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STATUTORY INSTRUMENTS

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**1991 No. 1624**

**The Controlled Waste (Registration of Carriers  
and Seizure of Vehicles) Regulations 1991**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Controlled Waste (Registration of Carriers and Seizures of Vehicles) Regulations 1991 and shall come into force on 14th October 1991.

(2) In these regulations—

“the 1989 Act” means the Control of Pollution (Amendment) Act 1989;

“another relevant person” has the meaning given by section 3(5) of the 1989 Act;

“date of expiry” means, in relation to a carrier’s registration, the date on which the period of three years mentioned in regulation 11(2) expires;

“disposed of”, in relation to an appeal, has the meaning given by section 4(8) of the 1989 Act;

“notice” means notice in writing;

“prescribed offence” means an offence under an enactment listed in Schedule 1;

“relevant period” has the meaning given by section 4(1) of the 1989 Act.

(3) For the purposes of these Regulations, an application for registration or for the renewal of a registration as a carrier of controlled waste shall be treated as pending—

(a) whilst it is being considered by the regulation authority; or

(b) if it has been refused or the relevant period from the making of the application has expired without the applicant having been registered, whilst either—

(i) the period for appealing in relation to that application has not expired; or

(ii) the application is the subject of an appeal which has not been disposed of.

**Exemption from registration**

2.—(1) The following persons shall not be required for the purposes of section 1 of the 1989 Act to be registered carriers of controlled waste—

(a) an authority which is a waste collection authority, waste disposal authority or waste regulation authority for the purposes of Part II of the Environmental Protection Act 1990<sup>(1)</sup>;

(b) the producer of the controlled waste in question except where it is building or demolition waste;

(c) the British Railways Board in relation to carriage by rail;

(d) a ferry operator in relation to the carriage on the ferry of any vehicle carrying controlled waste;

(e) the operator of a vessel, aircraft, hovercraft, floating container or vehicle in relation to its use, after it has been loaded with waste in circumstances in which a licence under Part II

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(1) 1990 c. 43. see section 30.

of the Food and Environment Protection Act 1985<sup>(2)</sup> is needed or would be needed but for an order under section 7 of that Act for transporting the waste in order to carry out any operation mentioned in section 5 or 6 of that Act;

- (f) a charity;
- (g) a voluntary organisation within the meaning of section 48(11) of the Local Government Act 1985<sup>(3)</sup> or section 83(2D) of the Local Government (Scotland) Act 1973<sup>(4)</sup>;
- (h) a person who before 1st April 1992 applies in accordance with these Regulations for registration as a carrier of controlled waste but only whilst his application is pending.

(2) In this regulation—

“building or demolition waste” means waste arising from works of construction or demolition, including waste arising from work preparatory thereto;

“vessel” has the same meaning as in section 742 of the Merchant Shipping Act 1894<sup>(5)</sup>.

## Registers

3.—(1) It shall be the duty of each regulation authority to establish and maintain a register of carriers of controlled waste and—

- (a) to secure that the register is open for inspection at their principal office by members of the public free of charge at all reasonable hours; and
- (b) to afford to members of the public reasonable facilities for obtaining copies of entries in the register on payment of reasonable charges.

(2) A register under this regulation may be kept in any form but shall be indexed and arranged so that members of the public can readily trace information contained in it.

## Applications for registration

4.—(1) An application for registration or for the renewal of a registration as a carrier of controlled waste shall be made to the regulation authority for the area in which the applicant has or proposes to have his principal place of business in Great Britain; but if the applicant does not have or propose to have a place of business in Great Britain, the applicant may apply to any regulation authority.

(2) Subject to paragraphs (3) to (5), a person shall not make an application for registration or for the renewal of a registration whilst—

- (a) a previous application of his is pending; or
- (b) he is registered.

(3) Paragraph (2) shall not prevent a person from applying for the renewal of a registration where his application is made within the period of six months mentioned in regulation 11(4).

(4) An application for registration or for the renewal of a registration in respect of a business which is or is to be carried on by a partnership shall be made by all of the partners or prospective partners.

(5) A prospective partner in a business carried on by a partnership whose members are already registered may make an application for registration as a partner in that business to the regulation authority with whom the business is registered.

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(2) 1985 c. 48.

(3) 1985 c. 51.

(4) 1973 c. 65; section 83(2D) was added by section 3(3) of the Local Government Act 1986 (c. 10).

(5) 1894 c. 60.

(6) An application for registration shall be made on a form corresponding to the form in Part I of Schedule 2, or on a form substantially to the like effect, and shall contain the information required by that form.

(7) An application for the renewal of a registration shall be made on a form corresponding to the form in Part II of Schedule 2, or on a form substantially to the like effect, and shall contain the information required by that form.

(8) A regulation authority shall provide a copy of the appropriate application form free of charge to any person requesting one.

(9) A regulation authority shall charge an applicant in respect of their consideration of his application—

(a) in the case of an application for registration, £95;

(b) in the case of an application for the renewal of a registration, £65,

and the applicant shall pay the charge when he makes the application.

(10) A regulation authority shall, on receipt of an application for registration or for the renewal of a registration, ensure that the register contains a copy of the application.

(11) A regulation authority may remove from their register a copy of an application included under paragraph (10) at any time more than six years after the application was made.

### **Refusal of applications**

**5.—**(1) Subject to section 3(6) of the 1989 Act, a regulation authority may refuse an application for registration or for the renewal of a registration if, and only if—

(a) there has, in relation to that application, been a contravention of any of the requirements of regulation 4; or

(b) the applicant or another relevant person has been convicted of a prescribed offence and, in the opinion of the authority, it is undesirable for the applicant to be authorised to transport controlled waste.

(2) Where a regulation authority decide to refuse an application for registration, the authority shall give notice to the applicant informing him that his application is refused and of the reasons for their decision.

(3) If an appeal is made under section 4(1) of the 1989 Act in accordance with these Regulations, the regulation authority shall, as soon as reasonably practicable, make appropriate entries in their register indicating when the appeal was made and the result of the appeal.

(4) If no such appeal is made, the regulation authority shall, as soon as reasonably practicable make an appropriate entry in their register indicating that the application has not been accepted and that no appeal has been made.

(5) A regulation authority may remove an entry made under paragraph (3) or (4) at any time more than six years after the application in question was made.

### **Registration as a carrier**

**6.—**(1) On accepting a person's application for registration or on being directed under section 4(3) of the 1989 Act to register a person following an appeal in respect of such an application, the regulation authority shall make an entry in their register—

(a) showing that person as a registered carrier of controlled waste and allocating him a registration number (which may include any letter);

(b) specifying the date on which the registration takes place and its date of expiry;

- (c) stating any business name of his and the address of his principal place of business (together with any telephone, telex or fax number of his) and, in the case of an individual, his date of birth;
  - (d) in the case of a body corporate, listing the names of each director, manager, secretary or other similar officer of that body and their respective dates of birth;
  - (e) in the case of a company registered under the Companies Acts, specifying its registered number and, in the case of a company incorporated outside Great Britain, the country in which it was incorporated;
  - (f) in the case where the person who is registered or another relevant person has been convicted of a prescribed offence, giving the person's name, details of the offence, the date of conviction, the penalty imposed, the name of the Court and, in the case of an individual, his date of birth; and
  - (g) in the case where the person who is registered or any company in the same group of companies as that person is the holder of a waste management licence or a disposal licence, stating the name of the holder of the licence and the name of the authority which granted it.
- (2) In the case of a business which is or is to be carried on by a partnership, all the partners shall be registered under one entry and only one registration number shall be allocated to the partnership.
- (3) On making an entry in their register under paragraph (1) the regulation authority shall—
- (a) issue to the registered person or partnership a certificate of registration free of charge which shall be in the form set out in the form set out in Schedule 3, or in a form substantially to the like effect, and shall contain the information required by that form; and
  - (b) provide him or them free of charge with a copy of the entry in the register.
- (4) In this regulation—
- “Companies Acts” has the same meaning as in section 744 of the Companies Act 1985<sup>(6)</sup>;
- “business name” means a name under which a person carries on business and by virtue of which the Business Name Act<sup>(7)</sup> applies;
- “disposal licence” has the same meaning as in section 30(1) of the Control of Pollution Act 1974<sup>(8)</sup>;
- “group” has the same meaning as in section 53(1) of the Companies Act 1989<sup>(9)</sup>; and
- “waste management licence” has the same meaning as in section 35 of the Environmental Protection Act 1990<sup>(10)</sup>.

### **Amendment of entries**

- 7.—(1) On accepting a person's application for the renewal of a registration or on being directed under section 4(3) of the 1989 Act to register a person following an appeal in respect of such an application, the regulation authority shall amend the relevant entry in the register—
- (a) to show the date on which the renewal takes effect and the revised date of expiry of the registration;
  - (b) to record any other change disclosed as a result of the application; and
  - (c) to note in the register the date on which the amendments are made.
- (2) The regulation authority shall at the same time as amending the register—

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(6) 1985 c. 6.  
 (7) 1985 c. 7.  
 (8) 1975 c. 40.  
 (9) 1989 c. 40.  
 (10) 1990 c. 43.

- (a) issue to the registered person or partnership an amended certificate of registration free of charge which shall be in the form set out in Schedule 3, or in a form substantially to the like effect, and shall contain the information required by that form;
- (b) provide him or them free of charge with a copy of the amended entry in the register.

### **Change of circumstances and registration of additional partners**

**8.—**(1) A person who is registered shall notify the regulation authority which maintain the relevant register of any change of circumstances affecting information in the entry relating to him.

(2) On—

- (a) being notified of any change of circumstances in accordance with paragraph (1);
- (b) accepting a prospective partner's application for registration in relation to a business carried on by a partnership whose members are already registered; or
- (c) being directed under section 4(3) of the 1989 Act to register a prospective partner,

the regulation authority shall—

- (i) amend the relevant entry to reflect the change of circumstances or the registration of the prospective partner;
- (ii) note in the register the date on which the amendment is made;
- (iii) if the amendment of the register affects information contained in the certificate of registration, issue to the registered person or partnership free of charge an amended certificate of registration which shall be in the form set out in Schedule 3, or in a form substantially to the like effect, and shall contain the information required by that form;
- (iv) provide him or them free of charge with a copy of the amended entry in the register.

### **Copies of certificates of registration**

**9.—**(1) The regulation authority shall, on payment of their reasonable charges, provide a person who is registered with such copies of his certificate of registration as he may request.

(2) The regulation authority shall ensure that the copies of the certificate are numbered and marked so as to show that they are copies and that they have been provided by the authority under this regulation.

### **Revocation of registration**

**10.—**(1) Subject to section 3(6) of the 1989 Act, a regulation authority may revoke a person's registration as a carrier of controlled waste if, and only if—

- (a) that person or another relevant person has been convicted of a prescribed offence; and
- (b) in the opinion of the authority, it is undesirable for the registered carrier to continue to be authorised to transport controlled waste.

(2) Where a regulation authority decide to revoke a person's registration as a carrier of controlled waste, they shall give notice to the carrier informing him of the revocation and of the reasons for their decision.

### **Duration of registration**

**11.—**(1) This regulation is subject to—

- (a) section 3(2) of the 1989 Act (which ensures that a registration ceases to have effect if the registered carrier gives written notice requiring the removal of his name from the register); and
  - (b) section 4(7) and (8) of the 1989 Act (which extend the period during which the registration has effect where an appeal under that section is made).
- (2) Subject to paragraphs (4) to (6), a person's registration as a carrier of controlled waste shall cease to have effect on the expiry of the period of three years beginning with the date of the registration or, if it has been renewed, beginning with the date on which it was renewed or, as the case may be, last renewed.
- (3) The regulation authority shall, no later than six months before the expiry of the period of three years mentioned in paragraph (2), serve on a registered person—
- (a) a notice informing him of the date on which that period expires and of the effect of paragraph (4); and
  - (b) an application form for the renewal of his registration and a copy of his current entry in the register.
- (4) Where an application for the renewal of a registration is made within the last six months of the period of three years mentioned in paragraph (2), the registration shall, notwithstanding the expiry of that period, continue in force—
- (a) until the application is withdrawn or accepted; or
  - (b) if the regulation authority refuse the application or the relevant period from the making of the application has expired without the applicant having been registered, until—
    - (i) the expiry of the period for appealing; or
    - (ii) where the applicant indicates within that period that he does not intend to make or continue with an appeal, the date on which such an indication is given.
- (5) Where a regulation authority revokes a person's registration, the registration shall, notwithstanding the revocation, continue in force until—
- (a) the expiry of the period for appealing against the revocation; or
  - (b) where that person indicates within that period that he does not intend to make or continue with an appeal, the date on which such an indication is given.
- (6) A registration in respect of a business which is carried on by a partnership shall cease to have effect if any of the partners ceases to be registered or if any person who is not registered becomes a partner.
- (7) The duration of a registration in respect of a business which is carried on by a partnership shall not be affected if a person ceases to be a partner or if a prospective partner is registered under regulation 8(2) in relation to the partnership.
- (8) Where a regulation authority accepts an application for the renewal of a registration within the period of three years mentioned in paragraph (2), the renewal shall for the purposes of these Regulations take effect at the expiry of that period.

#### **Alteration of register to reflect cessation of registration**

**12.—**(1) Where by virtue of regulation 11 or section 3(2) or 4(7) and (8) of the 1989 Act a registration ceases to have effect, the regulation authority shall record this fact in the appropriate entry in their register and the date on which it occurred.

(2) The regulation authority may remove the appropriate entry from their register at any time more than six years after the registration ceases to have effect.

### **Duty to return certificates etc.**

#### **13. Where—**

- (a) a person's registration as a carrier of controlled waste ceases to have effect by virtue of regulation 11 or section 3(2) or 4(7) and (8) of the 1989 Act; or
- (b) a person is issued with an amended certificate under regulation 7(2) or 8(2),

he shall immediately return to the regulation authority his certificate of registration, or, as the case may be, his previous certificate of registration, together with any copies of it issued by that authority.

### **Production of authority**

**14.—**(1) Where a person is required by virtue of section 5 of the 1989 Act to produce an authority for transporting controlled waste and does not do so by producing it forthwith to the person requiring its production, he shall produce it at or send it to the principal office of the regulation authority for the area in which he is stopped no later than 7 days after the day on which he was required to produce it.

(2) A copy of a person's certificate of registration as a carrier of controlled waste shall for the purposes of section 5 of the 1989 Act be authority for transporting controlled waste if it was provided by the regulation authority under regulation 9.

### **Appeals**

**15.—**(1) Notice of an appeal to the Secretary of State under section 4(1) or (2) of the 1989 Act shall be given in writing by the appellant to the Secretary of State.

(2) The notice of appeal shall be accompanied by the following—

- (a) a statement of the grounds of appeal;
- (b) in the case of an appeal under section 4(1) of the 1989 Act, a copy of the relevant application;
- (c) in the case of an appeal under section 4(2) of the 1989 Act, a copy of the appellant's entry in the register;
- (d) a copy of any relevant correspondence between the appellant and the regulation authority;
- (e) a copy of any notice given to the appellant under regulation 5(2) or 10(2);
- (f) a statement indicating whether the appellant wishes the appeal to be conducted by written representations or by a hearing.

(3) The appellant shall at the same time as giving notice of appeal to the Secretary of State serve on the regulation authority a copy of the notice and a copy of the documents mentioned in paragraph 2(a) and (f).

### **Time limit for bringing an appeal**

**16.** Notice of appeal is to be given before the expiry of the period of 28 days beginning with—

- (a) in the case of an appeal under section 4(1)(a) of the 1989 Act, the date on which the appellant is given notice by the regulation authority that his application has been refused; or
- (b) in the case of an appeal under section 4(1)(b) of the 1989 Act, the date on which the relevant period from the making of the application expired without the appellant having been registered; or

- (c) in the case of an appeal under section 4(2) of the 1989 Act, the date on which the appellant is given notice by the regulation authority that his registration as a carrier of controlled waste has been revoked,

or before such later date as the Secretary of State may allow.

### Hearings

17.—(1) If either party to an appeal requests a hearing or the Secretary of State so decides, the appeal shall be or continue in the form of a hearing before a person appointed for the purpose by the Secretary of State.

(2) The person holding the hearing shall after its conclusion make a written report to the Secretary of State which shall include his conclusions and recommendations or his reasons for not making any recommendations.

### Notification of determination

18.—(1) The Secretary of State shall notify the appellant in writing of his determination of the appeal and of his reasons for it and, if a hearing is held, shall also provide him with a copy of the report of the person who conducted the hearing.

(2) The Secretary of State shall at the same time send a copy of those documents to the regulation authority.

### Prescribed information

19. The prescribed information for the purposes of section 6(1)(c) of the 1989 Act is the name and address of the person who was using the vehicle at the time when the offence was committed.

### Prescribed steps to be taken before applying for a warrant to seize property

20.—(1) The prescribed steps for the purposes of section 6(1)(c) of the 1989 Act are as follows.

(2) The regulation authority shall—

- (a) in the case of a vehicle with a G.B. registration mark, obtain from the Secretary of State the name and address of the person shown in his records, at the time when the offence was committed, as the keeper and user of the vehicle;
- (b) in the case of a vehicle with a Northern Ireland registration mark, provide the Secretary of State for Transport with details of the registration mark and of the time when the offence was committed and a brief description of the vehicle, request his help in finding the person who was the owner of the vehicle at that time and explain the reason for making the request; and
- (c) in any other case, provide the chief officer of the police force in whose area the offence was committed with details of the foreign registration mark (if any) and of the time when the offence was committed and a brief description of the vehicle, request his help in finding the person who was the owner of the vehicle at that time and explain the reason for making the request.

(3) The regulation authority shall serve notice under section 71(2) of the Environmental Protection Act 1990(11) on any person who they consider (whether as a result of action taken under paragraph (2) or otherwise) may be able to provide them with the name and address of the person who was using the vehicle at the time when the offence was committed, requiring him, if he is able to do so, to provide them with the name and address of that person.

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(11) 1990 c. 43.



(4) In this regulation—

“G.B. registration mark” means a registration mark issued in relation to a vehicle under the Vehicles (Excise) Act 1971<sup>(12)</sup>;

“Northern Ireland registration mark” means a mark indicating registration in Northern Ireland;

“foreign registration mark” means a mark indicating registration in some country other than Great Britain or Northern Ireland;

“owner” includes a person entitled to possession of a vehicle under a hiring agreement or hire purchase agreement.

### **Removal of vehicles seized**

**21.**—(1) A vehicle seized under section 6 of the 1989 Act on behalf of a regulation authority may be removed under subsection (5) of that section in the following manner.

(2) The vehicle may be driven, towed or removed by such other means as are reasonable in the circumstances and any necessary steps may be taken in relation to the vehicle in order to facilitate its removal.

(3) Contents of the vehicle may be removed separately in cases where—

- (a) it is reasonable to do so to facilitate removal of the vehicle;
- (b) there is good reason for storing them at a different place from the vehicle; or
- (c) their condition requires them to be disposed of without delay.

### **Return of property seized**

**22.**—(1) Unless the relevant property has already been disposed of under regulation 23, a regulation authority shall return any property seized under section 6 of the 1989 Act to a person who—

- (a) produces satisfactory evidence of his entitlement to it and of his identity and address; or
- (b) where he seeks to recover the property as the agent of another person, produces satisfactory evidence of his identity, his address and his authority to act on behalf of his principal and of his principal’s identity, address and entitlement to the property; and
- (c) where the property is a vehicle and the person seeking its return (or in a case falling within sub-paragraph (b), his principal) purports to be the keeper or the user of the vehicle, produces the registration book for the vehicle.

(2) Where the person claiming to be entitled to a vehicle establishes his entitlement, he shall be treated for the purposes of this regulation as also entitled to its contents unless and to the extent that another person has claimed them or part of them.

(3) Where there is more than one claim to the property, the regulation authority shall determine which person is entitled to it on the basis of the evidence provided to them.

### **Disposal of property seized**

**23.**—(1) The regulation authority may sell, destroy or deposit at any place property seized under section 6 of the 1989 Act if—

- (a) the authority have published a notice in a newspaper circulating in the area in which the property was seized—

- (i) giving the authority's name, a brief description of the property seized and the vehicle's registration mark (if any);
  - (ii) indicating the time and place at which, and the powers under which, it was seized on behalf of the authority;
  - (iii) stating that it may be claimed at the place and at the times specified in the notice and that, if no-one establishes within the period specified in the notice that he is entitled to the return of the property, the authority intend to dispose of it after the expiry of that period unless its condition requires its earlier disposal;
- (b) the authority have served a copy of the notice on—
- (i) any person on whom a notice under section 71(2) of the Environmental Protection Act 1990<sup>(13)</sup> has been served by virtue of regulation 20(3) in relation to the relevant vehicle;
  - (ii) the chief officer of the police force in whose area the property was seized;
  - (iii) the Secretary of State for Transport;
  - (iv) H.P. Information plc; and
- (c) either—
- (i) the period of 28 days, beginning with the date on which notice is published under sub-paragraph (a) or, if later, a copy of that notice is served under sub-paragraph (b), has expired without any obligation arising under regulation 22 for the regulation authority to return the property to any person; or
  - (ii) the condition of the property requires it to be disposed of without delay.
- (2) The period specified in a notice under paragraph (1)(a)(iii) shall be the period mentioned in paragraph (1)(c)(i).

### **Notice of disposal of a vehicle**

**24.** After disposing of any vehicle under regulation 23, the regulation authority shall serve notice of the disposal on the following persons—

- (a) the chief officer of the police force in whose area it was seized;
- (b) the Secretary of State for Transport; and
- (c) H.P. Information plc.

### **Application of proceeds of sale**

**25.—**(1) The proceeds of sale of any property sold by a regulation authority under regulation 23 shall be applied towards meeting expenses incurred by the authority in exercising their functions by virtue of section 6 of the 1989 Act and, in so far as they are not so applied, in meeting any claim to the proceeds of sale made and established in accordance with paragraph (2).

(2) A claim to the proceeds of sale of any property shall be established if the claimant provides the regulation authority with satisfactory evidence that he would have been entitled to the return of the property under regulation 22 if the property had not been sold.

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(13) 1990 c. 43.

### Service of notices

**26.** Any notice or other document required by these Regulations to be served on or given to a person may be served or given in accordance with section 160 of the Environmental Protection Act 1990.

15th July 1991 *Michael Heseltine*  
Secretary of State for the Environment

17th July 1991 *David Hunt*  
Secretary of State for Wales

15th July 1991 *James Douglas-Hamilton*  
Parliamentary Under Secretary of State, Scottish  
Office