
STATUTORY INSTRUMENTS

2011 No. 988

The Waste (England and Wales) Regulations 2011

PART 1

General

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Waste (England and Wales) Regulations 2011.
- (2) Subject to paragraph (3), they come into force on the day after the day on which they are made.
- (3) Regulation 12 comes into force at the end of the period of 6 months beginning with the day on which these Regulations are made.
- (4) These Regulations extend to England and Wales.

Application

2. Subject to regulation 47(2), these Regulations do not apply in relation to waste which is excluded from the scope of the Waste Framework Directive by Article 2(1), (2) or (3) of that Directive.

Interpretation

- 3.—(1) In these Regulations—
 - “appropriate authority” means—
 - (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers;
 - [^{F1}“appropriate body” means—
 - (a) in relation to England, the Environment Agency;
 - (b) in relation to Wales, the Natural Resources Body for Wales;]
 - “controlled waste” has the meaning given in section 75(4) of the Environmental Protection Act 1990 ^{M1};
 - [^{F2}“EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018;]
 - “hazardous waste”—
 - (a) in relation to England has the meaning given in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005 ^{M2};
 - (b) in relation to Wales has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005 ^{M3};

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[^{F3}“Industrial Emissions Directive” means Directive [2010/75/EC](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention control), read in accordance with regulation 3A;

“Landfill Directive” means Council Directive [1999/31/EC](#) on the landfill of waste, as last amended by Directive (EU) 2018/850, read in accordance with regulation 3B;

“local authority” means—

- (a) in England outside Greater London—
 - (i) a district council,
 - (ii) a county council, or
 - (iii) the Council of the Isles of Scilly;
- (b) in Greater London—
 - (i) the council of a London borough,
 - (ii) the Common Council of the City of London,
 - (iii) the Sub-Treasurer of the Inner Temple, or
 - (iv) the Under-Treasurer of the Middle Temple;
- (c) in Wales—
 - (i) a county council, or
 - (ii) a county borough council;

“Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with regulation 3C;]

[^{F4}“the List of Wastes” means the list of wastes established by Commission Decision [2000/532/EC](#) replacing Decision [94/3/EC](#) establishing a list of wastes pursuant to Article 1(a) of Council Directive [75/442/EEC](#) on waste and Council Decision [94/904/EC](#) establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive [91/689/EEC](#) on hazardous waste, as amended from time to time;]

“national waste management plan” means a waste management plan prepared by an appropriate authority;

“waste collection authority” means an authority which is a waste collection authority for the purposes of Part 2 of the Environmental Protection Act 1990 ^{M4};

[^{F5}“the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste][^{F6}, as last amended by][^{F7}Directive (EU) 2018/851][^{F8}and as read in accordance with regulation 3D];

“waste management plan” has the meaning given in regulation 7(1);

[^{F9}“waste prevention measures” means measures taken before a substance, material or product has become waste that reduce—

- (a) the quantity of waste, including through the re-use of products or the extension of the life span of products;
- (b) the adverse impacts of generated waste on the environment and human health; or
- (c) the content of hazardous substances in materials and products;]

“waste prevention programme” has the meaning given in regulation 4(1) and (2).

(2) Terms which are used but not defined in these Regulations and are used in the Waste Framework Directive have the same meaning as in that Directive.

Textual Amendments

- F1** Words in reg. 3(1) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 403** (with Sch. 7)
- F2** Words in reg. 3(1) inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(2)(a)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 3(1) inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(2)(b)** (as amended by S.I. 2020/1540, regs. 1(2)(3), **11(2)(10)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Words in reg. 3(1) inserted (E.) (1.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1360\)](#), regs. 1(1), **8(2)** (with Sch. 2)
Words in reg. 3(1) inserted (W.) (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), reg. 1(2), **5(2)**
- F5** Words in reg. 3(1) substituted (W.) (31.7.2016) by [The Waste \(Meaning of Recovery\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2016 \(S.I. 2016/691\)](#), regs. 1(2), **5(2)**; Words in reg. 3(1) substituted (3.8.2016) by [The Waste \(Meaning of Recovery\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/738\)](#), regs. 1(1), **10**
- F6** Words in reg. 3(1) inserted (W.) (5.7.2018) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/721\)](#), regs. 1(2), **5**; Words in reg. 3(1) inserted (E.) (5.7.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments\) \(England\) Regulations 2018 \(S.I. 2018/575\)](#), regs. 1(2)(b), **7**
- F7** Words in reg. 3(1) substituted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(2)(a)**
- F8** Words in reg. 3(1) inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(2)(c)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in reg. 3(1) inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(2)(b)**

Marginal Citations

- M1** 1990 c. 43. The definition of “controlled waste” depends on the definitions of “household waste” in section 75(5), “industrial waste” in section 75(6) and “commercial waste” in section 75(7). Section 75(6) and (7) was amended by [S.I. 2006/937](#).
- M2** [S.I. 2005/894](#), to which there are amendments not relevant to these Regulations.
- M3** [S.I. 2005/1806 \(W. 138\)](#), to which there are amendments not relevant to these Regulations.
- M4** See section 30(3), which was amended by the Local Government (Wales) Act 1994, sections 22(3) and 66(8) and paragraph 17(3) of Schedule 9.

[^{F10} Modification of the Industrial Emissions Directive

3A. For the purposes of these Regulations, the Industrial Emissions Directive is to be read as if—

(a) in Article 3—

- (i) in paragraph 1(a), for the words from “Article 1” to the end there were substituted “ Article 4(78) of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation ”;
- (ii) in paragraph 10(b), for “Member State in question” there were substituted “ United Kingdom ”;

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- (iii) in paragraph 23, for the words from “point 1” to the end there were substituted “ point 1 of the second subparagraph of Article 2 of Council Directive [2009/158/EC](#) on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs ”;
- (iv) in paragraph 37, for the words from “Directive [2008/98/EC](#)” to the end there were substituted “ the Waste Framework Directive, read with Articles 5 and 6 of that Directive ”;
- (b) in Annex 1—
 - (i) in the words before point 1, the second paragraph were omitted;
 - (ii) in point 5.3—
 - (aa) in point (a), in the words before point (i), for “Council Directive [91/271/EEC](#) of 21 May 1991 concerning urban waste-water treatment” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;
 - (bb) in point (b), in the words before point (i), for “Directive [91/271/EEC](#)” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”;
 - (ii) in point 5.4, the reference to Council Directive [1999/31/EC](#) of 26 April 1999 on the landfill of waste were a reference to the Landfill Directive;
 - (iii) in point 6.9, for “Directive [2009/31/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2009/31/EC](#) ”;
 - (iv) in point 6.11, for “Directive [91/271/EEC](#)” there were substituted “ the Urban Waste Water Treatment (England and Wales) Regulations 1994 ”.

Textual Amendments

F10 Regs. 3A-3E inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(3)** (as amended by [S.I. 2019/1078](#), regs. 1, **4(4)(a)** and [S.I. 2020/1540](#), regs. 1(2)(3), **11(2)(10)(b)-(d)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Modification of the Landfill Directive

3B.—(1) For the purposes of these Regulations, the Landfill Directive is to be read in accordance with this regulation.

- (2) Article 2 is to be read as if—
 - (a) in point (a)—
 - (i) “‘waste’,” were omitted; and
 - (ii) for “Directive [2008/98/EC](#)” there were substituted “the Waste Framework Directive”;
 - (aa) after point (a) there were inserted—
 - “(aa) ‘waste’ means anything that—
 - (i) is waste within the meaning of Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive, and
 - (ii) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;”;
 - (b) for point (c) there were substituted—

“(c) ‘hazardous waste’ has the meaning given in Article 3(2) of the Waste Framework Directive.”.

(3) Article 3 is to be read as if—

- (a) in paragraph 2, “Without prejudice to existing Community legislation” were omitted;
- (b) for paragraph 3 there were substituted—

“3. The management of extractive waste, within the meaning given in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016, is excluded from the scope of this Directive where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to those Regulations.”.

Textual Amendments

F10 Regs. 3A-3E inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(3)** (as amended by [S.I. 2019/1078](#), regs. 1, **4(4)(a)** and [S.I. 2020/1540](#), regs. 1(2)(3), **11(2)(10)(b)-(d)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Modification of the Mining Waste Directive

3C.—(1) For the purposes of these Regulations, the Mining Waste Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States in a provision imposing an obligation or providing a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate body or local authority which, immediately before IP completion day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in England or Wales.

(3) A reference to “competent authority” or “competent authorities” is to be read as a reference to the appropriate body.

(4) Article 2 is to be read as if—

- (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy were a reference to that Article read in accordance with regulation 3E;
- (b) paragraphs 3 and 4 were omitted.

(5) Article 3 is to be read as if—

- (a) in point (1), for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “ Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive ”;
- (b) in point (2), for “Article 1(4) of Council Directive [91/689/EEC](#) of 12 December 1991 on hazardous waste” there were substituted “ Article 3(2) of the Waste Framework Directive ”;
- (c) in point (4), for the words from “the national law” to the end there were substituted “ national law ”;
- (d) in point (17), for “Directive [67/548/EEC](#) or Directive [1999/45/EC](#)” there were substituted “ Regulation [\(EC\) No 1272/2008](#) of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ”;
- (e) in point (18), for “Article 2(11) of Directive [96/61/EC](#)” there were substituted “ Article 3(10) of the Industrial Emissions Directive ”;

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- (f) in point (24), for the words from “the national law” to “takes place” there were substituted “ national law ”;
 - (g) in point (26), for the words from “the national” to “operates,” there were substituted “ national law ”;
 - (h) point (27) were omitted.
- (6) Article 5 is to be read as if—
- (a) in paragraphs 2(a)(iii) and (b) “at Community level” were omitted;
 - (b) in paragraph 3, in the first subparagraph, in point (g), for “Directive [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) of the European Parliament and of the Council in respect of England and Wales ”;
 - (c) in paragraph 5, “or Community” were omitted;
 - (d) paragraph 6 were omitted.
- (7) Article 6(2) is to be read as if the words from “Without” to “92/104/EEC,” were omitted.
- (8) Article 7 is to be read as if—
- (a) in paragraph 1, in the second subparagraph, in the first sentence, “or Community” were omitted;
 - (b) in paragraph 2(e), the reference to Directive [85/337/EEC](#) were a reference to the EU-derived domestic legislation which transposed Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment in respect of England and Wales;
 - (c) in paragraph 3(b), for “Article 7 of Directive [75/442/EEC](#)” there were substituted “ Article 13 of the Waste Framework Directive ”;
 - (d) in paragraph 4, the third indent were omitted;
 - (e) in paragraph 5, for “and Community” were omitted.
- (9) Article 10 is to be read as if paragraph 2 were omitted.
- (10) Article 11(2)(a) is to be read as if—
- (a) “Community or” were omitted;
 - (b) for “Directives [76/464/EEC](#), [80/68/EEC](#) and [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”.
- (11) Article 12 is to be read as if—
- (a) in paragraph 4, “national or Community” were omitted;
 - (b) in paragraph 5, for the words from “Community” to “2000/60/EC” there were substituted “ retained EU law, in particular the EU-derived domestic legislation which transposed Directive 2000/60/EC in respect of England and Wales ”.
- (12) Article 13 is to be read as if—
- (a) in paragraph 1, in the words before point (a)—
 - (i) “Community” were omitted;
 - (ii) for “Directive [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”.

- (b) in paragraph 3, for “Directives [76/464/EEC](#), [80/68/EEC](#) or [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”;
 - (c) in paragraph 4, for “Directives [76/464/EEC](#), [80/68/EEC](#) and [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”;
 - (d) in paragraph 5, in the second sentence—
 - (i) for “Community” there were substituted “ retained EU law ”;
 - (ii) for “Directive [2000/60/EC](#)” there were substituted “ the EU-derived domestic legislation which transposed Directive [2000/60/EC](#) in respect of England and Wales ”.
- (13) Article 24(4) is to be read as if, in the second indent Community or” were omitted.
- (14) Annex 3 is to be read as if—
- (a) in the second indent, for “under Directive [91/689/EEC](#)” there were substituted “ the Waste Framework Directive ”;
 - (b) in the third indent, for “Directives [67/548/EEC](#) or [1999/45/EC](#)” there were substituted “ Regulation (EC) No [1272/2008](#) of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ”.

Textual Amendments

- F10** Regs. 3A-3E inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(3)** (as amended by [S.I. 2019/1078](#), regs. 1, **4(4)(a)** and [S.I. 2020/1540](#), regs. 1(2)(3), **11(2)(10)(b)-(d)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Modification of the Waste Framework Directive

3D.—(1) For the purposes of these Regulations, the Waste Framework Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States in a provision imposing an obligation or providing a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate body or local authority which, immediately before IP completion day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in England or Wales.

- (3) Article 2 is to be read as if—
- (a) in paragraph 2—
 - (i) in the words before point (a), for “other Community legislation” there were substituted “ retained EU law ”;
 - (ii) in points (b) and (c), for “Regulation (EC) No [1774/2002](#)” there were substituted “ Regulation (EC) No [1069/2009](#) ”;
 - (iii) in point (d), for the words from “Directive [2006/21/EC](#)” to the end, there was substituted “ the Mining Waste Directive ”;
 - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
 - (c) paragraph 4 were omitted.

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(4) Article 3 is to be read as if, in point (2), for “Article 2(11) of Directive 96/61/EC” there were substituted “Article 3(10) of the Industrial Emissions Directive”.

(5) Article 5 is to be read as if—

(a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;

(b) after paragraph 1 there were inserted—

“1A. Any decision as to whether a substance or object is a by-product must be made—

(a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and

(b) having regard to any guidance published by the appropriate authority or the appropriate body for the purposes of this Article.”;

(c) paragraphs 2 and 3 were omitted.

(6) Article 6 is to be read as if—

(a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;

(b) after paragraph 1 there were inserted—

“1A. Any decision as to whether a substance or object has ceased to be waste must be made—

(a) in accordance with any regulations or retained direct EU legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and

(b) having regard to any guidance published by the appropriate authority or the appropriate body for the purposes of this Article.”;

(c) in paragraph 2—

(i) the first subparagraph were omitted;

(ii) in the second subparagraph, for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;

(iii) the third and fourth subparagraphs were omitted;

(d) paragraph 3 were omitted;

(e) in paragraph 4—

(i) in the first subparagraph—

(aa) in the first sentence, for the words from the beginning to “Member State”, there were substituted “Where criteria have not been set out as referred to in paragraph 1A(a), the appropriate body”;

(bb) the second sentence were omitted;

(ii) in the second subparagraph—

(aa) for “Member States” there were substituted “The appropriate body”;

(bb) “by competent authorities” were omitted.

(7) Article 7 is to be read as if—

(a) before paragraph 1 there were inserted—

“A1. In this Article, the “list of waste” means the list contained in the Annex to Commission Decision 2000/532/EC, as that list has effect in England or in Wales (as the case may be).”;

- (b) in paragraph 1—
 - (i) the first and second sentences were omitted;
 - (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
- (c) paragraphs 2, 3, 6 and 7 were omitted.
- (8) Article 16 is to be read as if—
 - (a) in paragraph 1, in the first subparagraph—
 - (i) the words from “, in cooperation with” to “advisable,” were omitted;
 - (ii) “, taking into account best available techniques” were omitted;
 - (b) in paragraph 2—
 - (i) for “Community as a whole to become” there were substituted “ United Kingdom as a whole to move towards becoming ”;
 - (ii) for the words from “and to enable” to “individually” were omitted.
- (9) Article 23(1) and (3) is to be read as if for “competent authority” there were substituted “ appropriate body ”.
- (10) Article 35(1) is to be read as if, for the second paragraph, there were substituted—

“They shall make that data available to the appropriate body through any electronic registry established for the reporting of such data or, if no such registry is in operation, in such form and manner as the appropriate body may specify.”.
- (11) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- (12) Annex 4 is to be read as if—
 - (a) in paragraph 3, “at Community level” were omitted;
 - (b) in paragraph 6, for “this Directive and Directive [96/61/EC](#)” there were substituted “ the Environmental Permitting (England and Wales) Regulations 2016 ”;
 - (c) in paragraph 7, for “Directive [96/61/EC](#)”, there were substituted “ the Environmental Permitting (England and Wales) Regulations 2016 ”;
 - (d) in paragraph 10, “EMAS and” were omitted.
- (13) Annex 4a is to be read as if, in point 6, “including through Union funds” were omitted.

Textual Amendments

F10 Regs. 3A-3E inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(3)** (as amended by [S.I. 2019/1078](#), regs. 1, **4(4)(a)** and [S.I. 2020/1540](#), regs. 1(2)(3), **11(2)(10)(b)-(d)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Modification of Directive [2000/60/EC](#) of the European Parliament and of the Council

3E.—(1) For the purposes of regulation 3C(4)(a), Article 11(3)(j) of Directive [2000/60/EC](#) of the European Parliament and of the Council is to be read as if—

- (a) the reference to “Member States” were a reference to the appropriate authority or appropriate body;
- (b) in the words after the sixth indent, “environmental objectives”—

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- (i) in relation to the Northumbria River Basin District, means the objectives referred to in the WFD Regulations as applied by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;
- (ii) in relation to the Solway Tweed River Basin District, has the same meaning as in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
- (iii) in relation to a river basin district within the meaning of the WFD Regulations, has the same meaning as in those Regulations.

(2) In paragraph (1)(b), “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.]

Textual Amendments

F10 Regs. 3A-3E inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(3)** (as amended by S.I. 2019/1078, regs. 1, **4(4)(a)** and S.I. 2020/1540, regs. 1(2)(3), **11(2)(10)(b)-(d)**); 2020 c. 1, **Sch. 5 para. 1(1)**

PART 2

Waste prevention programmes

Establishment of waste prevention programmes

- 4.—(1) The appropriate authority must ^{F11}... —
- (a) evaluate the usefulness of the waste prevention measures set out as examples in Annex IV of the Waste Framework Directive and any other such measures the authority thinks fit; and
 - (b) establish one or more programmes of waste prevention measures (each a “waste prevention programme”).

(2) A programme established before the coming into force of these Regulations may be a waste prevention programme.

^{F12}(3)

Textual Amendments

F11 Words in reg. 4(1) omitted (1.10.2020) by virtue of [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(3)(a)**

F12 Reg. 4(3) omitted (1.10.2020) by virtue of [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(3)(b)**

Purposes etc. of waste prevention programmes

5. The appropriate authority must ensure that a waste prevention programme—
- (a) is compatible with the objectives in paragraphs 1 and 2 of Schedule 1;
- [^{F13}(aa) includes one or more programmes of food waste prevention measures;]

- (b) has as its purpose a contribution towards breaking the link between economic growth and the environmental impacts associated with the generation of waste;
- (c) is expressed in writing and—
 - (i) sets out the objectives of the programme and a description of existing waste prevention measures [^{F14}and their contribution to waste prevention]; ^{F15} ...
 - (ii) if it is integrated into a waste management plan or other programme, clearly identifies the programme's waste prevention measures;
 - [^{F16}(iii) sets out at least the waste prevention measures listed in Schedule 1, Part 5; and
 - (iv) where relevant, describes the contribution of instruments listed in Schedule 1, Part 6 to waste prevention.]

Textual Amendments

- F13** Reg. 5(aa) inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(4)(a)**
- F14** Words in reg. 5(c)(i) inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(4)(b)(i)**
- F15** Word in reg. 5(c) omitted (1.10.2020) by virtue of [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(4)(b)(ii)**
- F16** Reg. 5(c)(iii)(iv) inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(4)(b)(iii)**

Monitoring and evaluation of waste prevention programmes

[^{F17}6.—(1) An appropriate authority must establish appropriate qualitative and quantitative indicators and targets, such as on the quantity of waste that is generated, against which to monitor and assess the implementation of the waste prevention measures.

(2) An appropriate authority must publish the indicators and targets it establishes.]

Textual Amendments

- F17** Reg. 6(1)(2) substituted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(5)**

PART 3

Waste management plans

Requirement for waste management plans

7.—(1) The appropriate authority must ensure that there are one or more plans containing policies in relation to waste management in England or Wales, as the case may be (each a “waste management plan”).

(2) A waste management plan may form part of a document and, where this is the case, any requirement of law in relation to the plan applies only to that part.

(3) In this Part—

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- (a) “England” includes the sea adjacent to England out as far as the seaward boundary of the territorial sea;
- (b) “Wales” includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea;
- (c) the sea adjacent to England is so much of the sea adjacent to Great Britain as is not the sea adjacent to Wales or the sea adjacent to Scotland;
- (d) the sea adjacent to Wales has the same meaning as it has by virtue of section 158(3) or (4) of the Government of Wales Act 2006 ^{M5}; and
- (e) the sea adjacent to Scotland has the same meaning as the internal waters and territorial sea of the United Kingdom adjacent to Scotland by virtue of section 126(2) of the Scotland Act 1998 ^{M6}.

Marginal Citations

- M5** 2006 c.32. The boundary between the sea adjacent to Wales and that adjacent to England is described by article 6 and Schedule 3 to the [National Assembly for Wales \(Transfer of Functions\) Order 1999 \(S.I. 1999/672\)](#). By virtue of section 162 of and paragraph 26 of Schedule 11 to the 2006 Act, [S.I. 1999/672](#) continues to have effect.
- M6** 1998 c.46. The boundaries between waters which are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not are set out in the [Scottish Adjacent Water Boundaries Order 1999 \(S.I. 1999/1126\)](#).

Content of waste management plans

8.—(1) The appropriate authority must ensure that the waste management plans (taken together) cover the whole of England or Wales, as the case may be.

(2) [^{F18}Subject to Part 2A of Schedule 1,] the appropriate authority must ensure that the waste management plans ^{F19}...—

- (a) include a statement of the authority's policies for attaining the objectives specified in Part 1 of Schedule 1; ^{F20}...
- [^{F21}(b) include the matters set out—
 - (i) in relation to England, in paragraphs 5 to 10 and 11(a)(ii) and (b) of Part 2 of Schedule 1;
 - (ii) in relation to Wales, in Part 2 of Schedule 1];
- [^{F22}(c) conform to the provisions in paragraph 5(1)(b) of Schedule 10 to the Environmental Permitting (England and Wales) Regulations 2016; and
- (d) for the purposes of litter prevention, conform to—
 - (i) the programme of measures published pursuant to regulation 14(1) of the Marine Strategy Regulations 2010; and
 - (ii) each programme of measures proposed and approved under regulation 12(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017—
 - (aa) in relation to England, for river basin districts that are wholly or partly in England;
 - (bb) in relation to Wales, for river basin districts that are wholly or partly in Wales.]

(3) The appropriate authority must consider, in particular, whether the matters set out in Part 3 of Schedule 1 should be included in the waste management plans.

(4) An appropriate authority must ensure that the waste management plans conform to the strategy for the reduction of biodegradable waste going to landfill—

(a) in relation to England, required by section 17(1) of the Waste and Emissions Trading Act 2003^{M7};

(b) in relation to Wales, required by section 19(1) of that Act.

(5) A statement of policy made before the coming into force of these Regulations may be, or form part of, a waste management plan.

Textual Amendments

F18 Words in reg. 8(2) inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(6)(a)**

F19 Words in reg. 8(2) omitted (1.10.2020) by virtue of [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(6)(b)**

F20 Word in reg. 8(2) omitted (1.10.2020) by virtue of [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(6)(c)**

F21 Reg. 8(2)(b) substituted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(6)(d)**

F22 Reg. 8(2)(c)(d) inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(6)(e)**

Marginal Citations

M7 2003 c.33.

PART 4

Waste prevention programmes and waste management plans: general provision

Directions to the Environment Agency

- [^{F23}9.—(1) An appropriate authority may give directions to an appropriate body requiring it—
- (a) to advise the authority on the measures or policies which are to be included in a waste prevention programme or waste management plan;
 - (b) to carry out a survey or investigation into any other matter in connection with the preparation of such a programme or plan or any modification of it, and report its findings to the authority.
- (2) A direction given under paragraph (1)(b)—
- (a) must specify or describe the matters which are to be the subject of the survey or investigation;
 - (b) may specify bodies or persons to be consulted before carrying out the survey or investigation; and
 - (c) may make provision in relation to the manner in which—
 - (i) the survey or investigation is to be carried out; or
 - (ii) the findings are to be reported and made available.

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- (3) The appropriate body must comply with a direction given under paragraph (1).
- (4) Where a direction is given under paragraph (1)(b), the appropriate body must also consult any body or person that it considers appropriate but is not specified in the direction.
- (5) The appropriate body must make its findings available to the bodies and persons it consults.
- (6) The power under paragraph (1) may only be exercised—
 - (a) by the Secretary of State in relation to the Natural Resources Body for Wales, with the consent of the Welsh Ministers;
 - (b) by the Welsh Ministers in relation to the Environment Agency, with the consent of the Secretary of State.]

Textual Amendments

F23 Reg. 9 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 404** (with Sch. 7)

Review and modification of programmes and plans

- 10.**—(1) The appropriate authority—
- (a) must review each waste prevention programme and national waste management plan at least every sixth year;
 - (b) may from time to time modify a programme or plan.
- (2) The appropriate authority must ensure that the [^{F24}appropriate body] and the bodies or persons mentioned in paragraph (3) are consulted during the preparation of—
- (a) proposals for a waste prevention programme or national waste management plan; or
 - (b) proposals to modify such a programme or plan.
- (3) They are such bodies or persons appearing to be representative of—
- (a) the interests of local government; and
 - (b) the interests of industry,
- as the authority considers appropriate.
- (4) This regulation does not apply to a national waste management plan containing only provision relating to paragraph 8, 9, 10 or 11 of Schedule 1.
- (5) Steps taken before the coming into force of these Regulations in relation to a waste prevention programme or national waste management plan may be steps for the purposes of this regulation.

Textual Amendments

F24 Words in reg. 10(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 405** (with Sch. 7)

Public participation in programmes and plans

- 11.**—(1) Part 4 of Schedule 1 (public participation in the preparation or modification of a waste prevention programme or national waste management plan) has effect, but does not apply to a programme or plan—
- (a) designed for the sole purpose of serving national defence or taken in case of civil emergencies;

- (b) for which a public participation procedure is carried out under—
 - (i) Part 3 of the Environmental Assessment of Plans and Programmes Regulations 2004^{M8}, or
 - (ii) Part 3 of the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004^{M9}; or
 - (c) containing only provision relating to paragraph 8, 9, 10 or 11 of Schedule 1.
- (2) The appropriate authority must ensure that waste prevention programmes and national waste management plans are available on a publicly available website.
- (3) Steps taken before the coming into force of these Regulations in relation to a waste prevention programme or national waste management plan may be steps for the purposes of Part 4 of Schedule 1.

Marginal Citations

M8 S.I. 2004/1633.

M9 S.I. 2004/1656 (W. 170).

PART 5

Duties in relation to waste management and improved use of waste as a resource

Duty in relation to the waste hierarchy

12.—(1) An establishment or undertaking which imports, produces, collects, transports, recovers or disposes of waste, or which as a dealer or broker has control of waste must, on the transfer of waste, take all such measures available to it as are reasonable in the circumstances to apply the following waste hierarchy as a priority order—

- (a) prevention;
- (b) preparing for re-use;
- (c) recycling;
- (d) other recovery (for example energy recovery);
- (e) disposal.

(2) But an establishment or undertaking may depart from the priority order in paragraph (1) so as to achieve the best overall environmental outcome where this is justified by life-cycle thinking on the overall impacts of the generation and management of the waste.

(3) When considering the overall impacts mentioned in paragraph (2), the following considerations must be taken into account—

- (a) the general environmental protection principles of precaution and sustainability;
- (b) technical feasibility and economic viability;
- (c) protection of resources;
- (d) the overall environmental, human health, economic and social impacts.

Duties in relation to collection of waste

[^{F25}**13.**—^{F26}(1)

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(2) Subject to paragraph (4), an establishment or undertaking which collects waste paper, metal, plastic or glass must do so by way of separate collection.

(3) Subject to paragraph (4), every waste collection authority must, when making arrangements for the collection of waste paper, metal, plastic or glass, ensure that those arrangements are by way of separate collection.

[^{F27}(4) The duties in this regulation apply where separate collection is necessary to ensure that waste undergoes preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of the Waste Framework Directive and to facilitate or improve preparing for re-use, recycling or recovery, unless one of the following conditions is met—

- (a) collecting the waste paper, metal, plastic or glass together results in output from those operations which is of comparable quality to that achieved through separate collection;
- (b) separate collection of the waste does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;
- (c) separate collection of the waste is not technically feasible taking into consideration good practices in waste collection; or
- (d) separate collection of the waste would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility.]]

Textual Amendments

- F25** Reg. 13 substituted (1.10.2012) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2012 \(S.I. 2012/1889\)](#), regs. 1(2), **2(2)**
- F26** Reg. 13(1) omitted (1.10.2020) by virtue of [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(7)(a)**
- F27** Reg. 13(4) substituted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(7)(b)**

Duty in relation to collected waste

[^{F28}**14.**—(1) Subject to paragraph (2), an establishment or undertaking which collects, transports or receives waste must ensure that where that waste has been separately collected it is not mixed with other material with different properties.]

[^{F28}(2) The duty in paragraph (1) applies where keeping waste separate is necessary to ensure that waste undergoes preparing for re-use, recycling or other recovery operations in accordance with Articles 4 and 13 of the Waste Framework Directive and to facilitate or improve preparing for re-use, recycling or recovery, unless one of the following conditions is met—

- (a) mixing certain types of waste together results in output from those operations which is of comparable quality to that achieved through keeping waste separate;
- (b) keeping waste separate does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;
- (c) keeping waste separate is not technically feasible taking into consideration good practices in waste collection; or
- (d) keeping waste separate would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and

treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility.]

Textual Amendments

F28 Reg. 14(1)(2) substituted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(8)**

Guidance

15.—(1) The appropriate authority may give guidance on the discharge of the duties in regulations 12 to 14.

(2) An establishment or undertaking discharging any of the duties in regulations 12 to 14 must, in doing so, have regard to any such guidance.

PART 6

Duties of planning authorities

General interpretation

16.—(1) In this Part—

“the 1990 Act” means the Town and Country Planning Act 1990 ^{M10};

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004 ^{M11};

“the 2008 Act” means the Planning Act 2008 ^{M12};

“local planning authority” has the same meaning as in 1990 Act;

“mineral planning authority” has the same meaning as in section 1 of the 1990 Act ^{M13};

“planning permission” has the meaning given in section 336 of the 1990 Act ^{M14}.

(2) In this Part, “the planning Acts” means—

(a) the 1990 Act;

(b) the Planning (Listed Buildings and Conservation Areas) Act 1990 ^{M15};

(c) the Planning (Hazardous Substances) Act 1990 ^{M16};

(d) the Planning (Consequential Provisions) Act 1990 ^{M17};

(e) the 2004 Act; and

(f) the 2008 Act.

(3) In this Part, “planning authority” means—

(a) a local planning authority;

(b) a joint committee constituted under section 29 of the 2004 Act;

(c) a person appointed under paragraph 1 of Schedule 6 to the 1990 Act ^{M18};

(d) a government department in respect of its functions under the planning Acts; or

(e) an appropriate authority in respect of its functions under the planning Acts.

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Marginal Citations

- M10** 1990 c. 8.
M11 2004 c. 5.
M12 2008 c. 29.
M13 Section 1 was amended by the Local Government (Wales) Act (c. 19), section 18(3) and (4).
M14 The definition of “planning permission” in section 336 was amended by the [Planning and Compensation Act 1991 \(c. 34\)](#), [sections 32](#) and 84(6) and Schedules 7 and 19.
M15 1990 c. 9.
M16 1990 c. 10.
M17 1990 c. 11.
M18 Paragraph 1 was inserted by the [Planning and Compensation Act 1991 \(c. 34\)](#), [section 32](#).

Meaning of planning functions

17.—(1) In this Part, “planning functions” means any of the following functions, other than a function which must be discharged by statutory instrument—

- (a) determining—
 - (i) an application for planning permission under section 70 of the 1990 Act, or
 - (ii) an appeal made under section 78 of the 1990 Act in relation to the determination of such an application ^{M19};
 - (b) deciding whether to take action under section 141(2) or (3) or 177(1)(a) or (b) of the 1990 Act ^{M20}, or under section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990;
 - (c) deciding whether to direct under section 90(1), (2) or (2A) of the 1990 Act ^{M21} that planning permission must be deemed to be granted;
 - (d) deciding whether—
 - (i) in making or confirming a discontinuance order, to include in the order any grant of planning permission, or
 - (ii) to confirm (with or without modifications) a discontinuance order insofar as it grants planning permission;
 - (e) making a local development order under section 61A of the 1990 Act ^{M22};
 - (f) discharging functions under Part 2 of the 1990 Act;
 - (g) discharging functions in relation to England under—
 - (i) Part 2 of and Schedule 8 to the 2004 Act, or
 - (ii) Part 5 of the Local Democracy, Economic Development and Construction Act 2009 ^{M23},
 - (h) discharging functions in relation to Wales under Part 6 of and Schedule 8 to the 2004 Act;
 - (i) deciding whether to—
 - (i) make a development consent order under section 104 or 105 of the 2008 Act, or
 - (ii) make changes to, or revoke, such an order under section 153 of that Act, other than in accordance with paragraph 2 of Schedule 6 to that Act.
- (2)** In paragraph (1)(d), “discontinuance order” means an order under—
- (a) section 102 of the 1990 Act (including an order made under that section by virtue of section 104 of that Act) ^{M24}; or

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- (b) paragraph 1 of Schedule 9 to the 1990 Act (including an order made under that paragraph by virtue of paragraph 11 of that Schedule).

Marginal Citations

- M19** Section 78 was amended by the [Planning and Compensation Act 1991 \(c. 34\)](#), [section 17\(2\)](#) and by the [Planning and Compulsory Purchase Act 2004 \(c.5\)](#), [sections 40\(2\)\(e\)](#) and 43(2).
- M20** Section 177 was amended by the [Planning and Compensation Act 1991 \(c. 34\)](#), [section 32](#) and Schedule 7.
- M21** Section 90(1) was amended by the [Environment Act 1995 \(c. 25\)](#), [section 78](#) and Schedule 10; section 90(2A) was inserted by the [Transport and Works Act 1992 \(c. 42\)](#), [section 16\(1\)](#).
- M22** Section 61A was inserted by the [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [section 40\(1\)](#).
- M23** [2009 c. 20](#).
- M24** Section 102 was amended by the [Planning and Compensation Act 1991 \(c. 34\)](#), [section 32](#) and Schedule 7; section 102 and paragraph 1 of Schedule 9 were amended by section 21 of, and Schedule 1 to, that Act.

Exercise of planning functions

18. A planning authority must have regard to the following provisions of the Waste Framework Directive when exercising its planning functions to the extent that those functions relate to waste management—

- (a) Article 13;
- (b) the first paragraph of Article 16(1) ^{F29}...;
- (c) Article 16(2) and (3).

Textual Amendments

- F29** Words in [reg. 18\(b\)](#) omitted (31.12.2020) by virtue of [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), [regs. 1\(2\)\(b\)](#), [16\(4\)](#) (as amended by [S.I. 2020/1540](#), [regs. 1\(2\)](#), [11\(2\)](#)); [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)

Inspections

19.—(1) This regulation applies where a planning authority has planning functions in relation to establishments or undertakings carrying on disposal or recovery of waste.

(2) The planning authority must ensure that appropriate periodic inspections of those establishments or undertakings are made ^{M25}.

Marginal Citations

- M25** Sections 196A-196C of the [Town and Country Planning Act 1990 \(c. 8\)](#) provide for powers relevant to inspection. Those sections were inserted by the [Planning and Compensation Act 1991 \(c. 34\)](#).

Further duties in relation to planning permission

20.—(1) A planning authority must not grant planning permission or development consent for a landfill unless it has taken into consideration the requirements of—

- (a) paragraph 1.1 of Annex I to [^{F30}the Landfill Directive];

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- (b) paragraph 5 of that Annex, but only in respect of nuisances and hazards arising from traffic beyond the site of the landfill.
- (2) A mineral planning authority must not grant planning permission for a mining waste facility to which Article 7 of [^{F31}Mining Waste Directive] applies unless it is satisfied that—
- (a) the operator of that facility will meet the requirements of Article 11(2)(a) of that Directive; and
- (b) the management of waste at that facility will not conflict directly or otherwise interfere with the implementation of the plans referred to in Article 7(3)(b) of that Directive.
- (3) In this regulation—
- “landfill” has the meaning given in Article 2(g) of [^{F32}the Landfill Directive], but does not include any operation excluded from the scope of that Directive by Article 3(2) [^{F33}or (3)];
- “mining waste facility” means a “waste facility” as defined in Article 3(15) of [^{F34}the Mining Waste Directive], but does not include those facilities mentioned in Article 24(2) or in the first paragraph of Article 24(4).

Textual Amendments

- F30** Words in reg. 20(1)(a) substituted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(5)(a)** (as amended by S.I. 2020/1540, regs. 1(2)(3), **11(2)(10)(e)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F31** Words in reg. 20(2) substituted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(5)(b)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, **Sch. 5 para. 1(1)**
- F32** Words in reg. 20(3) substituted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(5)(c)(i)** (as amended by S.I. 2020/1540, regs. 1(2)(3), **11(2)(10)(e)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F33** Words in reg. 20(3) inserted (1.10.2020) by [The Waste \(Circular Economy\) \(Amendment\) Regulations 2020 \(S.I. 2020/904\)](#), regs. 1(1), **15(9)(b)(ii)**
- F34** Words in reg. 20(3) substituted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **16(5)(c)(ii)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, **Sch. 5 para. 1(1)**

PART 7

Deposits in the sea

Interpretation

- 21.** In this Part, “offshore licensing functions” means—
- (a) functions under Part 2 of the Food and Environment Protection Act 1985 ^{M26};
- (b) functions under Part 4 of the Marine and Coastal Access Act 2009 ^{M27},
- other than functions which must be exercised by statutory instrument.

Marginal Citations

- M26** 1985 c. 48.
- M27** 2009 c. 23.

Exercise of offshore licensing functions

22. An appropriate authority must exercise its offshore licensing functions—
- (a) so far as material, for the purposes of implementing the waste management plans;
 - (b) for the purposes of ensuring that—
 - (i) the waste hierarchy referred to in Article 4 of the Waste Framework Directive is applied to the generation of waste; and
 - (ii) waste generated by the disposal or recovery of waste is treated in accordance with Article 4 of the Waste Framework Directive;
 - (c) for the purposes of implementing Article 13 of the Waste Framework Directive;
 - (d) so as to ensure that the requirements in the second paragraph of Article 23(1) of the Waste Framework Directive are met; and
 - (e) so as to ensure compliance with the following Articles of the Waste Framework Directive—
 - (i) Article 18(2)(b) and (c),
 - (ii) Article 23(3) and (4),
 - (iii) Article 35(1).

Inspections

23.—(1) This regulation applies where an appropriate authority has offshore licensing functions in relation to establishments or undertakings carrying on disposal or recovery of waste.

(2) The appropriate authority must ensure that appropriate periodic inspections of those establishments or undertakings are made ^{M28}.

Marginal Citations

M28 Section 11 of the [Food and Environment Protection Act 1985 \(c. 48\)](#) and sections 246 to 248 of the [Marine and Coastal Access Act 2009 \(c. 23\)](#) provide for powers relevant to inspection.

PART 8

Registration of carriers, brokers and dealers

Interpretation

24.—(1) The regulations in this Part, to the extent that they relate to carriers of controlled waste, have effect as if they were made in exercise of the powers in sections 1(3), 2 and 4(6) of the Control of Pollution (Amendment) Act 1989 ^{M29}.

- (2) Sections 3 and 4 of the Control of Pollution (Amendment) Act 1989 ^{M30} have effect as if—
- (a) references to carriers of controlled waste in those sections included references to brokers of and to dealers in controlled waste;
 - (b) references to the transport of controlled waste included references to acting as a broker of or dealer in controlled waste; and
 - (c) regulations 26 and 28 to 34, to the extent that they relate to brokers and dealers, were made in exercise of the powers in sections 2 and 4(6) of that Act.

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(3) Section 3(5) and (6) of the Control of Pollution (Amendment) Act 1989 (in its application to carriers, brokers and dealers) has effect as if—

(a) references to provision made by virtue of subsection (1) or (2) include a reference to regulations 29(5) and 32(1); and

[^{F35}(b) references to a prescribed offence include a relevant offence within the meaning of regulation 29]

(4) Section 7(1) of the Control of Pollution (Amendment) Act 1989 has effect as if the words “the provisions of this Act” included a reference to regulation 25.

(5) In this Part—

“the relevant time” means immediately before the coming into force of these Regulations;

“specified person” means—

(a) a charity or voluntary organisation;

(b) a waste collection authority;

(c) an authority which is a waste disposal authority for the purposes of Part 2 of the Environmental Protection Act 1990 ^{M31};

(d) an authority which is a waste regulation authority for the purposes of Part 2 of the Environmental Protection Act 1990 ^{M32};

(e) a carrier which only transports waste produced by the carrier itself, except where it is construction or demolition waste (and “construction” includes improvement, repair and alteration);

(f) a carrier which only transports, a broker which only arranges for the recovery or disposal of, or a dealer which only deals in—

(i) animal by-products;

(ii) waste from a mine or quarry; or

(iii) waste from premises used for agriculture.

Textual Amendments

F35 Reg. 24(3)(b) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), 3

Marginal Citations

M29 1989 c.14. Section 2 was amended by the [Environmental Protection Act 1990 \(c. 43\)](#), [section 162](#) and paragraph 31 of Schedule 15, by the [Environment Act 1995 \(c. 25\)](#), [section 120](#) and paragraph 37 of Schedule 22, and by the [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [sections 36](#) and 107 and Part 4 of Schedule 5.

M30 Section 3 was amended by the [Environmental Protection Act 1990 \(c. 43\)](#), [section 162](#) and paragraph 31 of Schedule 15 and by the [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [section 36](#). Section 4 was also amended by those provisions of the Environmental Protection Act 1990, and by the Environment Act 1995, section 120 and paragraph 37 of Schedule 22. Section 7(1) was amended by those provisions of the Environmental Protection Act 1990 and the Environment Act 1995, and by the [Anti-social Behaviour Act 2003 \(c. 38\)](#), [section 55](#).

M31 1990 c. 43. See section 30(2), which was amended by the [Local Government \(Wales\) Act 1994](#), section 22(3) and paragraph 17(2) of Schedule 9.

M32 1990 c. 43. See section 30(1), which was substituted by the [Environment Act 1995](#), section 120 and paragraph 62(2) of Schedule 22.

Registration of brokers and dealers in controlled waste

25. No person may act as a broker of or dealer in controlled waste unless registered with the [^{F36}appropriate body].

Textual Amendments

F36 Words in reg. 25 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 405](#) (with Sch. 7)

Exemptions in relation to carriers

26.—(1) The following are not required to be a registered carrier of controlled waste for the purposes of section 1 of the Control of Pollution (Amendment) Act 1989—

- (a) a carrier who is a specified person and who does not normally and regularly transport controlled waste;
- (b) the operator of a vessel, aircraft, hovercraft, floating container or vehicle, in relation to its use, after it has been loaded with waste in circumstances in which a marine licence is required or would be required but for a marine exemption order for transporting the waste in order to carry out a specified marine operation.

(2) In paragraph (1)(b)—

“marine licence” means—

- (a) a licence under Part 2 of the Food and Environment Protection Act 1985; or
- (b) a marine licence under Part 4 of the Marine and Coastal Access Act 2009;

“marine exemption order” means an order under—

- (a) section 7 of the Food and Environment Protection Act 1985 (exemptions from licensing)^{M33}, or
- (b) section 74 of the Marine and Coastal Access Act 2009 (which provides for exemptions from marine licensing);

“specified marine operation” means an operation mentioned in—

- (a) section 5 or 6 of the Food and Environment Protection Act 1985 (deposits in the sea or incineration)^{M34}; or
- (b) an item numbered 1 to 6 or 11 to 13 in section 66(1) of the Marine and Coastal Access Act 2009 (which specifies licensable marine activities).

Marginal Citations

M33 Section 7(1) was amended by [S.I. 1999/1756](#), [article 2](#) and paragraph 10 of the Schedule.

M34 Sections 5 and 6 were amended by the [Environmental Protection Act 1990 \(c. 43\)](#), [sections 146](#) and 162 and Part 8 of Schedule 16. Section 5 was also amended by section 1(1) and Part 2 of Schedule 1 to the Statute Law (Repeals) Act 1993 .

Transitional exemptions

27.—(1) Until the end of 2013, a transitionally exempt carrier is not required to be registered as a carrier of controlled waste for the purposes of section 1 of the Control of Pollution (Amendment) Act 1989.

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(2) Until the end of 2013, a transitionally exempt broker is not required to be registered as a broker of controlled waste for the purposes of regulation 25.

(3) In this regulation—

“transitionally exempt carrier” means a carrier who—

- (a) at the relevant time was not required to be registered as a carrier of controlled waste for the purposes of—
 - (i) section 1 of the Control of Pollution (Amendment) Act 1989, and
 - (ii) paragraph 12(1) of Schedule 4 to the Waste Management Licensing Regulations 1994 ^{M35}, or
- (b) had they been a carrier of controlled waste at the relevant time, would not have been required to be registered for those purposes;

“transitionally exempt broker” means a broker who—

- (a) at the relevant time was not required to be registered as a broker of controlled waste for the purposes of—
 - (i) regulation 20(1) of the Waste Management Licensing Regulations 1994, and
 - (ii) paragraph 12(2) of Schedule 4 to those Regulations, or
- (b) had they been a broker of controlled waste at the relevant time, would not have been required to be registered for those purposes.

Marginal Citations

M35 [S.I. 1994/1056](#), amended by [S.I. 2000/1973](#), 2006/937, 2007/3538. There are other amendments but none is relevant. The Regulations are revoked by Schedule 5 to these Regulations.

The register

28.—(1) The [^{F37}appropriate body] must establish and maintain a register of carriers, brokers and dealers.

(2) A register of carriers or brokers held at the relevant time for the purposes of the Control of Pollution (Amendment) Act 1989 or the Waste Management Licensing Regulations 1994 is a register for the purposes of these Regulations.

Textual Amendments

F37 Words in reg. 28(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 405](#) (with [Sch. 7](#))

Procedure for registration

[^{F38}**29.**—(1) This regulation applies to—

- (a) registration of a carrier for the purposes of the Control of Pollution (Amendment) Act 1989; and
- (b) registration of a broker or dealer for the purposes of regulation 25.

(2) An application for registration must be made to the appropriate body, using the form provided by that body.

(3) All the information required by the form must be provided, together with any fee prescribed in a charging scheme made by the appropriate body under section 41 of the Environment Act 1995.

(4) The appropriate body may require additional information to be provided.

(5) Registration may be refused if, in the opinion of the appropriate body—

(a) it is undesirable for the applicant to be authorised to transport controlled waste or to act as a broker or dealer of controlled waste (as the case may be); and

(b) ^{F39}the applicant or another relevant person has been convicted of a relevant offence]

^{F40}(5A) A “relevant offence” means an offence under—

(a) the Scrap Metal Dealers Act 1964,

(b) section 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the offence relates to scrap metal or is an environment-related offence,

(c) section 170 or 170B of the Customs and Excise Management Act 1979, where the offence relates to scrap metal,

(d) section 9 of the Food and Environment Protection Act 1985,

(e) section 1, 5 or 7 of the Control of Pollution (Amendment) Act 1989,

(f) section 33, 34 or 34B of the Environmental Protection Act 1990,

(g) section 85, 202 or 206 of the Water Resources Act 1991,

(h) the Transfrontier Shipment of Waste Regulations 1994,

(i) section 110 of the Environment Act 1995,

(j) the Control of Major Accident Hazards Regulations ^{F41}[2015],

(k) the Pollution Prevention and Control (England and Wales) Regulations 2000,

(l) Part 1 of the Vehicles (Crimes) Act 2001,

(m) regulation 17(1) of the Landfill (England and Wales) Regulations 2002,

(n) section 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002 ,

(o) the Hazardous Waste (England and Wales) Regulations 2005,

(p) the Hazardous Waste (Wales) Regulations 2005,

(q) section 1 of the Fraud Act 2006, where the offence relates to scrap metal or is an environment-related offence,

(r) the Waste Electrical and Electronic Equipment Regulations 2006,

(s) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007,

(t) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007,

(u) the Transfrontier Shipment of Waste Regulations 2007,

(v) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010,

(w) regulation 42 of these Regulations,

(x) section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,

(y) the Waste Electrical and Electronic Equipment Regulations 2013,

(z) the Scrap Metal Dealers Act 2013.

[regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016.]]
^{F42}(z1)

^{F40}(5B) A relevant offence also includes—

(a) attempting or conspiring to commit a relevant offence;

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- (b) inciting or aiding, abetting, counselling or procuring the commission of a relevant offence; and
- (c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) committed in relation to a relevant offence.]

[^{F40}(5C) For the purposes of paragraph (5A)—

“environment-related offence” means an offence which relates to the transportation, shipment or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water or land which may give rise to any harm;

“harm” means—

- (a) harm to the health of human beings or other living organisms;
- (b) harm to the quality of the environment;
- (c) offence to the senses of human beings;
- (d) damage to property; or
- (e) impairment of, or interference with, amenities or other legitimate uses of the environment.]

(6) On registration the appropriate body must provide a certificate of registration to the applicant.

[^{F43}(6A) The appropriate body must, on payment of a reasonable charge, provide any person who has been provided with a certificate of registration under paragraph (6) with a copy of the certificate if requested.]

[^{F43}(6B) The appropriate body must ensure that any copy is numbered and marked so as to show that it is a copy of the certificate and that it has been provided by the appropriate body under this regulation.]

(7) If registration is refused the appropriate body must notify the applicant and give written reasons for the refusal.

(8) For the purposes of an application under paragraph (2) the appropriate body is—

- (a) in the case of a carrier, broker or dealer whose registered office or principal place of business is in England, the Environment Agency;
- (b) in the case of a carrier, broker or dealer whose registered office or principal place of business is in Wales, the Natural Resources Body for Wales.]

Textual Amendments

- F38** Reg. 29 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 406** (with Sch. 7)
- F39** Reg. 29(5)(b) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **4(a)**
- F40** Reg. 29(5A)-(5C) inserted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **4(b)**
- F41** Word in reg. 29(5A)(j) substituted (1.6.2015) by [The Control of Major Accident Hazards Regulations 2015 \(S.I. 2015/483\)](#), reg. 1(1), **Sch. 6 para. 6** (with reg. 3(2))
- F42** Reg. 29(5A)(z1) inserted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 36(2)** (with regs. 1(3), 77-79, Sch. 4)
- F43** Reg. 29(6A)(6B) inserted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **4(c)**

Updating the register

30.—(1) A registered carrier, broker or dealer must within 28 days inform the [^{F44}appropriate body] of any change of circumstance affecting information in the entry relating to that carrier, broker or dealer.

(2) If the [^{F45}appropriate body] becomes aware that the information held on the register is incorrect in respect of any carrier, broker or dealer, it may remove that person from the register where it is reasonable to do so.

(3) Where the [^{F45}appropriate body] has the person's address, it must notify them of the removal and request the correct information.

(4) The [^{F45}appropriate body] must restore the person to the register if the correct information comes to its notice.

Textual Amendments

F44 Words in reg. 30(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 407(2)** (with Sch. 7)

F45 Words in reg. 30(2)-(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 407(3)** (with Sch. 7)

Duration of a registration

31.—(1) Unless revoked, registration of a specified person is indefinite.

(2) For other persons registration is for three years unless revoked.

(3) But registration is not valid during any period of removal from the register under regulation 30(2).

Revocation of registration

32.—(1) A registration may be revoked if—

[^{F46}(a) the registered person or another relevant person has been convicted of a relevant offence within the meaning of regulation 29;]

(b) in the opinion of the [^{F47}appropriate body], it is undesirable for the registered carrier, broker or dealer to continue to be authorised to act as a carrier or broker of, or a dealer in, controlled waste (as the case may be).

(2) If a registration is revoked the [^{F48}appropriate body] must notify the registered person and give written reasons for the revocation.

(3) A revocation comes into force—

(a) where no appeal is made, 28 days after the date the notification is received; or

(b) where an appeal is made, when it is withdrawn or refused.

Textual Amendments

F46 Reg. 32(1)(a) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), 5

F47 Words in reg. 32(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 408** (with Sch. 7)

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F48 Words in reg. 32(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 408** (with Sch. 7)

Appeals

33. An appeal under section 4 of the Control of Pollution (Amendment) Act 1989 must be received by the Secretary of State or the Welsh Ministers (as the case may be) within 28 days of the refusal or revocation that is the subject of the appeal.

Inspections

34.—(1) The [^{F49}appropriate body] must ensure that appropriate periodic inspections of registered carriers, brokers and dealers are made ^{M36}.

(2) If the inspection relates to collection or transport of controlled waste, the [^{F49}appropriate body] must ensure that it covers the origin, nature, quantity and destination of that waste.

(3) In paragraph (2), “collection or transport” includes an operation where waste is transported following transfer between different carriers.

Textual Amendments

F49 Words in reg. 34 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 409** (with Sch. 7)

Marginal Citations

M36 Section 108 of the [Environment Act 1995 \(c. 25\)](#) provides for powers relevant to inspection. That section was amended by the [Anti-social Behaviour Act 2003 \(c. 38\)](#), the [Clean Neighbourhoods and Environment Act 2005 \(c.16\)](#) and [S.I. 2000/1973](#).

PART 9

Transfer of waste

[^{F50}Waste information]

35.—(1) This regulation takes effect as if it were made in exercise of the power in section 34(5) of the Environmental Protection Act 1990.

(2) When controlled waste is transferred in accordance with section 34(1)(c) of that Act the written description of the waste [^{F51}(“written information”)] must—

- (a) identify the waste to which it relates by reference to the appropriate codes in the List of Wastes ^{F52} ..., give a description of the waste and state—
 - (i) its quantity and whether it is loose or in a container,
 - (ii) if in a container, the kind of container,
 - (iii) the time and place of transfer, and
 - (iv) the SIC code of the transferor;
- (b) give the name and address of the transferor and the transferee and be signed by them;
- (c) state whether each of the transferor and transferee are—

- (i) the producer of the waste,
 - (ii) the importer of the waste,
 - (iii) the transporter of the waste,
 - (iv) a local authority,
 - (v) a holder of an environmental permit under [^{F53}the Environmental Permitting (England and Wales) Regulations 2016], in which case the note must include the permit number (if any),
 - (vi) a person carrying on an operation to which section 33(1)(a) of the Environmental Protection Act 1990 does not apply by virtue of [^{F54}regulation 4(3) of the Environmental Permitting (England and Wales) Regulations 2016],
 - (vii) a person registered as a carrier of controlled waste under the Control of Pollution (Amendment) Act 1989, in which case the note must include the registration number (if any),
 - (viii) a person registered as a broker of or dealer in controlled waste, in which case the note must include the registration number (if any);
- (d) confirm that the transferor has discharged the duty in regulation 12.
- (3) Until the end of the period of 6 months beginning with the day on which these Regulations are made, [^{F55}the written information] may omit the [^{F56}matters] required by paragraph (2)(a)(iv) and (d).
- (4) The [^{F57}written information] may be in electronic form if the person producing it can do so in a visible and legible documentary form.
- (5) Where the [^{F58}written information] is in electronic form, the signature required by paragraph (2)(b) must be an electronic signature (and “electronic signature” means data in electronic form which are attached to or logically associated with the [^{F58}written information] and which serve as a method of authentication).
- (6) The transferor and the transferee must keep [^{F59}the written information], or a copy of it, for at least 2 years and produce it to an officer of the [^{F60}appropriate body] or of a waste collection authority on demand within 7 days.
- (7) This regulation does not apply where the waste transferred is hazardous waste and the consignment note and, where appropriate, schedule required by the Hazardous Waste (England and Wales) Regulations 2005 or the Hazardous Waste (Wales) Regulations 2005 are completed and dealt with in accordance with those Regulations.
- (8) In this regulation “SIC code” means a code included in the UK Standard Industrial Classification of Industrial Activities 2007 (SIC 2007) published by the Office for National Statistics on 14th December 2007 ^{M37}.

Textual Amendments

- F50** Words in reg. 35 heading substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **6(a)**
- F51** Words in reg. 35(2) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **6(b)**
- F52** Words in reg. 35(2)(a) omitted (E.) (1.7.2015) by virtue of [The Hazardous Waste \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1360\)](#), regs. 1(1), **8(3)** (with Sch. 2); Words in reg. 35(2)(a) omitted (W.) (20.7.2015) by virtue of [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), **5(3)**

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- F53** Words in reg. 35(2)(c)(v) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 36(3)(a)** (with regs. 1(3), 77-79, Sch. 4)
- F54** Words in reg. 35(2)(c)(vi) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 36(3)(b)** (with regs. 1(3), 77-79, Sch. 4)
- F55** Words in reg. 35(3) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **6(c)(i)**
- F56** Word in reg. 35(3) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **6(c)(ii)**
- F57** Words in reg. 35(4) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **6(d)**
- F58** Words in reg. 35(5) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **6(d)**
- F59** Words in reg. 35(6) substituted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), **6(e)**
- F60** Words in reg. 35(6) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 409** (with Sch. 7)

Marginal Citations

M37 ISBN 978-0-230-21012-7.

PART 10

Enforcement

Interpretation

36. In this Part—

“the 1989 Act” means the Control of Pollution (Amendment) Act 1989 ^{M38};

“compliance notice” has the meaning given in regulation 38(1);

“regulation authority” has the meaning given in section 9 of the 1989 Act ^{M39};

“restoration notice” has the meaning given in regulation 40(1);

“specified person” has the meaning given in regulation 24(5);

“stop notice” has the meaning given in regulation 39(1).

Marginal Citations

M38 1989 c.14.

M39 Section 9 was amended in relation to the definition of “regulation authority” by the [Environmental Protection Act 1990 \(c. 43\)](#), [section 120](#) and paragraph 37 of Schedule 22, by the [Anti-social Behaviour Act 2003 \(c. 38\)](#), [section 55](#) and by Part 1 of Schedule 4 to these Regulations.

Enforcement authority

37. The [^{F61}appropriate body] enforces Part 5 and regulation 25.

Textual Amendments

F61 Words in regs. 37-40 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 409** (with Sch. 7)

Compliance notices

38.—(1) A “compliance notice” is a notice requiring a person to take specified steps within a specified period to secure that a contravention does not continue or recur.

(2) If the [^{F61}appropriate body] considers that a person has contravened or is contravening regulation 12(1), [^{F62}13(2)], 14(1) or 25 it may serve a compliance notice on that person.

(3) If a regulation authority considers that a person has contravened or is contravening section 1 of the 1989 Act it may serve a compliance notice on that person.

(4) A compliance notice must—

- (a) state the authority's reason for serving it;
- (b) specify the matters constituting the contravention;
- (c) specify the steps which must be taken to secure that the contravention does not continue or recur;
- (d) specify the period within which those steps must be taken;
- (e) give information as to the rights of appeal (including the period within which an appeal must be brought).

Textual Amendments

F61 Words in regs. 37-40 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 409** (with Sch. 7)

F62 Word in reg. 38(2) substituted (1.10.2012) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2012 \(S.I. 2012/1889\)](#), regs. 1(2), **2(4)**

Stop notices

39.—(1) A “stop notice” is a notice prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.

(2) If the [^{F61}appropriate body] considers that a person is carrying on an activity in contravention of regulation 12(1), [^{F63}13(2)], 14(1) or 25 it may serve a stop notice on that person.

(3) If a regulation authority considers that a person is carrying on an activity in contravention of section 1 of the 1989 Act it may serve a stop notice on that person.

(4) A stop notice must—

- (a) state the authority's reason for serving it;
- (b) specify the matters constituting the contravention;
- (c) specify the steps which must be taken to remedy the contravention;
- (d) give information as to the rights of appeal (including the period within which an appeal must be brought).

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Textual Amendments

- F61** Words in regs. 37-40 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 409** (with Sch. 7)
- F63** Word in reg. 39(2) substituted (1.10.2012) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2012 \(S.I. 2012/1889\)](#), regs. 1(2), **2(4)**

Restoration notices

40.—(1) A “restoration notice” is a notice requiring a person to take specified steps within a specified period to secure that the position is, so far as possible, restored to what it would have been if a contravention had not occurred.

(2) If the^{F61} appropriate body] considers that a person has contravened regulation 14(1) it may serve a restoration notice on that person.

(3) A restoration notice must—

- (a) state the Environment Agency's reason for serving it;
- (b) specify the matters constituting the contravention;
- (c) specify the steps which must be taken to secure restoration, so far as possible;
- (d) specify the period within which those steps must be taken;
- (e) give information as to the rights of appeal (including the period within which an appeal must be brought).

Textual Amendments

- F61** Words in regs. 37-40 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 409** (with Sch. 7)

Appeals

41.—(1) A person on whom a compliance notice, stop notice or restoration notice is served may appeal against the decision to serve it.

(2) The grounds for appeal are—

- (a) that the decision was wrong in fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable;
- (d) that any step specified in the notice is unreasonable;
- (e) any other reason.

(3) The right of appeal is to the First-tier tribunal^{M40}.

(4) The tribunal must determine the standard of proof.

(5) A notice, and any requirement in a notice, is not suspended pending an appeal unless the tribunal directs otherwise.

(6) The tribunal may—

- (a) withdraw the requirement or notice;
- (b) confirm the requirement or notice;

- (c) vary the requirement or notice;
- (d) take such steps as the authority serving the notice could take in relation to the act or omission giving rise to the requirement or notice;
- (e) remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the authority.

Marginal Citations

M40 Appeals are assigned to the General Regulatory Chamber of the tribunal by article 3 of [S.I. 2010/2655](#). Procedural rules relating to such appeals are set out in [S.I. 2009/1976](#) (amended by [S.I. 2010/2653](#)). Appeals must be brought within 28 days of the date on which notice of the act or decision to which the proceedings relate was sent to the appellant: see [rule 22\(1\)\(b\)](#).

Offence and penalties

42.—(1) A person is guilty of an offence who—

- (a) if they are not a specified person, fails to comply with regulation 25; or
- (b) fails to comply with a compliance notice, stop notice or restoration notice.

(2) A person guilty of an offence under—

- (a) paragraph (1)(a); or
- (b) paragraph (1)(b) in relation to contravention of regulation 25,

is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person guilty of an offence under paragraph (1)(b) in relation to contravention of regulation 12(1), [^{F64}13(2)] or 14(1) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

Textual Amendments

F64 Word in reg. 42(3) substituted (1.10.2012) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2012 \(S.I. 2012/1889\)](#), regs. 1(2), **2(4)**

Proceedings against partnerships and unincorporated associations

43.—(1) Proceedings for an offence under regulation 42(1) alleged to have been committed by a partnership or unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings the following apply as if the partnership or unincorporated association were a body corporate—

- (a) rules of court relating to the service of documents; and
- (b) section 33 of the Criminal Justice Act 1925 ^{M41} and Schedule 3 to the Magistrates' Courts Act 1980 ^{M42}.

(3) A fine imposed on a partnership or unincorporated association is to be paid out of the funds of the partnership or association.

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Marginal Citations

M41 1925 c. 86.

M42 1980 c. 43.

Offences by bodies corporate, partnerships and unincorporated associations

44.—(1) Where a body corporate is guilty of an offence under regulation 42(1), and that offence 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) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of the offence.

(2) In paragraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where a partnership is guilty of an offence under regulation 42(1), and that offence 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, the partner, as well as the partnership, is guilty of the offence.

(4) In paragraph (3) “partner” includes a person purporting to act as a partner.

(5) Where an unincorporated association is guilty of an offence under regulation 42(1), and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of an officer of the association, that officer, as well as the association, is guilty of the offence.

(6) In paragraph (5) “officer”, in relation to an unincorporated association, means—

- (a) an officer of the association or a member of its governing body; or
- (b) a person purporting to act in such a capacity.

Proceedings for contravention of section 1 of the Control of Pollution (Amendment) Act 1989

45. A regulation authority must not institute proceedings against a specified person for contravention of section 1 of the 1989 Act unless—

- (a) the authority has served a compliance notice or stop notice on the person in respect of the contravention; and
- (b) the person has failed to comply with the notice.

[^{F65}PART 10A

Authority to transport controlled waste

Textual Amendments

F65 Pt. 10A inserted (6.4.2014) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/656\)](#), regs. 1(1)(b), 7

Specified requirements under section 5 of the Control of Pollution (Amendment) Act 1989

45A.—(1) Where a person is required to produce an authority for transporting controlled waste under section 5(2)(a) (power to require production of authority, stop and search etc) of the Control of Pollution (Amendment) Act 1989—

- (a) a copy of that person’s certificate of registration as a carrier of controlled waste made in accordance with regulation 29(6A) and (6B) is authority for these purposes; and
 - (b) where the authority cannot be produced forthwith when required to do so, the authority must be produced at, or sent to, the relevant office no later than 5 working days from when required.
- (2) For the purposes of paragraph (1)(b)—
- (a) “relevant office” means an office of the appropriate body as may be specified by the authorised officer of a regulation authority or constable at the time the requirement is made;
 - (b) “working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971.
- (3) For the purposes of paragraph (2)—
- (a) “authorised officer” has the meaning given in section 9(1B) of the Control of Pollution (Amendment) Act 1989;
 - (b) “regulation authority” has the meaning given in section 9(1) of that Act, as read with section 9(1A) and (1AA).]

PART 11

Final provisions

Registration: reduction of administrative burden

- 46.**—(1) This regulation applies to the [F66appropriate body] in relation to registration of—
- (a) carriers and brokers of, and dealers in, controlled waste (see Part 8); and
 - (b) establishments and undertakings carrying on exempt waste operations under Schedule 2 to [F67the Environmental Permitting (England and Wales) Regulations 2016].
- (2) The Environment Agency must, where possible, use existing records held by it to obtain information for the registration process in order to reduce the administrative burden.

Textual Amendments

- F66** Words in reg. 46 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 409** (with Sch. 7)
- F67** Words in reg. 46(1)(b) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 36(4)** (with regs. 1(3), 77-79, Sch. 4)

Radioactive waste

- 47.**—[F68(1) This regulation applies to radioactive waste—
- (a) which is a specified waste; and
 - (b) in respect of which a person—

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- (i) is carrying on a radioactive substances activity described in paragraph 11(2)(b) or (c) or (4) of Part 2 of Schedule 23 to [^{F69}the Environmental Permitting (England and Wales) Regulations 2016]; and
- (ii) is exempt from the requirement for an environmental permit under regulation 12(3) of those Regulations for that activity.]

(2) Radioactive waste to which this regulation applies must be treated as waste for the purposes of these Regulations.

(3) Sections 33 to 34C of the Environmental Protection Act 1990 apply to radioactive waste to which this regulation applies.

(4) In this regulation—

“environmental permit” has the meaning given in regulation 13(1) of [^{F70}the Environmental Permitting (England and Wales) Regulations 2016];

[^{F71}“radioactive substances exemption” means an exemption under [^{F70}Part 6] of Schedule 23 to [^{F70}the Environmental Permitting (England and Wales) Regulations 2016] from the requirement for an environmental permit under regulation 12 of those regulations in respect of a radioactive substances activity;]

“radioactive waste” and “radioactive substances activity” have the meanings given in [^{F72}paragraphs 3 and 11] of Part 2 of Schedule 23 to [^{F70}the Environmental Permitting (England and Wales) Regulations 2016];

^{F73} ...

[^{F71}“specified waste” means—

- (a) NORM waste (as that term is defined in [^{F70}Part 6] of Schedule 23 to [^{F70}the Environmental Permitting (England and Wales) Regulations 2016]; or
- (b) the waste described in the first, second or sixth row of column 1 of table 6 in [^{F70}Part 6] of Schedule 23 to [^{F70}the Environmental Permitting (England and Wales) Regulations 2016].]

Textual Amendments

- F68** Reg. 47(1) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 2 para. 6(2)**
- F69** Words in reg. 47(1)(b)(i) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 36(5)(a)** (with regs. 1(3), 77-79, Sch. 4)
- F70** Words in reg. 47(4) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 29 para. 36(5)(a)(b) (with regs. 1(3), 77-79, Sch. 4)
- F71** Words in reg. 47(4) inserted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 2 para. 6(3)(c)**
- F72** Words in reg. 47(4) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 2 para. 6(3)(a)**
- F73** Words in reg. 47(4) omitted (1.10.2011) by virtue of [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 2 para. 6(3)(b)**

Amendments and revocations

48.—(1) Schedule 2 (amendments to the Hazardous Waste (England and Wales) Regulations 2005) has effect.

(2) Schedule 3 (amendments to the Environmental Permitting (England and Wales) Regulations 2010) has effect.

(3) Schedule 4 (amendments to other legislation) has effect.

(4) Schedule 5 (revocations) has effect.

[^{F74}Review

49.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations in relation to England;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Waste Framework Directive (which is implemented in part by means of these Regulations) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of 5 years beginning with 1st October 2012.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.]

Textual Amendments

F74 Reg. 49 inserted (1.10.2012) by [The Waste \(England and Wales\) \(Amendment\) Regulations 2012 \(S.I. 2012/1889\)](#), regs. 1(2), **2(5)**

Signed on behalf of the Welsh Ministers

one of the Welsh Ministers

Jane Davidson
Minister for Environment, Sustainability and
Housing

Department for Environment, Food and Rural
Affairs

Henley
Parliamentary Under Secretary of State

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 1 para. 7(a)-(e) substituted for words by [S.I. 2019/188 reg. 16\(6\)\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 16(6)(a) omitted immediately before IP completion day by virtue of S.I. 2020/1540, regs. 1(3), 11(10)(f))
- Sch. 1 para. 6(b) words substituted by [S.I. 2019/188 reg. 16\(6\)\(a\)\(i\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 16(6)(a) omitted immediately before IP completion day by virtue of S.I. 2020/1540, regs. 1(3), 11(10)(f))
- Sch. 3 para. 8(a)(iii) substituted by [S.I. 2011/600 Sch. 2 para. 61](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2011/600 is revoked and the amendments made by Sch. 2 thereof are undone by S.I. 2011/2377, reg. 28(1)(3))

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 13(1A) inserted by [S.I. 2023/1290 reg. 11](#)
- reg. 14(A1) inserted by [S.I. 2023/1290 reg. 12](#)
- reg. 15A inserted by [S.I. 2023/1290 reg. 13](#)
- reg. 16(3)(ba) substituted for reg. 16(3)(b) by [2023 c. 55 Sch. 8 para. 32](#)