produced at those premises and that a contractor carrying out works relating to asbestos waste will be treated as the producer of that waste.

Regulation 6 replaces regulation 14 of the 2005 Regulations with a new regulation 14. This is to clarify that the occupier of domestic premises is exempt from obligations relating to separated domestic fractions of hazardous waste. The regulation also clarifies that the restrictions on the mixing of hazardous waste in Part 4 of the 2005 Regulations apply from the time that waste is either accepted for collection, disposal or recovery from domestic premises or accepted at a site for domestic waste when it is taken there by occupiers of domestic premises.

Regulation 7 inserts a new regulation 14A in to the 2005 Regulations. This extends the application of a provision which had been included in regulation 30 of the 2005 Regulations relating to the production of hazardous waste at shop premises by customers to the whole of the 2005 Regulations.

Regulation 8 amends regulation 21(1) of the 2005 Regulations so that the requirement to notify premises will apply where hazardous waste is collected at any premises other than exempt premises.

Regulation 9 replaces regulation 23 of the 2005 Regulations with a new regulation 23 which extends the exemption from the requirement to notify premises at which hazardous waste is produced from specified types of premises to any premises which are a ship or to which the qualifying limitation applies, provided that hazardous waste is only removed by a registered or exempt waste carrier.

Regulation 10 amends regulation 26 of the 2005 Regulations to reduce the amount of information the Environment Agency is required to release about notified premises.

Regulation 11 replaces regulation 30 of the 2005 Regulations with a new regulation 30 which increases the qualifying limitation from 200kg to 500kg. The new regulation omits the reference to hazardous waste produced at shop premises by customers, as this will now apply to the whole of the 2005 Regulations (see regulation 5 which inserts a new regulation 12A in to the 2005 Regulations).

Regulation 13 amends regulation 42 of the 2005 Regulations to correct the reference to the part of the form of multiple collection consignment note which is the consignee’s certificate. The regulation also includes amendments to clarify references to the Environmental Permitting (England and Wales) Regulations 2007 (“2007 Regulations”). Regulation 42(6) of the 2005 Regulations was amended by regulation 73 of and paragraphs 45(1) and (2) of Schedule 21 to the 2007 Regulations.

Regulation 14 amends regulation 48(3) of the 2005 Regulations to require that the record of hazardous waste includes, as applicable, details of the disposal method in respect of the waste in addition to the recovery method for the waste.

Regulation 15 corrects regulation 49(1) of the 2005 Regulations so that it will apply where a consignor of hazardous waste is different from the producer or the holder of the hazardous waste.

Regulation 16 corrects the reference to the “chief finance officer” in regulation 70(10) of the 2005 Regulations.

An Impact Assessment of the effect that this instrument will have on the costs of compliance to businesses and the environmental benefits is available from WM Hazardous Waste Unit, Department for Environment, Food and Rural Affairs, Zone 6D, Ergon House, Horseferry Road, London, SW1P 2AL and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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STATUTORY INSTRUMENTS

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