
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide a new definition of special waste. They make provision for handling such waste and for implementing Council Directive [91/689/EEC](#) on hazardous waste (OJNo. L 377, 31.12.1991, p. 20,) (“the Directive”).

Regulation 2 defines special waste, making reference to Parts I, II and III of Schedule 2. This is to implement the definition of hazardous waste in the Directive and in particular in the List annexed to Council Decision [94/904/EC](#) (OJ No. L. 356, 31.12.94, p.14). The definition extends, in accordance with Article 4 of the Directive, to certain other waste considered by the United Kingdom to display particular hazardous properties. Household waste is excluded from the definition.

Regulation 4 requires the Environment Agency (in relation to England and Wales) and the Scottish Environment Protection Agency (in relation to Scotland) (“the Agencies”), to give unique codes to be applied to consignments of waste or to carrier’s rounds. Carrier’s rounds consist of several consignments collected on the same journey and delivered to one place. The codes are to be shown, together with other required information, on consignment notes which are to accompany the waste when transported. Regulations 5 to 10 and 12 and 13 and Schedule 1 provide for the completion and handling of these notes and for pre-notification to the Agency of the consignment or round. Completion of such identification forms and their transport with waste are required by Article 5 of the Directive. The pre-notification provisions (regulations 5(2)(b), 8(2)(a)(ii) and 12) are not implementing specific Community obligations.

Regulation 11 requires the Agencies to provide certain information to one another, following notification, where waste is to be transported from England and Wales to Scotland or vice versa. Regulation 14 requires the Agencies to charge fees on supplying a code under regulation 4. The amount is generally £15 per consignment or round and £10 where the waste consists entirely of lead acid batteries. Rounds of low quantity fulfilling certain conditions attract no fees. Regulations 11 and 14 do not implement Community obligations.

Regulation 15 implements Article 4.3 of the Directive on the keeping of records by those consigning and carrying hazardous waste. They are both required to keep the documents for three years, although the Directive only requires carriers to keep records for at least twelve months. Together with regulation 16, it also implements the requirements of Article 2.1 of the Directive on the keeping of records for sites where hazardous waste is deposited.

Regulation 17 prohibits the mixing of special waste with other waste or other categories of special waste except where this is authorised under, or exempted from the effect of, certain other waste management legislation. This regulation is to implement Articles 2.2 and 2.3 of the Directive.

Regulation 18 makes failure to comply with the Regulations a criminal offence except for an Agency member, officer or employee. There is a defence for those who take certain steps in cases of emergency or grave danger. The Agencies are made responsible by regulation 19 for supervising activities and persons subject to the Regulations. Insofar as they relate to provisions which implement Community obligations (as stated in this Note), these provisions are part of that implementation because their purpose is to make the implementation effective.

Regulation 20 makes transitional provision for applications for certificates of technical competence under the Waste Management Licensing Regulations 1994 (S.I. [1994/1056](#) as amended) where such applications were made before 1st March 1997 where the applicant was licensed to deal with special

Status: *This is the original version (as it was originally made).*

waste before the change in definition made by these Regulations. This provision does not implement a Community obligation.

Regulations 21 to 26 and Schedule 3 make consequential amendments to, and revocations and saving in respect of, other legislation. Regulation 21 makes consequential amendment to regulations implementing Directive [85/337/EEC](#). Regulation 25 makes consequential amendment to the Waste Management Licensing Regulations 1994. Parts of those Regulations, in particular Schedule 4, implement Community obligations. Regulations 22, 23, 24 and 26 do not implement Community obligations.

A compliance cost assessment in respect of these Regulations may be obtained from Waste Policy Division (Branch 3), Department of the Environment, Room A 231, Romney House, 43 Marsham Street, London SW1P 3PY. A copy has been placed in the library of each of the Houses of Parliament.