

2005 No. 300

ENVIRONMENTAL PROTECTION

The Hazardous Waste Regulations (Northern Ireland) 2005

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The Department of the Environment, being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the regulation and control of the transit, import and export of waste (including recyclable materials), the prevention, reduction and elimination of pollution caused by waste and the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on it by Articles 30, 48 and 77 of the Waste and Contaminated Land (Northern Ireland) Order 1997(c) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART 1
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Hazardous Waste Regulations (Northern Ireland) 2005 and shall come into operation on 16th July 2005.

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

General interpretation

2.—(1) In these Regulations—

(a) S.I. 1993/2661, S.I. 1992/2870 and S.I. 1988/785
(b) 1972 c. 68
(c) S.I. 1997/2778 (N.I. 19), *see* Article 2(2) for definition of "Department" and "regulations"
(d) 1954 c. 33 (N.I.)

“the 1997 Order” means the Waste and Contaminated Land (Northern Ireland) Order 1997;

“asbestos waste” means waste which contains or is contaminated by asbestos and “domestic asbestos waste” refers to such waste arising from domestic premises;

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

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

“collection” means the gathering, sorting or mixing of waste or any one or more of those operations, for the purpose of transport and “collected” and other cognate expressions shall be construed accordingly;

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

“consignment note”, in relation to a consignment of hazardous waste, means the identification form, as set out in Schedule 4, which is required to accompany the hazardous waste when it is transferred pursuant to Article 5(3)(a) of the Hazardous Waste Directive containing the details required by these Regulations to be shown in respect of that consignment;

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

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

“disposal” means any of the operations provided for in Annex IIA of the Waste Directive and cognate expressions shall be construed accordingly(a);

“Department” means Department of the Environment;

“emergency or grave danger” is a present or threatened situation arising from a substance or object which is, or which there are reasonable grounds to believe is, hazardous waste, and the situation constitutes a threat to the population or the environment in any place;

“European Waste Catalogue” means the list of wastes set out in the Annex to Commission Decision 2000/532/EC, as for the time being amended(b);

“harbour area” has the same meaning as in the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991(c);

“hazardous waste” has the meaning given to hazardous waste by regulation 6 and any reference to hazardous waste shall be taken to include special waste imported from Scotland within the meaning of the Special Waste Regulations 1996(d) as amended by the Special Waste Amendment (Scotland) Regulations 2004(e);

“the Hazardous Waste Directive” means Council Directive 91/689/EEC(f) of 31st December 1991 on hazardous waste, as amended by Council Directive 94/31/EC(g);

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- (a) The meaning of “disposal” and “recovery” has been interpreted by the European Court of Justice in C-6/00. The Court held (at paragraph 60 of the judgment) “. . . the intention of Annexes II A and II B to the Directive is to list the most common disposal and recovery operations and not precisely and exhaustively to specify all the disposal and recovery operations covered by the Directive.”
- (b) The Decision in force at the date of making these Regulations is Commission 2000/532/EC (O.J. No. L226, 6.9.2000, p. 3) as amended by Commission Decision 2001/118/EC (O.J. No. L047, 16.2.2001, p. 1), 2001/119/EC (O.J. No. L047, 16.2.2001, p. 32) and 2001/573/EC (O.J. No. L203, 28.7.2001, p. 18)
- (c) S.R. 1991 No. 509
- (d) S.I. 1996/972
- (e) S.I. 2004/112 (Scotland)
- (f) O.J. No. L377, 31.12.1991, p. 20
- (g) O.J. No. L168, 2.7.1994, p. 28

“holder” means the producer of waste or the person who is or who was, prior to consignment or spillage of the waste, in possession of it, not being the carrier of the waste;

“the List Decision”, “the List of Wastes Regulations” and “the List of Wastes” have the meanings given by regulation 5 and the expressions “listed as a waste”, “listed as a hazardous waste” and “not listed as hazardous” are construed in accordance with that regulation;

“mixing” shall be construed in accordance with regulation 18;

“non-hazardous waste” and cognate expressions have the meaning given by regulation 7;

“permit” means a permit, licence, or authorisation issued pursuant to The Environment (Northern Ireland) Order 2002(a) or The Waste and Contaminated Land (Northern Ireland) Order 1997(b) or a registered exemption from a waste management licence in accordance with the Waste Management Licensing Regulations (Northern Ireland) 2003(c);

“premises” includes any ship, container, aircraft or vehicle and any other means of transport, any land, with or without buildings, construction or installation and any place situated on a road or on or in water, and vehicle includes any means of transport;

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

“recovery” means any of the operations provided for in Annex IIB of the Waste Directive and cognate expressions shall be construed accordingly(d);

“relevant code” in relation to a consignment note or carrier’s schedule, means the code assigned in accordance with regulation 22 to the consignment of hazardous waste to which the consignment note or carrier’s schedule relates or, where the consignment is one in a carrier’s round, to the consignments in that round;

“schedule of carriers”, in relation to a consignment of hazardous waste, means the schedule required to be completed pursuant to regulations 26;

“separation” means separation of a waste from any other waste, substance or material;

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

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

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

“waste” has the meaning given in regulation 3;

“Waste Directive” has the meaning given in regulation 3;

(2) A reference to the holder of waste—

(a) includes—

- (i) where the waste has been transported, a reference to the person who, immediately prior to the consigning of the waste, was the holder;
- (ii) where any waste has been spilled, a reference to the person who was, prior to any spill, in possession of the waste;

(b) does not include a reference to the carrier; and

(a) S.I. 2002/3153 (N.I. 7)

(b) S.I. 1997/2778(N.I. 19)

(c) S.R. 2003 No. 493

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

(e) 1995 c. 21

- (c) where regulations 31 (duty of consignee not accepting delivery) and 32 (further consignment note for rejected consignment) apply, does not include a reference to the consignee who has rejected the load.

(3) Other words and expressions used in these Regulations and which are used in the Waste Directive or the Hazardous Waste Directive have the same meaning as in the Waste Directive or the Hazardous Waste Directive, as the case may be.

The Waste Directive and the meaning of waste

3.—(1) For the purposes of these Regulations—

- (a) “the Waste Directive” means Council Directive 75/442/EEC(a) on waste as amended by—
 - (i) Council Directives 91/156/EEC(b) and 91/692/EEC(c); and
 - (ii) Commission Decision 96/350/EC(d); and
- (b) “waste” means anything that—
 - (i) is waste(e) for the purposes of the Waste Directive; and
 - (ii) subject to regulation 8, is not excluded from the scope of that Directive by Article 2 of that Directive.

(2) In these Regulations, a reference to the Waste Directive conditions is a reference to the conditions laid down in Article 4 of that Directive, that is to say, to ensure that that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular—

- (a) without risk to water, air, soil and plants and animals;
- (b) without causing a nuisance through noise or odours; and
- (c) without adversely affecting the countryside or places of special interest.

(3) Except as provided for in Regulation 13 (domestic asbestos waste) and 14 (separately collected domestic fractions) these regulations do not apply to hazardous waste that is domestic waste.

The Hazardous Waste Directive

4.—(1) In these Regulations, “the Hazardous Waste Directive” means Council Directive 91/689/EEC(f) of 31st December 1991 on hazardous waste, as amended by Council Directive 94/31/EC(g).

(2) A reference in these Regulations to—

- (a) Annex I, Annex II or Annex III is a reference to the annex of the Hazardous Waste Directive so numbered, as that annex is for the time being set out in these Regulations as follows—
 - (i) Schedule 1, which sets out Annex I (Categories or generic types of hazardous waste listed according to their nature or the activity which generated them);
 - (ii) Schedule 2, which sets out Annex II (Constituents of the wastes in Annex I.B which render them hazardous when they have the properties described in Annex III); and
 - (iii) Schedule 3, which sets out Annex III (Properties of wastes which render them hazardous);
- (b) hazardous properties is a reference to the properties in Annex III as so set out.

(a) O.J. No. L194, 25.7.1975, p. 39

(b) O.J. No. L78, 26.3.1991, p. 32

(c) O.J. No. L377, 31.12.1991, p. 48

(d) O.J. No. L135, 6.6.1996, p. 32

(e) Article 1(a) of the Waste Directive defines waste as any substance or object in the categories set out in Annex I (Categories of Waste) to that Directive which the holder discards or intends or is required to discard

(f) O.J. No. L377, 31.12.1991, p. 20

(g) O.J. No. L168, 2.7.1994, p. 28

The List of Wastes

5. In these Regulations—

- (a) “the List of Wastes Decision” means Commission Decision 2000/532/EC(a) of 3rd May 2000 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 by amendments thereto which have effect from time to time in relation to Northern Ireland pursuant to the List of Wastes Regulations;
- (b) “the List of Wastes Regulations” means the List of Wastes (Northern Ireland) Regulations 2005(b);
- (c) “the List of Wastes” means the List of Wastes set out in the List of Wastes Decision as it is for the time being set out in the List of Wastes Regulations, being the list referred to in the first indent of Article 1(4) of the Hazardous Waste Directive drawn up on the basis of Annexes I and II, having one or more of the properties listed in Annex III, taking account of the origin and composition of the waste and, where necessary, limit values of concentration; and
- (d) in relation to any waste—
 - (i) the expressions “listed as a waste” and “listed as a hazardous waste” refer to that waste being listed as a waste, or as a hazardous waste as the case may be, for the time being in the List of Wastes(c) provided, in the case of a waste listed as a hazardous waste, it shall only be considered to be listed as a hazardous waste where any relevant limit value of concentration is met; and
 - (ii) the expression “not listed as hazardous” refers to that waste being not listed as a hazardous waste for the time being in the List of Wastes, whether or not it is listed as a waste, and whether or not it is otherwise a hazardous waste pursuant to these Regulations;

and cognate expressions shall be construed accordingly.

PART 2

HAZARDOUS AND NON-HAZARDOUS WASTE

Meaning of hazardous waste

6. Subject to regulation 10, a waste is a hazardous waste if it is for the time being—
- (a) featured in the List of Wastes(d) as a hazardous waste; or
 - (b) any other waste which (being a waste considered(e) to display one or more of the properties listed in Annex III) is a hazardous waste pursuant to regulation 8; and
 - (c) a specific waste which, though of a type indicated in the List of Wastes as non-hazardous, is determined pursuant to regulation 9 to be a hazardous waste(f),

and the term “hazardous” and cognate expressions shall be construed accordingly.

Meaning of non-hazardous waste

7. The following are non-hazardous waste—

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- (a) O.J. No. L226, 6.9.2000, p. 3
 - (b) S.R. 2005 No. 301
 - (c) S.R. 2005 No. 301
 - (d) Wastes listed as hazardous in the List of Wastes are considered hazardous pursuant to the first indent of Article 1.4 of the Hazardous Waste Directive and the European Waste Catalogue
 - (e) A waste which a member state considers displays any of the properties in Annex III is a hazardous waste pursuant to the second indent of Article 1.4 of the Hazardous Waste Directive
 - (f) A specific waste which though not indicated in the List of Wastes as hazardous may be considered pursuant to Article 3 of the List of Wastes Decision to be hazardous if it displays one or more of the properties in Annex III

- (a) a waste which is not, for the time being, a hazardous waste pursuant to regulation 6; or
 - (b) a specific waste which, though of a type indicated in the List of Wastes as hazardous, is determined pursuant to regulation 10 to be non-hazardous,
- and the expression “non-hazardous” and cognate expressions shall be construed accordingly.

Determination that a waste is hazardous

8.—(1) Subject to the following provisions of this regulation, where it appears to the Department that, having regard to Annexes I, II and III and the limit values of concentration in the List of Wastes, there are reasonable grounds to suspect that a waste of a type listed, or falling within a type listed, in the List of Wastes as non-hazardous displays one or more hazardous properties, it may determine that, in Northern Ireland, such waste is a hazardous waste.

(2) The Department may revoke a determination made under paragraph (1)(a).

(3) Before making a determination under paragraph (1) or revoking a determination under paragraph (2), the Department shall consult the requisite bodies, except where it considers it inappropriate to do so in any case on account of the nature of an emergency or grave danger.

(4) The Department shall publish in such manner as it considers appropriate for the purpose of informing persons likely to be affected thereby, a notice of any determination made under paragraph (1) or revocation under paragraph (2), and the notice shall include—

- (a) the date and time at which the determination or revocation, as the case may be, is to take effect (which may be immediately upon publication); and
- (b) a description of the waste sufficient to identify it,

and shall send a copy of the notice to the requisite bodies.

(5) The notice shall give reasons for the determination or revocation, as the case may be.

(6) Where waste enters Northern Ireland from England, Scotland or Wales, a determination in force under this regulation shall apply to it notwithstanding that a determination to like effect is not in force in respect of England, Scotland or Wales, as the case may be.

Specific waste to be treated as hazardous

9.—(1) Without prejudice to regulation 8, the Department, having regard to Annexes I, II and III and the limit values of concentration in the List of Wastes, may determine, in exceptional cases, that a specific waste produced in Northern Ireland and indicated in the List of Wastes as non-hazardous displays one or more of the hazardous properties, and accordingly that that waste is a hazardous waste.

(2) A specific waste produced in England, Wales or Scotland and indicated in the List of Wastes as non-hazardous and which is for the time being determined to be hazardous, pursuant to Article 3 of the List of Wastes Decision, shall be treated for all purposes as hazardous waste in Northern Ireland.

Specific waste to be treated as non-hazardous

10.—(1) The Department may decide, in exceptional cases, on the basis of documentary evidence provided in an appropriate way by the holder, and having regard to Annexes I, II and III and the limit values of concentration in the List of Wastes, that a specific waste produced in Northern Ireland and indicated in the List as being hazardous does not display any of the properties listed in Annex III to the Hazardous Waste Directive.

(2) A specific waste produced in England, Wales or Scotland and indicated in the List of Wastes as hazardous waste and which is for the time being determined to be non-hazardous pursuant to Article 3 of the List of Wastes Decision, shall be treated for all purposes as non-hazardous in Northern Ireland.

(a) The second indent of the Hazardous Waste Directive provides for peer review by the other member States of a notification under the second indent of Article 1.4

Provisions common to regulations 9 and 10

11.—(1) The Department may revoke a determination made under regulation 9 or 10.

(2) The Department shall, before making a determination pursuant to regulation 9 or 10 or revoking such a determination, except where it considers it inappropriate to do so on account of the nature of any emergency or grave danger, consult—

- (a) the requisite bodies;
- (b) the holder of the specific waste; and
- (c) any other person appearing to it—
 - (i) to have an interest in the specific waste; or
 - (ii) to be otherwise directly affected by the determination.

(3) The Department shall give notice of any determination or revocation made under regulation 9 or 10 to—

- (a) the requisite bodies;
- (b) the holder of the specific waste concerned;
- (c) any person it has consulted pursuant to paragraph (2)(c).

(4) The notice shall give reasons for the determination or revocation, as the case may be.

Requisite bodies

12. The “requisite bodies”(a) are—

- (a) the Department of the Environment Food and Rural Affairs;
- (b) the Environment Agency of England and Wales;
- (c) the Scottish Executive;
- (d) the Scottish Environment Protection Agency;
- (e) the National Assembly for Wales;
- (f) the Health and Safety Executive for Northern Ireland; and
- (g) any organisation appearing to the Department to be representative of persons likely to be affected by the relevant determination, direction or revocation of a determination or direction, as the case may be.

PART 3

APPLICATION

Application of Regulations to domestic asbestos waste

13.—(1) Subject to paragraphs (2) to (4) below and Regulation 14, these Regulations apply to hazardous waste including waste that was produced on or removed from premises in England, Scotland, Wales, or Gibraltar; or which is, or is to be, transported to a place in one of those jurisdictions, and to any consignment of waste transported on any ship in the internal waters and the territorial sea of the United Kingdom adjacent to Northern Ireland, whether or not the ship is registered in the United Kingdom, or if a United Kingdom registered ship, whether or not registered in Northern Ireland.

(2) Except as provided for in paragraphs (3) and (4) below these regulations apply to domestic asbestos waste, except in so far as the Regulations would, apart from this paragraph, impose obligations on a person to whom paragraph (3) applies.

(3) This paragraph applies to a person who is both the original producer of the domestic waste and who is either—

(a) In addition, the second indent of Article 1(4) of the Hazardous Waste Directive requires notification of determinations there under (regulation 8 of these Regulations) to the Commission; given the Commission’s role, notification to it is implicit for decisions under Article 3 of the List of Wastes Decision (regulations 9 and 10)

- (a) a person who resides at the domestic premises at which the asbestos waste arises; or
 - (b) a person who is acting on behalf of such a person without reward.
- (4) In the application of these Regulations to the asbestos waste—
- (a) not being domestic waste; and
 - (b) produced in the course of any of the activities of construction, modification, repair and maintenance (including structural works) or demolition of domestic premises or any part thereof,

(5) These Regulations operate in relation to a domestic occupier who has engaged any person, other than a person mentioned in paragraph (3)(b), for the carrying out of any such activity so as to treat that person as the producer of the domestic asbestos waste to the exclusion of the occupier.

Separately collected domestic fractions

14.—(1) This regulation applies to separately collected domestic fractions, that is to say, hazardous waste which is—

- (a) domestic waste; and
- (b) collected from the premises on which it is produced separately from the collection of other waste from those premises.

(2) For the purposes of paragraph (1), hazardous waste may be considered to be collected separately from the collection of other waste notwithstanding that it is collected at the same time or on the same vehicle or both, provided that the hazardous waste is not mixed with the other waste.

- (3) These Regulations apply to separately collected fractions, provided that—
- (a) nothing in this regulation imposes any obligations in relation to such waste on any person other than an establishment or undertaking which collects, transports, recovers or disposes of such waste; and
 - (b) where pursuant to sub-paragraph (a) these Regulations do not apply to the person who, but for this sub-paragraph, would be treated as the consignor, the person who collects the waste shall be treated as the consignor.

Radioactive waste

15.—(1) This regulation applies where radioactive waste within the meaning of section 2 of the Radioactive Substances Act 1993(a)—

- (a) is exempt for the time being from the requirements of—
 - (i) section 13 (disposal of radioactive waste); or
 - (ii) section 14 (accumulation of radioactive waste), of that Act by or pursuant to section 15 of that Act; and
- (b) has one or more hazardous properties arising other than from its radioactive nature.

(2) Notwithstanding regulation 3(1)(b)(ii), radioactive waste to which this regulation applies is treated as waste for the purposes of these Regulations, and accordingly it is treated as hazardous waste and these Regulations apply to that waste.

Agricultural waste

16.—(1) These Regulations do not apply to agricultural waste before 1st September 2006, but apply on and after that date to agricultural waste whenever it became waste.

(2) For the purpose of this regulation, “agricultural waste” means waste from premises used for agriculture within the meaning of the Agricultural Act (Northern Ireland) 1949(b).

(a) 1993. c. 12. This Act extends to Northern Ireland by virtue of section 51(3)
 (b) 1949 c. 2 (*see* section 43(1) — On the expiration of the exclusion from Waste Management Licensing of agricultural waste, the waste referred to in Article 2(1)(b)(iii) of the Waste Directive (animal carcasses and the following agricultural waste: faecal matter and other natural, non-dangerous substances used in farming) will continued to be excluded pursuant to regulation 3(1)(b)(ii) of these Regulations, where “other legislation” within the meaning of the Waste Directive covers it

Mines and quarries waste

17. These Regulations do not apply to waste from a mine or quarry^(a) before 1st September 2006, but apply on and after that date to such waste whenever it became waste.

PART 4

MIXING HAZARDOUS WASTE

Meaning of mixing hazardous waste

18. For the purposes of these Regulations, hazardous waste of any description shall be considered to have been mixed if it has been mixed with—

- (a) a different category of hazardous waste;
- (b) a non-hazardous waste; or
- (c) any substance or material other than hazardous waste of the same category.

Prohibition on mixing hazardous waste without a permit

19.—(1) Subject to paragraphs (2) and (3), no establishment or undertaking which carries out the disposal or recovery of hazardous waste, or which produces, collects or transports hazardous waste, shall mix any hazardous waste.

(2) The prohibition in paragraph 1 shall not apply so as to prohibit a process by which waste is produced and which results in the production of mixed wastes, being a process other than one which mixes a waste with any other waste substance or material, resulting in—

- (a) a change in the nature or composition of that waste; or
- (b) the production of another waste.
- (c) Paragraph 1 above shall not apply to the extent that the mixing is authorised by and is in compliance with the conditions of a permit.

Duty to separate mixed wastes

20.—(1) This regulation applies to the present holder where—

- (a) the hazardous waste has been mixed other than under and in accordance with a waste permit, whether by the present holder or a previous holder;
- (b) the present holder is an obligated holder; and
- (c) separation is both—
 - (i) technically and economically feasible; and
 - (ii) necessary in order to comply with the Waste Directive conditions.

(2) The obligated holder must make arrangements for separation of the waste to be effected by an authorised person (which may be himself) as soon as reasonably practicable.

(3) For the purposes of these Regulations—

- (a) “authorised person” in relation to any type of hazardous waste, means a person who is authorised (howsoever expressed) by a waste permit to separate hazardous waste of that type;
- (b) “obligated holder” means a person who operates an establishment or undertaking which carries out disposal or recovery of, or collects or transports, hazardous waste, whether or not that holder is also an authorised person;

(a) Waste from a mine or quarry ceases to be excluded from the definition of controlled waste on the same date; however, since the narrower class of waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries is excluded from the Waste Directive under Article 2(1)(b)(ii) when covered by other legislation, since [planning legislation] applies, that class will neither be covered by these Regulations nor as controlled waste (regulation 7A of S.I. 1992/588)

- (c) “separation” means separation of a waste from any other waste, substance or material with which it has been mixed; and
- (d) separation shall, in the absence of evidence to the contrary, be considered to be reasonably practicable when the waste arrives at, or could, without unreasonable delay, have arrived at, a site where separation is permitted by a waste permit.

PART 5 MOVEMENT OF HAZARDOUS WASTE

Packaging and labelling

General duty in relation to packaging and labelling

21.—(1) In the course of its collection, transport and temporary storage, the consignor shall ensure that hazardous waste is properly packaged and labelled in accordance with the relevant international and European Community standards in force.

(2) For the purposes of paragraph (1), the international and Community standards in force are taken to be—

- (a) ADR, that is to say, the European Agreement concerning the International Carriage of Dangerous Goods by Road signed at Geneva on 30th September 1957;
- (b) RID, that is to say, Annex I to Appendix B of the Convention concerning International Carriage by Rail (COTIF);
- (c) IMDG, that is to say, the International Maritime Dangerous Goods Code;
- (d) the Technical Instructions for the Safe Transport of Dangerous Goods by Air issued by the International Aviation Authority (ICAO); and
- (e) the ADN, that is to say, the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway.

Coding of consignments

22.—(1) Subject to paragraph (3), the Department shall assign or supply forthwith to any person, on request, for the purpose of assigning to a consignment of hazardous waste or, where the consignment is one in a carrier’s round, to the consignments in that round, a code unique to that consignment or round, as the case may be.

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

(3) The Department need not assign or supply a code for a consignment or round until any fee required in respect of it under regulation 36 has been paid.

Standard procedure

23.—(1) Except in a case to which regulations 24, 27, 28, 29 or 30 applies, this regulation applies where a consignment of hazardous waste is to be removed from the premises at which it is being held, and any consignment of waste produced or held at premises in Northern Ireland (including rejected loads to which regulation 31 applies) can only be removed under a consignment note in the form set out in Schedule 4 to these regulations.

(2) Before the consignment is removed—

- (a) the producer, holder, or other person on his behalf as the case may be, shall prepare six copies of the consignment note, and, on each copy, and shall complete Parts A and B of the consignment note as set out in Schedule 4 to these regulations including reference to:

- (i) the relevant code;
- (ii) the six digit code referable to the waste in accordance with the List of Waste Regulations (Northern Ireland) 2005; and
- (iii) the postcode of the producer of the waste.
- (b) the consignor shall ensure that one of those copies (on which Parts A and B have been completed and the relevant code entered) is furnished to the Department;
- (c) the carrier shall complete Part C on each of the five remaining copies; and
- (d) the consignor—
 - (i) shall complete Part D on each of those copies;
 - (ii) where the hazardous waste producer or holder, as the case may be, is not the consignor, ensure that one of those copies is given to him ;
 - (iii) shall retain one copy (on which Parts A to D have been completed and the relevant code entered); and
 - (iv) shall give the three remaining copies (on which Parts A to D have been completed and the relevant code entered) to the carrier
- (3) The carrier shall ensure that the copies which he has received—
 - (a) travel with the consignment; and
 - (b) are given to the consignee on delivery of the consignment.
- (4) Subject to regulation 31, on receiving the consignment the consignee shall—
 - (a) complete Part E on the three copies of the consignment note given to him;
 - (b) retain one copy;
 - (c) give one copy to the carrier;
 - (d) forthwith furnish one copy to the Department.
- (5) The carrier shall retain the copy of the consignment note given to him by the consignee.

Cases in which pre-notification is not required

24.—(1) For the purposes of regulation 25, except in a case to which regulation 27 applies, this regulation applies—

- (a) subject to paragraph (2)(a), to the removal, from the premises at which it is being held, of each of the second and any subsequent consignment of hazardous waste in a succession of consignment of hazardous waste,
- (b) subject to paragraph (2)(b), to the removal as a consignment of hazardous waste of a product or material for the purposes of the return by the person to whom the product or material had been supplied to the person who supplied it to him or who manufactured it,
- (c) subject to paragraph (2)(c), to the removal of a consignment of hazardous waste where the consignor and the consignee are bodies corporate belonging to the same group,
- (d) to the removal from a ship in a harbour area of a consignment of hazardous waste to a conveyance for transportation to a place outside that area, and
- (e) to the removal of a consignment of hazardous waste which consists entirely of lead acid batteries.
- (2) This regulation does not apply unless—
 - (a) in the case mentioned in paragraph (1)(a), in respect of each consignment—
 - (i) the waste is of the same description as the waste in the first of the consignments in the succession;
 - (ii) the consignor is the same person;
 - (iii) the consignee is the same person;
 - (iv) the premises from which the consignment is removed are the same;
 - (v) the place to which the consignment is transported is the same; and
 - (vi) the removal of the consignment takes place within one year of the removal of the first consignment in the succession;

- (b) in the case mentioned in paragraph (1)(b), the person to whom the product or material was supplied is satisfied that, as supplied, the product or material fails to meet any specification which he expected it to meet;
 - (c) in the case mentioned in paragraph (1)(c), the removal is for either storage of waste pending any of the operations listed in Annex IIA to Council Directive 75/442/EEC(a), or storage of waste consisting of materials intended for submission to any operation listed in Annex IIB to that Directive, but, in either case, excluding temporary storage, pending collection, on the site where the waste is produced, and the consignee is the holder of a permit which authorises the relevant operation;
- (3) In paragraph (1)(c) “group”, in relation to a body corporate, means that body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company; and for these purposes—
- “body corporate” does not include a corporation sole, but includes a company incorporated elsewhere than in Northern Ireland; and
- “holding company” and “subsidiary” have the meaning given by Article 4 of the Companies (Northern Ireland) Order 1986(b).

Procedure where pre-notification is not required

25. Paragraph (2), with the exception of sub-paragraph (b), and paragraphs (3) to (5) of regulation 23 shall apply in cases to which regulation 24 applies as if—

- (a) “five” were substituted for “six” in sub-paragraph (a) of paragraph (2) of regulation 23;
- (b) references to the consignor were references—
 - (i) in relation to the case mentioned in regulation 24(1)(b), to the person to whom the product or material was supplied; and
 - (ii) in relation to the case mentioned in regulation 24(1)(d), to the master of the ship; and
- (c) references to the consignee were references, in relation to the case mentioned in regulation 24(1)(b), to the person to whom the product or material is to be returned.

Schedule of Carriers

26.—(1) This regulation applies in all cases (whether under regulation 23, or any of regulations 27 to 31) where more than one carrier transports, or is to transport, the consignment.

- (2) Before the consignment is removed—
 - (a) the consignor shall ensure that—
 - (i) a copy of the schedule of carriers in the form set out in Schedule 5 is prepared for the hazardous waste producer or holder (where different from the consignor), the consignor, every carrier and the consignee;
 - (ii) all copies are given to the first carrier.
 - (b) the first carrier shall ensure that all copies travel with the consignment.
 - (c) on delivery of the consignment to each subsequent carrier—
 - (i) the previous carrier shall give the subsequent carrier all copies of the schedule;
 - (ii) the subsequent carrier shall complete the relevant certificate on each copy, give one to the previous carrier who shall retain it, and ensure that all remaining copies travel with the consignment.
 - (d) where the consignment is delivered to a consignee, the carrier shall retain one copy of the carriers schedule and give the remaining copies to the consignee.
 - (e) on receipt of completion of consignment, the consignee must forward forthwith a copy of the completed schedule of carriers to the Department.

(a) O.J. No. L194, 25.7.75, p. 39; as amended by Council Directive 91/156/EEC (O.J. No. L78, 26.3.91, p. 32)
 (b) S.I. 1986/1032 (N.I. 6) as amended by S.I. 1990/1504 (N.I. 10) Article 62

- (3) Where—
 - (a) arrangements for the transport of the consignment have not been made with all carriers intended to be involved before transport commences; or
 - (b) though such arrangements have been made, there is a change in the arrangements for any reason, paragraphs (1) and (3) apply as if the carrier in possession of the consignment when further arrangements are made, in the case of paragraph (a), or take effect, in the case of paragraph (b), were the hazardous waste producer or holder and the next carrier were the first carrier.
- (4) Where this regulation applies, other than in the case of a rejected consignment of hazardous waste under regulation 31, regulation 23 has effect as if—
 - (a) a reference to the hazardous waste being removed includes reference to its possession being transferred to the next carrier;
 - (b) in paragraph (2)(c) and (d), the reference to “the carrier” were a reference to “the first carrier”;
 - (c) for the purposes of paragraph (3)(a) the reference to “the carrier” in paragraph (3) were a reference to “every carrier”;
 - (d) for the purposes of paragraph (3)(b), the reference to “the carrier” in paragraph (3) were a reference to “the final carrier”;
 - (e) in paragraph (4)(c) and (5) the reference to “the carrier” were a reference to “the final carrier”.

Carrier’s rounds

- 27.**—(1) This regulation applies to a carrier’s round or to a succession of such rounds by the same carrier starting and ending within a twelve month period in respect of which—
- (a) every consignor is a person specified in the consignment note or in the schedule prepared in accordance with paragraph (2)(b)(iii) or whose particulars are notified in writing to the Department not less than 72 hours before the removal of the first waste on the carrier’s round
 - (b) the premises from which the hazardous waste is removed are within Northern Ireland and are specified in the consignment note or in the schedule prepared in accordance with paragraph (2)(b)(iii) or notified in writing to the Department not less than 72 hours before the removal of the first waste on the carrier’s round;
 - (c) the hazardous waste is of a description specified in the consignment note; and
 - (d) in the case of a single round other than a round that satisfies the requirements of regulation 36(2)(a), the time between the collection of the first consignment and the final consignment is no more than 24 hours.
- (2) Before the first removal of waste, the carrier shall—
- (a) on any carrier’s round which is not in a succession or on the first round in such a succession, ensure that—
 - (i) Parts A and B of the consignment note are completed and that the relevant code is entered;
 - (ii) except where the hazardous waste to be collected on the carrier’s round consists entirely of lead acid batteries, one copy of the consignment note is furnished to the Department;
 - (b) on every round—
 - (i) prepare three copies of the consignment note in addition to one copy for each consignor from whom waste is to be collected during the round;
 - (ii) complete on those copies Parts A and B, the carrier’s particulars and particulars of transport in Part C, the code assigned or supplied under regulation 4 in respect of the round and, if it is a second or subsequent round, the code in respect of the first round; and
 - (iii) ensure that four copies of a schedule are prepared in the form set out in Schedule 6 in addition to one consignor’s copy for each site from which waste is to be collected during that round.

- (3) In a case where waste of more than one description is specified in the consignment note, either—
- (a) the schedule referred to in paragraph (2)(b)(iii) shall contain a separate entry for each description of waste to be collected from each consignor showing the description of waste to which that entry relates; or
 - (b) each entry in the schedule shall show the different descriptions of the waste to be collected and, for each such description, the quantity of the waste to be collected.
- (4) The consignor shall, before the removal of waste from a site, complete on all the copies that part of the schedule indicated on it as for completion by him.
- (5) The carrier shall ensure, before the removal of the waste, that—
- (a) the part of the schedule indicated on it as for completion by him is completed on all the copies and includes a record of the time at which it is completed; and
 - (b) he has all copies of the schedule (on which the part to be completed by the consignor has been completed) except the copy to be retained by the consignor under paragraph (6).
- (6) The consignor shall retain in respect of each site one copy of the consignment note and of that part of the schedule on which the parts to be completed by him and by the carrier have been completed.
- (7) Before the removal of the last consignment of waste on the carrier's round, the carrier shall complete Part C on the three copies of the consignment note retained by him.
- (8) The carrier shall ensure that the copies of the consignment note and of the schedule which he has received—
- (a) travel with the waste to which they refer;
 - (b) are given to the consignee on delivery of the waste.
- (9) Subject to regulation 31, on receiving the waste collected on each round, the consignee shall—
- (a) complete Part E on the three copies of the consignment note given to him;
 - (b) retain one copy of the consignment note and one copy of the schedule;
 - (c) give to the carrier a copy of the consignment note and a copy of the schedule; and
 - (d) forthwith furnish to the Department one copy of the consignment note and one copy of the form in Schedule 6.
- (10) The carrier shall retain the copies given to him in accordance with paragraph 9(c).

Removal of ships' waste to reception facilities

28.—(1) This regulation applies where hazardous waste (including excesses or spillage from loading or unloading, which have been accidentally spilled on land adjacent to the ship) is removed from any ship, whether or not a United Kingdom registered ship, in a harbour area to—

- (a) reception facilities provided within that harbour area; or
 - (b) by pipeline to any such facilities provided outside a harbour area.
- (2) Before the waste is removed from the ship—
- (a) three copies of the consignment note shall be prepared and Parts A and B shall be completed and the relevant code entered on each of those copies;
 - (b) the operator of the facilities shall complete Part C on each of those copies; and
 - (c) the master of the ship—
 - (i) shall ensure that Part D is completed on each of those copies;
 - (ii) shall retain one copy (on which Parts A to D have been completed); and
 - (iii) shall give the two remaining copies (on which Parts A to D have been completed) to the operator of the facilities.
- (3) Subject to regulation 31, on receiving a consignment of hazardous waste the operator of the facilities shall—

- (a) complete Part E on the copies of the consignment note which he has received;
- (b) retain one copy; and
- (c) forthwith furnish the other copy to the Department.

Removal of ships' wastes other than to reception facilities

29.—(1) This regulation applies where hazardous waste is removed from any ship, whether or not a United Kingdom registered ship, in a harbour area other than in a case to which regulation 27 applies.

- (2) Before the consignment is removed—
 - (a) the master of the ship shall ensure that—
 - (i) four copies of the consignment note are prepared;
 - (ii) on each of the copies Parts A and B are completed; and
 - (iii) all copies are given to the carrier.
 - (b) the carrier shall complete Part C on each of the copies;
 - (c) the master of the ship shall—
 - (i) ensure that Part D is completed on each of the copies;
 - (ii) retain one copy; and
 - (iii) give the remaining copies to the carrier;
 - (d) the carrier shall ensure that the copies which he has received—
 - (i) travel with the consignment; and
 - (ii) are given to the consignee on delivery of the consignment.
- (3) Subject to regulation 31, on receiving the consignment the consignee shall—
 - (a) complete Part E on both copies; and
 - (b) give one copy to the carrier;
 - (c) retain a copy;
 - (d) forthwith furnish the other copy to the Department.

Removal of wastes by pipeline

30.—(1) This regulation applies where hazardous waste is removed from any premises (other than a ship) on which it is produced or stored by pipeline other than in a case to which regulation 28 or 29 applies.

(2) Before the waste is first piped, and, where the piping is continuous and exceeds one quarter in duration, at the commencement of each further quarter the producer, or holder, as the case may be, shall ensure that—

- (a) one copy of the consignment note is prepared for each of the following: the producer or holder, as the case may be, where different from the consignor, the consignor, the consignee and the Department;
- (b) on each of the copies Parts A, B and D are completed, provided that in Part B5 the average flow rate shall be recorded, together with an estimate of the total volume of waste to be piped per week or calendar month.

(3) Part C shall not be completed.

(4) Subject to regulation 31, the consignee shall complete Part E on each copy of the note, the application of which is modified as follows—

- (a) in Part E1, the reference to the date on which the waste was received shall be taken to be a reference to the last date on which waste was received by the consignee pursuant to that consignment note; and
- (b) in Part E3, the particulars of the vehicle registration are not required.

(5) The consignee shall retain one copy of the consignment note and ensure that a copy is given to the consignor, to the hazardous waste producer or holder, where different from the consignor, and to the Department.

Duty of consignee not accepting delivery of a consignment

31.—(1) This regulation applies where the consignee does not accept delivery of a consignment of hazardous waste in whole or in part.

(2) In a case to which this regulation applies the requirements of regulation 23(4), 27(9), 283), 29(3) or 30(4) (which relate to the duties of the consignee on acceptance of the consignment), as the case may be, shall not apply to the consignee in respect of the consignment, or part thereof, which has been rejected.

(3) If, in a case to which this regulation applies, copies of the consignment note have been given to the consignee he shall—

- (a) indicate on Part E of each copy that he does not accept the consignment and the reasons why he does not accept the consignment;
- (b) retain one copy;
- (c) ensure that one copy, accompanied by one copy of any carrier's schedule given to him in accordance with regulation 27, are furnished forthwith to the Department; and
- (d) ensure that the other copy is returned to the carrier forthwith.

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

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

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

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

- (a) the delivery of the consignment to the premises from which it had been collected;
- (b) the delivery of the consignment to the premises at which it had been produced;
- (c) the delivery of the consignment to other specified premises subject to a permit necessary to authorise the receipt of the waste.

Requirement for a new consignment note

32.—(1) This regulation applies where, in accordance with regulation 31(6)(c), a consignor proposes that a consignment be delivered to other specified premises in respect of which there is held any waste management licence necessary to authorise receipt of the waste.

(2) Before the consignment is delivered to those premises—

- (a) four copies of a new consignment note shall be prepared and—
 - (i) on each copy Parts A and B shall be completed and the relevant code entered, including the previous code;
 - (ii) to each copy shall be attached a copy of any relevant previous carrier's schedule, annotated to show which consignment was not accepted;
- (b) the carrier shall complete Part C on each of those copies;
- (c) the consignor, subject to paragraph (3) below—
 - (i) shall complete Part D on each of those copies
 - (ii) shall retain one copy (on which Parts A to D have been completed and the relevant codes entered); and
 - (iii) shall give the three remaining copies (on which Parts A to D have been completed and the relevant codes entered) to the carrier.

(3) The carrier may, where he has received written instructions from the consignor to that effect, complete Part D of each of the copies of the consignment note on behalf of the consignor, and where he does so he shall send to the consignor, the consignor's copy (on which Parts A to D have been completed and the relevant codes entered).

(4) The carrier shall ensure that the three copies of the consignment note which he has received (or, if paragraph (3) applies, retained)—

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

(5) Subject to regulation 9, on receiving the consignment the consignee shall—

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

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

Provisions as to furnishing of consignment notes

33.—(1) Subject to paragraphs (2), (3) and (6), a copy of a consignment note required by regulation 23 or 27 to be furnished to the Department must be furnished not more than one month and not less than 72 hours before the removal of the consignment.

(2) Subject to paragraphs (3) and (6), a copy of a consignment note required to be furnished by regulation 27(2)(a)(ii) shall be furnished not less than 72 hours before the removal of the first consignment to which the consignment note relates.

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

- (a) the consignment is to be delivered to other specified premises pursuant to a proposal under regulation 31(6)(c);
- (b) the consignment can not lawfully remain where it is for 72 hours.

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

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

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

- (a) delivered to the Department, or
- (b) posted to the Department by pre-paid first class post,
- (c) within one day of the receipt, removal or refusal to accept delivery of the hazardous waste in question, as the case may be.

(6) In reckoning any period of hours for the purposes of these Regulations, the hours of any—

- (a) Saturday or Sunday;
- (b) Good Friday or Christmas Day;
- (c) day which is a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971(a); or
- (d) other public holiday,

shall be disregarded.

(a) 1971 c. 80

Duty to deliver consignment within time limit

34.—(1) It is the duty of a carrier ordinarily to deliver the consignment to the consignee within one week of collection or in the case of a consignment under a carrier's round, in accordance with regulation 27 below, one week from the time of the last collection under the round.

(2) Where it is not reasonably practicable to deliver the consignment to the consignee in accordance with the time limit in paragraph (1) above, the carrier shall inform the Department and it is the duty of the carrier to deliver the consignment to the consignee without due delay.

Mutual recognition of consignment notes

35.—(1) Nothing in regulations 23 to 34 shall apply in relation to shipments of waste to which the provisions of Council Regulation (EEC) No. 259/93(a), other than Title III of that Regulation, apply.

(2) Schedule 7 has effect in connection with the mutual recognition of consignment notes and the cross border movement of hazardous waste between Northern Ireland, England and Wales, Scotland and Gibraltar.

(3) Where hazardous waste is produced in Northern Ireland, its transfer within the United Kingdom must be accompanied by a consignment note, in the form set out in Schedule 4 to these Regulations, and with a code provided by the Department.

Fees

36.—(1) Subject to paragraph (2), in connection with the assignment or supply of a code for a consignment or a carrier's round in accordance with regulation 22(1), the Department shall require payment of a fee of—

- (a) £10 in respect of a code relating to a consignment, or a round, which consists entirely of lead acid batteries;
- (b) £24 in other cases.

(2) The Department shall not require payment of a fee where the code is assigned or supplied in connection with—

- (a) a second or subsequent carrier's round in a succession of such rounds in which a single vehicle is used and in respect of which—
 - (i) the carrier is also the consignee in relation to every consignment in all the rounds;
 - (ii) no more than one consignment is collected from any consignor during the succession;
 - (iii) the total weight of hazardous waste collected in each round does not exceed 400 kg; and
 - (iv) the time between the collection of the first consignment on the first round in the succession and the delivery of the last consignment to the place to which it is to be transported is no more than one week.
- (b) the removal of a single consignment of hazardous waste for the purposes set out in regulation 24(1)(b) provided that the person to whom the product or material was supplied is satisfied that it fails to meet any specification which he expected it to meet; or
- (c) the removal of hazardous waste from a ship in a harbour area—
 - (i) to a conveyance for transportation to a place outside that area;
 - (ii) to reception facilities provided within the same harbour area; or
 - (iii) by pipeline to reception facilities provided outside the harbour area.

(3) Where the Department assigns or supplies a code under regulation 22(1) without the fee required under this regulation having been paid to it, the person who requested the assignment or supply shall be required to pay the fee to the Department within the period of two months beginning with the date on which the request was made.

(a) O.J. No. L30, 6.2.93, p. 1

PART 6

REGISTERS, RECORDS AND RETURNS

Registers of consignments

37.—(1) The following provisions of this regulation apply in relation to registers of consignments and, as appropriate, to other registers required to be kept under regulations 37 to 40.

(2) Records must be made in a register kept for the purposes, and, insofar as is consistent with the provisions of regulations 37 to 40 and paragraph (3) of this regulation, registers may be kept in any form.

(3) Producers, consignors, carriers, and consignees shall keep registers containing the information set out in paragraph (4).

(4) A person who is required to keep a register shall enter in the register each copy of—

(a) a consignment note (including where consignments are not accepted, the original note and the note prepared pursuant to regulation 32), and, where applicable, written explanation and schedule of carriers) completed to any extent by, or given to him, pursuant these regulations;

(b) a consignee's return to the producer, holder or consignor received pursuant to regulation 41; and

(c) a carrier's schedule given to him pursuant to regulation 26;

and, where a regulation requiring records to be kept is silent as to the length of time for which records are to be kept under these regulations, keep the copies on the register for not less than three years from the date on which the hazardous waste was first removed from the premises at which it was produced, or held, as the case may be.

(5) Any register kept or retained under this regulation shall be produced on demand by and given up for inspection to the Department.

(6) An establishment or undertaking to which hazardous waste is delivered for treatment or disposal, as the case may be, shall provide to the previous holder of the waste, or to the Department, on request, documentary evidence that the management operation concerned has been carried out, indicating the relevant operation where applicable in accordance with the numbering and description applicable in accordance with the list in Annex IIA or Annex IIB, as the case may be, of the Waste Directive.

(7) A person who is required to retain any record shall at any time during the period in which the record is required to be retained (and without prejudice to any duty to send the record to the Department at the end of that period), produce that record, in any form reasonably required, to the Department or emergency services on request.

(8) A producer, holder, consignor, carrier or consignee of hazardous waste shall supply to the Department on request such information as it may reasonably require for the purposes of performing its functions in connection with these Regulations and for the purposes of monitoring the production, movement, storage, recovery and disposal of hazardous waste.

Producers', holders' and consignors' records

38.—(1) A producer or holder of hazardous waste, and where different from the producer, a consignor of hazardous waste, shall keep a record of the quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method of the waste.

(2) Where the waste is transported from the premises where it is produced or held by a person other than the producer or holder the duty in paragraph (1) includes a requirement to keep a record of particulars sufficient to identify that other person.

(3) The producer or holder, as the case may be, shall preserve the records to be made pursuant to this regulation whilst he remains the holder of the waste and for at least three years commencing on the date on which the waste is transferred to another person.

(4) The information to be recorded pursuant to the foregoing provisions of this regulation shall be recorded in a register kept by the producer or holder, as the case may be, for the purpose.

(5) Except where paragraph (6) applies, the register required to be kept and retained by a producer or holder under paragraph (4) of this regulation shall be kept at the premises at which the hazardous waste was produced.

(6) Where the period mentioned in paragraph (3) has not expired, for the remainder of that period the producer or holder shall keep the register at the producer's or holder's principal place of business where and only where:

(a) he ceases to have access to the premises in paragraph (5);

(b) his access to the premises in paragraph (5) is not and has never been regular access;

and in either case he shall notify the Department forthwith.

(7) Any register kept and retained under this regulation or shall be produced to and made available for inspection by the Department on request.

Site records

39.—(1) Any person who makes a deposit of hazardous waste whether by way of storage or disposal in or on any land shall record, as soon as is reasonably practicable and in any event within 24 hours, the location and identity of the waste as required by paragraphs (2) to (4) below, and shall keep such records until his permit is surrendered or revoked and shall then send the records to the Department.

(2) Such records shall comprise either—

(a) a site plan marked with a grid, or

(b) a site plan with overlays on which deposits of the waste are shown in relation to the contours of the site.

(3) Deposits shall be identified by reference to the register of consignment notes kept under regulation 37, and shall contain a description of the composition of the waste including a reference to the six digit code in the List of Wastes save that where waste is disposed of—

(a) by pipeline, or

(b) within the curtilage of the premises at which it is produced,

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

Records of hazardous waste recovered or received by treatment facilities and transfer stations

40.—(1) Any person who—

(a) recovers hazardous waste in or on land; or

(b) receives hazardous waste at a transfer station,

or both shall record and identify any hazardous waste received in accordance with the following requirements of this regulation and regulation 37.

(2) The waste shall be identified in the record by reference to the relevant description and six digit code in the List of Wastes, and the entry shall include a description of the composition of the waste.

(3) The record shall include—

(a) the quantity, nature and origin of any such waste;

(b) the relevant hazardous properties;

(c) where applicable, the recovery method in respect of the waste by reference to the numbering and description applicable in accordance with Annex IIB of the Waste Directive; and

(d) an inventory showing the specific location at which the waste is being held.

- (4) The record shall be updated as soon as reasonably practicable and in any event no later than 24 hours after—
- (a) each consignment of hazardous waste is received; and
 - (b) any recovery operations are carried out or any hazardous waste is placed in storage at the transfer station, as the case may be;
 - (c) any hazardous waste is removed from the premises.
- (5) A person who is required to make or retain records pursuant to this regulation shall—
- (a) keep the register on the site where the recovery operations take place or the transfer station is operated, as the case may be; or
 - (b) where the register cannot be kept on the site in accordance with paragraph (5)(a) above, at his principal place of business or such other address as agreed with the Department for that purpose; and
 - (c) retain the records—
 - (i) where the hazardous waste is fully recovered, or remains at a transfer station, as the case may be, until it leaves the site and for three years thereafter;
 - (ii) in any other case, until his waste permit pursuant to which the site is operated is surrendered or revoked, and shall then send those records to the Department.

Consignee's return to the producer, holder or consignor

41.—(1) Without prejudice to any duty under these Regulations on the part of the consignee to send any document or copy thereof to the producer, holder or consignor, a consignee shall send—

- (a) a producer or holder a return in a form corresponding to the form set out in Schedule 8 or a form substantially to like effect; or
 - (b) a copy of the consignment note together with a description of the method of disposal or recovery to the hazardous waste producer or holder identified in Part A of the consignment note, within 30 days of accepting a consignment of hazardous waste, or, where hazardous waste was delivered by pipeline in a case to which regulation 30 applies, of piping having ceased, or, where the piping is continuous and exceeds one quarter in duration, on the first day of each successive quarter.
- (2) Where regulation 31 (duty of consignee not accepting delivery) applies, this regulation does not apply to the consignment or part concerned.
- (3) Where the consignee is required to make a return in accordance with sub-paragraph 1 above, that return may be completed electronically or by other similar means of transmission.

PART 7 ENFORCEMENT

Inspections

42.—(1) Any establishment or undertaking which produces hazardous waste shall be subject to appropriate periodic inspections by the Department.

(2) The Department shall carry out appropriate periodic inspections of collection and transport operations (including operations where the hazardous waste is transported following transfer between different carriers) as required pursuant to Article 13 of the Waste Directive and without prejudice to the generality of the requirement to conduct such inspections to conduct the inspections so that they cover more particularly the origin and destination of the hazardous waste.

(3) It is the duty of the Department to carry out such inspections together with inspections of the registers referred to within these Regulations at such intervals as it considers appropriate,

having regard to the need to meet the requirements of Article 13 of the Waste Directive and Article 5(2) of the Hazardous Waste Directive.

Offences

43.—(1) Subject to paragraph (2) and (3), it shall be an offence for a person to fail to comply with a requirement imposed on that person by or under Parts 4, 5, 6 and 7 of these Regulations.

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

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

(3) It shall be a defence for a person charged with an offence under this regulation to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

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

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

(6) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of an offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(7) Where an offence under this regulation which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to, any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be liable to be proceeded against and punished accordingly.

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

44.—(1) In cases of emergency or grave danger, the holder of the hazardous waste shall—

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

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

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

(4) Where the holder takes any step in compliance with paragraph (1), he shall, save where such step has completely averted the emergency or grave danger, notify the Department as soon as reasonably practicable; and for the purposes of this paragraph, an emergency or grave danger shall not be considered to have been completely averted if any release has taken place of a substance or object which is, or which there are reasonable grounds to believe is, hazardous waste, whether or not the holder believes he has completely destroyed, retrieved or rendered harmless the substance or object.

(5) In the event of notification pursuant to paragraph (3) or (4) being made orally, the holder shall confirm in writing to the Department the matters notified within seven calendar days of the oral notification.

(6) For the purposes of this regulation—

(a) a person shall be considered to be the holder of hazardous waste notwithstanding that he would, apart from this sub-paragraph, have ceased to be the holder through the waste having left his possession or control due to release; and

(b) a person shall not be considered to be the holder of hazardous waste notwithstanding that, apart from this sub-paragraph, he would be considered the holder due to the waste having coming into his possession or control due to release onto or into premises of which he is the occupier or of which he has possession or control.

Penalties

45. Subject to regulation 43(2) and (3) and 44, a person who commits an offence under this regulation shall be liable—

(a) on summary conviction, to a fine not exceeding level 5 on the standard scale;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

Fixed penalties

46.—(1) Where an authorised person acting on behalf of the Department has reason to believe that a person has committed an offence under regulation 43(1) to which this regulation applies, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) This regulation applies to an offence consisting of a failure to comply with any requirement of any of the following regulations—

(a) regulation 23 (standard procedure for consignment notes);

(b) regulation 26 (procedures for schedule of carriers);

(c) regulation 27 (procedures for carrier's round).

(3) Where a person is given a notice under this regulation in respect of an offence—

(a) no proceedings shall be instituted for that offence before the expiration of twenty eight days following the date of the notice; and

(b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(4) A notice under this regulation shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

(a) the period during which, by virtue of paragraph (3), proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the name of the person to whom and the address at which the fixed penalty may be paid; and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(5) Where a letter is sent in accordance with paragraph (4) payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(6) A fixed penalty notice issued pursuant to this section shall be in the form set out in Schedule 9.

(7) The fixed penalty payable in pursuance of a notice under this regulation shall be £200.

(8) In any proceedings a certificate which—

- (a) purports to be signed by or on behalf of the authorised officer of the Department;
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- shall be evidence of the facts stated.

PART 8 MISCELLANEOUS

Responsibilities of the Department

47.—(1) It is the duty of the Department to enforce these Regulations and to supervise the persons and activities subject to any provision of these Regulations.

(2) In preparing any waste strategy under Article 19 of the 1997 Order, and in modifying that strategy in accordance with Article 19(2), and in accordance with Article 7 of the Waste Directive and Article 6(1) of the Hazardous Waste Directive, the Department shall ensure that the content of the strategy under Article 19(3) addresses specifically plans for the management of hazardous waste, supported, as required by consultation and surveys under Article 19(4) and (5), and such plans shall be made public in such manner as appears to the Department to be appropriate.

Revocations, Consequential Amendments and Savings

48.—(1) The Special Waste Regulations (Northern Ireland) 1998(a) are hereby revoked.

(2) Schedule 10 (which makes consequential amendments to the 1997 Order in Part 1 and to secondary legislation in Part 2) has effect.

(3) Subject to paragraph (4), the 1998 Regulations shall continue to have effect in relation to any hazardous waste in respect of which the consignment note (within the meaning of those Regulations) has been generated, in accordance with regulation 5 of those Regulations, before the coming into operation of these Regulations.

(4) In the event that a consignment of hazardous waste under a consignment note issued under the 1998 Regulations is refused or rejected by the consignee, and these Regulations have taken effect since the issue of that consignment note, notwithstanding paragraph (3) above, a new consignment note shall be issued in accordance with these Regulations.

(5) The requirements of Regulation 39(1) (“site records”) apply equally to records kept under the Special Waste Regulations 1998, notwithstanding paragraph (1) above.

(6) Consignment notes issued under the 1998 Regulations shall cease to have effect on 16th August 2005 and will not be valid for use on or after this date.

Sealed with the Official Seal of the Department of the Environment on 20th June 2005.

(L.S.)

Ian Maye

A senior officer of the Department of the Environment

(a) S.R. 1998 No. 289

ANNEX I OF THE HAZARDOUS WASTE DIRECTIVE

“ANNEX I”

CATEGORIES OR GENERIC TYPES OF HAZARDOUS WASTE LISTED ACCORDING TO THEIR NATURE OF THE ACTIVITY WHICH GENERATED THEM (*) (WASTE MAY BE LIQUID, SLUDGE OR SOLID IN FORM)

ANNEX I.A**Wastes displaying any of the properties listed in Annex III and which consist of:**

1. anatomical substances; hospital and other clinical wastes;
2. pharmaceuticals, medicines and veterinary compounds;
3. wood preservatives;
4. biocides and phyto-pharmaceutical substances;
5. residue from substances employed as solvents;
6. halogenated organic substances not employed as solvents excluding inert polymerized materials;
7. tempering salts containing cyanides;
8. mineral oils and oily substances (e.g. cutting sludges, etc.);
9. oil/water, hydrocarbon/water mixtures, emulsions;
10. substances containing PCBs and/or PCTs (e.g. dielectrics etc.);
11. tarry materials arising from refining, distillation and any pyrolytic treatment (e.g. still bottoms, etc.);
12. inks, dyes, pigments, paints, lacquers, varnishes;
13. resins, latex, plasticizers, glues/adhesives;
14. chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known (e.g. laboratory residues, etc.);
15. pyrotechnics and other explosive materials;
16. photographic chemicals and processing materials;
17. any material contaminated with any congener of polychlorinated dibenzofuran;
18. any material contaminated with any congener of polychlorinated dibenzo-p-dioxin.

ANNEX I.B**Wastes which contain any of the constituents listed in Annex II and having any of the properties listed in Annex III and consisting of:**

19. animal or vegetable soaps, fats, waxes;
20. non-halogenated organic substances not employed as solvents;
21. inorganic substances without metals or metal compounds;
22. ashes and/or cinders;
23. soil, sand, clay including dredging spoils;
24. non-cyanidic tempering salts;
25. metallic dust, powder;
26. spent catalyst materials;
27. liquids or sludges containing metals or metal compounds;
28. residue from pollution control operations (e.g. baghouse dusts, etc.) except (29), (30) and (33);
29. scrubber sludges;
30. sludges from water purification plants;

31. decarbonization residue;
32. ion-exchange column residue;
33. sewage sludges, untreated or unsuitable for use in agriculture;
34. residue from cleaning of tanks and/or equipment;
35. contaminated equipment;
36. contaminated containers (e.g. packaging, gas cylinders, etc.) whose contents included one or more of the constituents listed in Annex II;
37. batteries and other electrical cells;
38. vegetable oils;
39. materials resulting from selective waste collections from households and which exhibit any of the characteristics listed in Annex III;
40. any other wastes which contain any of the constituents listed in Annex II and any of the properties listed in Annex III.

* Certain duplications within this Annex are intentional.

SCHEDULE 2

Regulation 4(2)(a)(ii)

ANNEX II OF THE HAZARDOUS WASTE DIRECTIVE

“ANNEX II”

CONSTITUENTS OF THE WASTES IN ANNEX I.B WHICH RENDER THEM HAZARDOUS WHEN THEY HAVE THE PROPERTIES DESCRIBED IN ANNEX III (*)

Wastes having as constituents:

- C1 beryllium; beryllium compounds;
- C2 vanadium compounds;
- C3 chromium (VI) compounds;
- C4 cobalt compounds;
- C5 nickel compounds;
- C6 copper compounds;
- C7 zinc compounds;
- C8 arsenic; arsenic compounds;
- C9 selenium; selenium compounds;
- C10 silver compounds;
- C11 cadmium; cadmium compounds;
- C12 tin compounds;
- C13 antimony; antimony compounds;
- C14 tellurium; tellurium compounds;
- C15 barium compounds; excluding barium sulfate;
- C16 mercury; mercury compounds;
- C17 thallium; thallium compounds;
- C18 lead; lead compounds;
- C19 inorganic sulphides;
- C20 inorganic fluorine compounds, excluding calcium fluoride;
- C21 inorganic cyanides;
- C22 the following alkaline or alkaline earth metals: lithium, sodium, potassium, calcium, magnesium in uncombined form;

- C23 acidic solutions or acids in solid form;
- C24 basic solutions or bases in solid form;
- C25 asbestos (dust and fibres);
- C26 phosphorus: phosphorus compounds, excluding mineral phosphates;
- C27 metal carbonyls;
- C28 peroxides;
- C29 chlorates;
- C30 perchlorates;
- C31 azides;
- C32 PCBs and/or PCTs;
- C33 pharmaceutical or veterinary compounds;
- C34 biocides and phyto-pharmaceutical substances (e.g. pesticides, etc.);
- C35 infectious substances;
- C36 creosotes;
- C37 isocyanates; thiocyanates;
- C38 organic cyanides (e.g. nitriles, etc.);
- C39 phenols; phenol compounds;
- C40 halogenated solvents;
- C41 organic solvents, excluding halogenated solvents;
- C42 organohalogen compounds, excluding inert polymerized materials and other substances referred to in this Annex;
- C43 aromatic compounds; polycyclic and heterocyclic organic compounds;
- C44 aliphatic amines;
- C45 aromatic amines
- C46 ethers;
- C47 substances of an explosive character, excluding those listed elsewhere in this Annex;
- C48 sulphur organic compounds;
- C49 any congener of polychlorinated dibenzo-furan;
- C50 any congener of polychlorinated dibenzo-p-dioxin;
- C51 hydrocarbons and their oxygen; nitrogen and/or sulphur compounds not otherwise taken into account in this Annex.

* Certain duplications of generic types of hazardous wastes listed in Annex I are intentional.

SCHEDULE 3

Regulation 4(2)(a)(iii)

ANNEX III OF THE HAZARDOUS WASTE DIRECTIVE

“ANNEX III”

PROPERTIES OF WASTES WHICH RENDER THEM HAZARDOUS

- H1 ‘Explosive’: substances and preparations which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene.
- H2 ‘Oxidizing’: substances and preparations which exhibit highly exothermic reactions when in contact with other substances, particularly flammable substances.
- H3(A) ‘Highly flammable’:
 - liquid substances and preparations having a flash point below 21°C (including extremely flammable liquids), or
 - substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any application of energy, or

- solid substances and preparations which may readily catch fire after brief contact with a source of ignition and which continue to burn or to be consumed after removal of the source of ignition, or
 - gaseous substances and preparations which are flammable in air at normal pressure, or
 - substances and preparations which, in contact with water or damp air, evolve highly flammable gases in dangerous quantities.
- H3(B) 'Flammable': liquid substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C.
- H4 'Irritant': non-corrosive substances and preparations which, through immediate, prolonged or repeated contact with the skin or mucous membrane, can cause inflammation.
- H5 'harmful': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may involve limited health risks.
- H6 'Toxic': substances and preparations (including very toxic substances and preparations) which, if they are inhaled or ingested or if they penetrate the skin, may involve serious, acute or chronic health risks and even death.
- H7 'Carcinogenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce cancer or increase its incidence.
- H8 'Corrosive': substances and preparations which may destroy living tissue on contacts.
- H9 'Infectious': substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.
- H10 'Teratogenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce non-hereditary congenital malformations or increase their incidence.
- H11 'Mutagenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce hereditary genetic defects or increase their incidence.
- H12 Substances and preparations which release toxic or very toxic gases in contact with water, air or an acid.
- H13 Substances and preparations capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics listed above.
- H14 'Ecotoxic': substances and preparations which present or may present immediate or delayed risks for one or more sectors of the environment.

Notes

1. Attribution of the hazard properties "toxic" (and "very toxic"), "harmful", "corrosive" and "irritant" is made on the basis of the criteria laid down by Annex VI, Part IA and Part IIB, of Council Directive 67/548/EEC of 27th June 1967 of the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances(a), in the version as amended by Council Directive 79/831/EEC(b).

2. With regard to attribution of the properties "carcinogenic", "teratogenic" and "mutagenic", and reflecting the most recent findings, additional criteria are contained in the Guide to the classification and labelling of dangerous substances and preparations of Annex VI (Part IID) to Directive 67/548/EEC in the version as amended by Commission Directive 83/467/EEC (1).

Test methods

The test methods serve to give specific meaning to the definitions given in Annex III. The methods to be used are those described in Annex V to Directive 67/548/EEC, in the version as amended by Commission Directive 84/449/EEC (2), or by subsequent Commission Directives adapting Directive 67/548/EEC to technical progress. These methods are themselves based on the work and recommendations of the competent international bodies, in particular the OECD.

(a) O.J. No. L196, 16.8.1967, p. 1

(b) O.J. No. L259, 15.10.1979, p. 10

SCHEDULE 4

Regulation 23(1)

FORM OF CONSIGNMENT NOTE

Hazardous Waste Regulations (Northern Ireland) 2005

No. of prenotice (if different) _____ Consignment Note No. _____
 Sheet _____ of _____

A. CONSIGNMENT DETAILS

PLEASE TICK IF YOU ARE
 A TRANSFER STATION

1. The waste described below is to be removed from _____ (name, address and postcode)
2. The waste will be taken to _____ (address and postcode)
3. The consignment(s) will be: one single a succession carrier's round other
4. Expected removal date of first consignment: _____ last consignment: _____
5. Name: _____ On behalf of _____ (company)
 Signature _____ Date _____
6. Telephone _____
7. If different from 1, the waste producer was _____ (name, address and postcode)

B. DESCRIPTION OF THE WASTE

No. of additional sheets(s)

1. The process giving rise to waste is:
2. SIC for the process giving rise to the waste:

WASTE DETAILS (where more than one waste type is collected all of the information given below must be completed for each EWC identified).

The waste is:

List of Wastes (EWC) Code (6 digits):	Quantity (kg/lts/tonnes)	The chemical/biological components of the waste and their concentrations are	Physical (gas, liquid solid, powder)	Hazard code(s)	Container type, no & size
---------------------------------------	--------------------------	--	--------------------------------------	----------------	---------------------------

Component	Concentration (% or mg/kg)
-----------	----------------------------

C. CARRIER'S CERTIFICATE if more than one carrier is used attach Schedule for subsequent carriers. If carrier schedule is attached tick box

I certify that I today collected the consignment and that the details in A1, A2 and B1 above are correct and I have been advised of any specific handling requirements. The quantity collected in the load is:

Name _____ On behalf of _____ (company)
 _____ (name address and post code) Telephone No: _____

Signature _____ Date _____ at _____ hrs.

1. Carrier registration No./reason for exemption
2. Vehicle registration No. (or mode of transport, if not road)

D. CONSIGNOR'S CERTIFICATE

I certify that the information in B and C above are correct, that the carrier is registered or exempt and was advised of the appropriate precautionary measures. All of the waste is packaged and labelled correctly and the carrier has been advised of any special handling requirements.

Name _____ On behalf of _____ (company)
_____ (name address and post code) Telephone No: _____

Signature _____ Date _____ at _____ hrs.

E. CONSIGNEE'S CERTIFICATE where more that one waste type is collected all of the information given below must be completed for each EWC

Table with 3 columns: Individual EWC code(s) received, Quantity of each EWC code received (kg), Waste Management operation (R or D code)

1. I received this waste at the address given in A2 on at hrs. _____

2. Vehicle registration no. _____

I certify that waste management licence/permit/authorised exemption No. authorises the management of the waste described in B at the address given in A2.

Name _____ On behalf of _____ (company)
_____ (name address and post code) Telephone No: _____

Signature _____ Date _____ at _____ hrs.

* The European Waste Catalogue (EWC) sets out a list of wastes pursuant to Article 1(a) of the Waste Directive and Article 1(4) of the Hazardous Waste Directive and is set out in Commission Decision 2000/532/EC (O.J. No. L194, 25.7.1975, p. 39), as amended.

SCHEDULE 5

Regulation 26(2)

SCHEDULE OF CARRIERS

SECOND CARRIER'S CERTIFICATE

I certify that [enter details as appropriate] carrier transferred the waste identified in B3 of (Consignment Note No: . . .) to me today for onward transportation to another carrier/the consignee listed in A2 (delete as appropriate). The quantity collected in the load is: _____

1. Carrier registration No/reason for exemption: _____

2. Vehicle registration No (or mode of transport if not road): _____

THIRD CARRIER'S CERTIFICATE

I certify that [enter details as appropriate] carrier transferred the waste identified in B3 of (Consignment Note No: . . .) to me today for onward transportation to another carrier/the consignee listed in A2 (delete as appropriate). The quantity collected in the load is:

Name _____ On behalf of _____ (company)
_____ (name address and post code) Telephone No: _____

1. Carrier registration No/reason for exemption: _____

2. Vehicle registration No (or mode of transport if not road): _____

FOURTH CARRIER'S CERTIFICATE

I certify that [enter details as appropriate] carrier transferred the waste identified in B3 of (Consignment Note No: . . .) to me today for onward transportation to another carrier/the consignee listed in A2 (delete as appropriate). The quantity collected in the load is:

Name _____ On behalf of _____ (company)
 _____ (name address and post code) Telephone No: _____

Signature _____ Date _____ at _____ hrs.

1. Carrier registration No/reason for exemption: _____
2. Vehicle registration No (or mode of transport if not road): _____

SCHEDULE 6

Regulation 27(2)(b)

CARRIERS' SCHEDULE FOR CARRIER'S ROUND

Consignment Code	Name, address & postcode of premises from which waste was removed	List of Wastes	Hazards	Physical form	Quantity (kgs)
------------------	---	----------------	---------	---------------	----------------

I certify that the waste is as detailed above and conforms to the description given in B on the consignment note.

Name: _____ (Consignor)
 Signature: _____
 Date: _____

I certify that today I collected the quantity of waste given on this part of the schedule from the address given on this part of the schedule from the address given here and will take it to the address given in A2 on the consignment note.

Name _____ (Carrier)
 Signature: _____
 Date _____ at _____ hrs.

Consignment Code	Name, address & postcode of premises from which waste was removed	List of Wastes (EWC) Codes	Hazards	Physical form	Quantity (kgs)
------------------	---	----------------------------	---------	---------------	----------------

I certify that the waste is as detailed above and conforms to the description given in B on the consignment note.

Name: _____ (Consignor)
 Signature: _____
 Date: _____

I certify that today I collected the quantity of waste given on this part of the schedule from the address given on this part of the schedule from the address given here and will take it to the address given in A2 on the consignment note.

Name _____ (Carrier)
 Signature: _____
 Date _____ at _____ hrs.

Consignment Code	Name, address & postcode of premises from which waste was removed	List of Wastes (EWC) Codes	Hazards	Physical form	Quantity (kgs)
I certify that the waste is as detailed above and conforms to the description given in B on the consignment note. Name: _____ (Consignor) Signature: _____ Date: _____			I certify that today I collected the quantity of waste given on this part of the schedule from the address given on this part of the schedule from the address given here and will take it to the address given in A2 on the consignment note. Name _____ (Carrier) Signature: _____ Date _____ at _____ hrs.		

SCHEDULE 7

Regulation 35(2)

CROSS BORDER MOVEMENT OF HAZARDOUS WASTE

Mutual recognition of consignment notes

1. Where hazardous waste has been removed from premises situated in England, Scotland, Wales, or Gibraltar and is transported into Northern Ireland, any consignment note that accompanies that hazardous waste and which either contains or purports to contain the same information in substantially the same format as that set out in either of the notes referred to in subsections (a) or (b) below, shall be treated for the purposes of these Regulations as if it was a consignment note raised in compliance or purported compliance with the provisions of these Regulations:

- (a) the Annex to Commission Decision 94/774 of 24th November 1994 concerning the standard consignment note referred to in Council Regulation (EEC) No. 259/93 on the supervision and control of shipments of waste within, into and out of the European Community; or
- (b) the form of consignment note set out in Schedule 4 of these Regulations.

2. Where hazardous waste has been removed from premises situated in England, Scotland, Wales, or Gibraltar and is transported into Northern Ireland, any reference to “special waste” in the consignment note which accompanies the hazardous waste shall for the purposes of these Regulations be deemed to be a reference to “hazardous waste” and any reference to the “EWC Code” shall have effect as if it were a reference to the “List of Wastes Code”.

3. Any obligation under these Regulations on the producer, holder, consignor, carrier or consignee to complete the relevant part of the consignment note shall be construed as a requirement to complete the equivalent part of any consignment note travelling with any consignment removed from premises in England, Scotland or Wales and transported into Northern Ireland.

General Provisions relating to England, Scotland and Wales

4. The obligations on the consignee and carrier in regulation 31 (duty of consignee not accepting delivery) shall have effect notwithstanding that the consignment of hazardous waste is from premises situated in England, Scotland or Wales and for the avoidance of doubt this shall include:

- (a) the consignee sending a copy of the consignment note or a written explanation to the consignor, producer or holder as the case may be, whether situated in England, Scotland or Wales;
- (b) the carrier informing the Department and seeking instructions from the producer, holder or consignor whether situated in England, Scotland or Wales, and to the extent that those instructions are compatible with these regulations, taking all reasonable steps to ensure they are fulfilled.

5. Where a consignment of hazardous waste is rejected by a consignee in England, Scotland or Wales the obligations on the producer, holder or consignor contained in regulations 31 (duty of consignee not accepting delivery) applies in relation to that consignment to the extent that the law applicable in England, Scotland or Wales imposes substantially similar obligations on the producer, holder or consignor.

Provisions relating to England, Scotland and Wales

6. Where a consignment of hazardous waste is to be removed from any premises in Northern Ireland and is to be transported and consigned to a consignee in either England, Scotland or Wales, before any such consignment is removed—

- (a) the hazardous waste producer or holder, as the case may be, shall—
 - (i) prepare an extra copy of the consignment note for the consignee and a copy of the consignment note for the Environment Agency (where the waste is to be consigned to a consignee in England or Wales), or for the Scottish Environment Protection Agency (where the waste is to be consigned to a consignee in Scotland), and both of these copies shall be in addition to those copies prepared in accordance with regulation 23 (standard procedure) and regulation 30(3) (removal of wastes by pipeline) as the case may be;
 - (ii) shall treat those copies of the consignment note in the manner provided by regulation 23 or regulation 30 as the case may be.
- (b) the consignor and the carrier shall treat the additional two copies of the consignment note in accordance with regulation 23, except that the consignor (or the producer or holder in the case of removal of wastes by pipeline as provided in regulation 30) shall send one copy of the consignment note to either the Environment Agency (where the waste is to be consigned to a consignee in England or Wales) or to the Scottish Environment Protection Agency (where the waste is to be consigned to a consignee in Scotland), at least 72 hours before the removal of the consignment unless such consignment cannot lawfully remain where it is for 72 hours, in which case the consignment note may be sent to the Environment Agency or Scottish Environment Protection Agency as the case may be within 72 hours before the removal.

7. Where a carrier makes a multiple collection of hazardous waste in accordance with regulation 24, and the waste is consigned to a consignee in England, Scotland or Wales, he shall before the first collection—

- (a) prepare an additional copy of both the consignment note and the carrier's schedule to that required by regulation 27(2)(b);
- (b) complete the relevant parts of the consignment note as required by regulation 27(2)(b)(ii); and
- (c) send one copy of both the consignment note and the carriers schedule to the Environment Agency (where the waste is consigned to a consignee in England or Wales) or to the Scottish Environment Protection Agency (where the waste is consigned to a consignee in Scotland), at least 72 hours before the first collection, unless such consignment cannot lawfully remain where it is for 72 hours, in which case the consignment note and the carriers schedule may be sent within 72 hours before the first collection.

8. Where a consignment of hazardous waste is transported from England, Scotland or Wales to premises situated in Northern Ireland the consignee shall send a copy of the consignment note to either the Environment Agency (where the waste is to be consigned from England or Wales) or to the Scottish Environment Protection Agency (where the waste is to be consigned from Scotland) within the timeframe specified by regulation 34(1).

SCHEDULE 8

Regulation 41(1)(a)

FORM OF CONSIGNEE'S RETURN TO PRODUCER OR HOLDER

Hazardous waste producer returns form

1. Consignee details

Name and address of consignee	Postcode	Waste management licence/ permit/authorised exemption no:	Date(a)
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2. Waste return

Consignment note number	Date received	Vehicle Registration No:	EWC Code(s)(b)	Quantity received	Mode of disposal/recovery(c)
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- (a) Date of submission of the return by the consignee.
- (b) There may be more than one waste stream for each consignment note. All relevant EWC codes, quantities and disposal/recovery operation must be recorded.
- (c) Mode of disposal/recovery : use the appropriate Rxx/Dxx code for the operation performed on the waste.

Code	Disposal operation
D01	Deposit into or onto land
D02	Land Treatment
D03	Deep injection
D04	Surface impoundment
D05	Specially engineered landfill
D06	Release into a water body except seas/oceans
D07	Release into seas/oceans including seabed insertion
D08	Biological treatment not specified elsewhere which results in final compounds or mixtures which are disposed of by any of the operations numbered D01 to D12
D09	Physic-chemical treatment not specified elsewhere which results in final compounds or mixtures which are disposed of by any of the operations numbered D01 to D12
D10	Incineration on land
D11	Incineration at sea
D12	Permanent storage
D13	Blending or mixing prior to submission to any of the operations numbered D01 to D12
D14	Repackaging prior to submission to any of the operations numbered D01 to D12
D15	Storage pending any of the operations numbered D01 to D14 (excluding temporary storage, pending collection, on the site where it is produced).

Code	Recovery operation
R01	Use principally as a fuel or other means to generate energy
R02	Solvent reclamation/regeneration
R03	Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)
R04	Recycling/reclamation of metals and metal compounds

- R05 Recycling/reclamation of other inorganic materials
 - R06 Regeneration of acids or bases
 - R07 Recovery of components used for pollution abatement
 - R08 Recovery of components from catalysts
 - R09 Oil refining or other re-uses of oil
 - R10 Land treatment resulting in benefit to agriculture or ecological improvement
 - R11 Use of wastes obtained from any of the operations numbered R01 to R11
 - R12 Exchange of wastes for submission to any of the operations numbered R01 to R11
 - R13 Storage of wastes pending any of the operations numbered R01 to R12 (excluding temporary storage, pending collection, on the site where it is produced).
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SCHEDULE 9

Regulation 46(6)

FORM OF FIXED PENALTY NOTICES

**“Notice of opportunity to pay fixed penalty Hazardous Waste Regulations
(Northern Ireland) 2005, Schedule 9”**

Notice Number: _____

Name of alleged offender: _____

Address _____

I, _____ (a) an authorised person acting on behalf of the Department of the Environment, have reason to believe that on or between _____
_____ (b), you committed the offence of _____ (c).

This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. The circumstances alleged to constitute the offence are as follows:

No proceedings will be taken for this offence before the expiration of 28 days from the date of this notice. You will not be liable to conviction for the offence if you pay the fixed penalty during that period of 28 days.

The amount of the fixed penalty is £200. It may be paid to _____ (d) at the following address:

_____ (e).

Payment may be made by pre-paying and posting to: _____ (d)

at the address shown above a letter containing the amount of the penalty. Payment may also be made by cash, or by cheque, postal order or money order made payable to: _____ (d).

(If you are sending cash, you are advised to send it by registered post.) Payment made in this way will be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post. Alternatively, payment may be made in person or by any other method.

Signature of authorised person: _____ Date of notice: _____

Notes:

- (a) Insert name of authorised person.
- (b) Insert date on or dates between which offence is alleged to have taken place.

- (c) Insert regulation of the Hazardous Waste Regulations (Northern Ireland) 2005 which is alleged to have been contravened.
- (d) Insert title or name of the person to whom the fixed penalty is to be paid.
- (e) Insert address at which payment is to be made.

Letter which may be used for payment by post

I enclose with this letter the amount of £200 being the fixed penalty for the offence described in

Fixed Penalty Notice number: _____ (a) under Schedule 9 of the Hazardous Waste Regulations (Northern Ireland) 2005.

Signature: _____

Name in capitals: _____

Address: _____

Notes:

- (a) Inset Notice number that appears in the fixed penalty notice above.

SCHEDULE 10
CONSEQUENTIAL AMENDMENTS

Regulation 48(2)

PART 1

CONSEQUENTIAL AMENDMENTS TO THE 1997 ORDER(a)

1. For each reference to special waste in Articles 4(9), 12(12), 12(13), 30(1), 30(2)(a)-(e), 30(3)(b) and 31(2)(b) of the 1997 Order there is substituted a reference to hazardous waste.

PART 2

CONSEQUENTIAL AMENDMENTS TO SECONDARY LEGISLATION

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999(b)

2.—(1) The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 are hereby amended as follows.

(2) In paragraph 9 of Schedule 1, for “hazardous waste (that is to say, waste to which Council Directive 91/689/EEC applies).” substitute “hazardous waste (as defined in regulation [xx] of the Hazardous Waste Regulations (Northern Ireland) 2005).”.

The Producer Responsibility (Packaging Waste) Regulations (Northern Ireland) 1999(c)

3.—(1) The Producer Responsibility (Packaging Waste) Regulations (Northern Ireland) 1999 are hereby amended as follows.

(2) Any reference to “special waste” in these Regulations to be substituted by “hazardous waste” as defined in regulation 6 of Hazardous Waste Regulations (Northern Ireland) 2005.

(3) Any reference to “Special Waste Regulations (Northern Ireland) 1998” in these Regulations to be substituted by “Hazardous Waste Regulations (Northern Ireland) 2005”.

The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999(d)

4.—(1) The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 are hereby amended as follows.

(2) In Schedule 1 for regulation 17 of Special Waste Regulations (Northern Ireland) insert “regulation 43 of The Hazardous Waste Regulations (Northern Ireland) 2005”.

(a) 1997 No. 2778 (N.I.19)
(b) S.R. 1999/73
(c) S.R. 1999/115
(d) S.R. 1999/362

Environmental Protection (Disposal of Polychlorinated Biphenyls and Dangerous Substances) Regulations (Northern Ireland) 2000(a)

5.—(1) The Environmental Protection (Disposal of Polychlorinated Biphenyls and Dangerous Substances) (Regulations (Northern Ireland) 2000 are hereby amended as follows.

(2) In regulation 11(3) any reference to copies of consignment note shall be construed, where necessary, to include consignment notes under Hazardous Waste Regulations (Northern Ireland) 2005.

The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002(b)

6.—(1) The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 are hereby amended as follows.

(2) In regulation 2(3), for “special waste” substitute “hazardous waste”, and for “Special Waste Regulations (Northern Ireland) 1998” substitute “Hazardous Waste Regulations (Northern Ireland) 2005”.

Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002(c)

7.—(1) The Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002 are hereby amended as follows.

(2) In regulation 3(3)(e), for “Special Waste Regulations (Northern Ireland) 1998” substitute “Hazardous Waste Regulations (Northern Ireland) 2005”.

Pollution Prevention and Control Regulations (Northern Ireland) 2003(d)

8.—(1) The Pollution Prevention and Control Regulations (Northern Ireland) 2005 are hereby amended as follows.

(2) Any reference to “special waste” in these Regulations to be substituted by “hazardous waste” as defined by regulation 6 of Hazardous Waste Regulations (Northern Ireland) 2005.

(3) Any reference to Special Waste Regulations (Northern Ireland) 1998 in these Regulations to be substituted by “Hazardous Waste Regulations (Northern Ireland) 2005.

(4) In Chapter 5 of Schedule 1, any reference to “hazardous waste” shall be taken to have the meaning in regulation 6 of Hazardous Waste Regulations (Northern Ireland) 2005.

Waste Management Licensing Regulations (Northern Ireland) 2003(e)

9.—(1) The Waste Management Licensing Regulations (Northern Ireland) 2003 are hereby amended as follows.

(2) Any reference to “special waste” within these Regulations to be substituted by “hazardous waste” as defined by regulation 6 of Hazardous Waste Regulations (Northern Ireland) 2005.

(3) Any reference to regulation 17 of the Special Waste Regulations (Northern Ireland) 1998 in these Regulations to be substituted by regulation 43 of Hazardous Waste Regulations (Northern Ireland) 2005.

(4) Any reference to “hazardous waste” in these Regulations shall be taken to be as defined by regulation 6 of Hazardous Waste Regulations (Northern Ireland) 2005.

Landfill Regulations (Northern Ireland) 2003(f) & Landfill (Amendment) Regulations (Northern Ireland) 2004(g)

10.—(1) The Landfill Regulations (Northern Ireland) 2003 and Landfill (Amendment) Regulations (Northern Ireland) 2004 are hereby amended as follows.

(2) Any reference to “hazardous waste” in these Regulations shall be taken to be a reference to regulation 6 of Hazardous Waste Regulations (Northern Ireland) 2005.

(3) Any reference to “Hazardous Waste List” shall be taken to refer to the List of Wastes as defined by regulation 5 of Hazardous Waste Regulations (Northern Ireland) 2005.

(a) S.R. 2000/232
(b) S.R. 2002/271
(c) S.R. 2002/301
(d) S.R. 2003/46
(e) S.R. 2003/493
(f) S.R.2003/496
(g) S.R. 2004/297

Packaging (Essential Requirements) Regulations 2003(a)

11.—(1) The Packaging (Essential Requirements) Regulations 1998 (which extend to England, Wales, Scotland and Northern Ireland) are hereby amended in their application to Northern Ireland only as follows.

(2) In regulation 3(2) of Part II, for the words “or the provisions of Council Directive 91/689/EEC on hazardous waste.” substitute “or the provisions of the Hazardous Waste Regulations (Northern Ireland) 2005”.

(a) S.I. 2003/1941

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the regime for the control and tracking of the movement of hazardous waste for the purpose of implementing the Hazardous Waste Directive (Directive 91/689/EC) in Northern Ireland.

Hazardous Waste

The Waste Framework Directive (Directive 75/442/EEC) regulates, subject to the certain exclusions, the management of all types of waste (“Directive waste”). The Hazardous Waste Directive supplements the Waste Framework Directive by imposing additional requirements in relation to Directive waste, which displays certain hazardous properties. These requirements have previously been transposed by the Special Waste Regulations (Northern Ireland) 1998 through controls on “special waste”. These Regulations repeal the Special Waste Regulations (Northern Ireland) 1998 and replace the term “special waste” with “hazardous waste”.

Parts 1 to 3 of the Regulations define hazardous waste and set out how the Regulations apply to that waste. The definition of hazardous waste in regulation 6 refers to the list of hazardous wastes set out in the List of Wastes (Northern Ireland) Regulations 2005 (S.R. 2005 No. 301). Regulations 9 to 11 permit the Department of the Environment to determine specific wastes to be classed as hazardous or non-hazardous within Northern Ireland.

Part 3 of the Regulations includes an exemption from these controls for domestic waste, which displays hazardous properties but not if it comprises asbestos waste or is collected separately. In both cases, the Regulations do not impose obligations directly on householders.

Mixing Ban

Part 4 bans the mixing of hazardous waste during disposal or recovery operation or by anyone who produces, collects or transports hazardous waste unless such activity is permitted or authorised in accordance with the Waste Framework Directive. It also imposes a duty to separate different categories of Hazardous Waste where technically and economically feasible.

Movement of Hazardous Waste

Part 5 requires documents to be completed whenever hazardous waste is removed from premises, (which includes removal from ships and removal by pipeline). The Regulations require that all hazardous waste produced in Northern Ireland must be accompanied by the appropriate documentation for transfer within the United Kingdom. The various types of form are set out in Schedules 4 to 7. The Regulations require an accurate description of consignments of waste accompanies them whenever they move and each consignment to be accompanied with a unique consignment code. This is in addition to any requirements to ensure hazardous waste is properly packaged and labelled (see in particular the Packaging (Essential Requirements) Regulations 2003 (S.I. 2003/1941)).

Producers, holders, carriers, consignors and consignees are all required to complete various parts of the forms. There is provision for a schedule of the carriers to monitor the waste chain and a copy of the completed Schedule of Carriers must be sent to the Department of the Environment. If the consignee rejects the waste, suitable alternative arrangements, including a new consignment note, must be made. Schedule 7 deals with cross border transfers within the United Kingdom and Gibraltar.

Registers, Records and Returns

Part 6 requires producers, holders, carriers, consignors and consignees to keep records. These must be kept for no less than 3 years. The Department of the Environment retains a right of inspection. The Regulations require consignees to provide producers, holders or consignors with a return as set out in Schedule 8 or a copy of the consignment note within 30 days of accepting the consignment.

Enforcement

Part 7 makes it an offence for failure to comply with the requirements of these Regulations. The maximum penalty for failure to comply with a requirement imposed by or under the regulations set out in regulation 45 is level 5 on the standard scale (currently £5000) or to a fine or imprisonment for a period not exceeding two years. The Department of the Environment may issue fixed penalty notices of £200 instead of seeking conviction in the courts in relation to such offences. Other offences under the Regulations (including the provision of false information) are subject to a maximum fine of level 5 if tried summarily and higher fines and also imprisonment if tried on indictment. It is a defence to any offence under these Regulations, that the accused took all reasonable precautions and exercised due diligence to avoid the offence.

Part 7 also imposes duties on holders of hazardous waste in the event of an emergency or grave danger which arises from hazardous waste.

Amendments to other legislation

Schedule 10, Part I omits references to special waste in the Waste and Contaminated Land (Northern Ireland) Order 1997 and replace them with references to hazardous waste.

Schedule 10, Part II makes consequential amendments to secondary legislation so that references to special waste are omitted and references to hazardous waste are updated so that they are consistent with these Regulations.