

WELSH STATUTORY INSTRUMENTS

2005 No. 1806

The Hazardous Waste (Wales) Regulations 2005

PART 1

GENERAL

Title, commencement, and application

- 1.—(1) The title of these Regulations is the Hazardous Waste (Wales) Regulations 2005.
- (2) These Regulations come into force as follows—
 - (i) Parts 1, 2, paragraph 1 of Part 1 of Schedule 12 and, for the purposes of that paragraph only, in Part 5, regulation 59(3) and Schedule 9 and regulation 74 on 6 July 2005; and
 - (ii) the remainder, on 16 July 2005.
- (3) These regulations apply in relation to Wales.

The Waste Directive and the meaning of Waste

- [^{F1}2.—(1) For the purposes of these Regulations—
- [^{F2}(a) “the Waste Directive” (“*y Gyfarwydddeb Wastraff*”) means [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste and repealing certain Directives, as last amended by [^{F3}Directive (EU) 2018/851][^{F4}, and read in accordance with regulation 2A];
- (b) “waste” (“*gwastraff*”) means anything that—
- (i) is waste within the meaning of Article 3(1) of the Waste Directive [^{F5}, as read with Articles 5 and 6 of that Directive]; and
 - (ii) subject to regulation 15, is not excluded from the scope of that Directive by Article 2(1), (2) or (3).
- (2) In these Regulations, a reference to the Waste Directive conditions is a reference to the conditions set out in Article 13 of that Directive, that is to say, to ensure that waste management is carried out without endangering human health, without harming the environment and, in particular—
- (a) without risk to water, air, soil, plants or animals;
 - (b) without causing a nuisance through noise or odours; and
 - (c) without adversely affecting the countryside or places of special interest.]

Textual Amendments

- F1** Reg. 2 substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011](#) (S.I. 2011/971), reg. 1(2), [Sch. para. 2](#)
- F2** Reg. 2(1)(a) substituted (5.7.2018) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2018](#) (S.I. 2018/721), regs. 1(2), [3](#)

- F3** Words in reg. 2(1)(a) substituted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **4(2)**
- F4** Words in reg. 2(1)(a) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 2(1)(b)(i) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F6}Meaning of the Waste Directive

2A.—(1) For the purposes of these Regulations, the Waste Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority or local authority which, immediately before IP completion day (within the meaning given to that expression in the European Union (Withdrawal Agreement) Act 2020), was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of Wales.

(3) Article 2 is to be read as if—

(a) in paragraph 2—

- (i) in the words before point (a), for “other Community legislation” there were substituted “ [^{F7}assimilated] law ”;
- (ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “ Regulation (EC) No 1069/2009 ”;
- (iii) in point (d), for the words from “Directive 2006/21/EC” to the end there substituted “ the Mining Waste Directive ”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;

(c) paragraph 4 were omitted.

(5) Article 5 is to be read as if—

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

(b) after paragraph 1 there were inserted—

- “**1A.** Any decision as to whether a substance or object is a by-product must be made—
- (a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and
 - (b) having regard to any guidance published by the Welsh Ministers or the Natural Resources Body for Wales for the purposes of this Article.”;

(c) paragraphs 2 and 3 were omitted.

(6) Article 6 is to be read as if—

(a) in paragraph 1, for “Member States shall take appropriate measures to ensure that waste” there were substituted “Waste”;

(b) after paragraph 1 there were inserted—

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

- (a) in accordance with any regulations or [^{F8}assimilated direct] legislation (within the meaning given to that expression in the European Union (Withdrawal) Act 2018) setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and
- (b) having regard to any guidance published by the Welsh Ministers or the Natural Resources Body for Wales for the purposes of this Article.”;
- (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second sub-paragraph for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
 - (iii) the third and fourth sub-paragraphs were omitted;
- (d) paragraph 3 were omitted;
- (e) in paragraph 4—
 - (i) in the first sub-paragraph—
 - (aa) in the first sentence, for the words from the beginning to “Member State”, there were substituted “Where criteria have not been set out as referred to in paragraph 1A(a), the Natural Resources Body for Wales”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for “Member States” there were substituted “The Natural Resources Body for Wales”;
 - (bb) “by competent authorities” were omitted.
- (7) Article 7 is to be read as if—
 - (a) before paragraph 1 there were inserted—

“**A1.** In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in Wales.”;
 - (b) in paragraph 1—
 - (i) the first and second sentences were omitted;
 - (ii) for the third sentence, there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the wastewhich is to be considered as hazardous waste or non-hazardous waste.”;
 - (c) paragraphs 2, 3, 6 and 7 were omitted.
- (8) Article 19 is to be read as if—
 - (a) in paragraph 1, for “Community” there was substituted “ national ”;
 - (b) in paragraph 2, for “a Member State” there were substituted “ Wales ”.
- (9) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.
- (10) In paragraph (2) “local authority” means a county council or a county borough council.]

Changes to legislation: There are currently no known outstanding effects for the *The Hazardous Waste (Wales) Regulations 2005*. (See end of Document for details)

Textual Amendments

- F6** Regs. 2A, 2B inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(3)** (as amended by S.I. 2020/1339, regs. 1(3), **2(4)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F7** Word in reg. 2A(3)(a)(i) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Wales\) Regulations 2023 \(S.I. 2023/1332\)](#), regs. 1(2), **8(a)**
- F8** Words in reg. 2A(6)(b) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Wales\) Regulations 2023 \(S.I. 2023/1332\)](#), regs. 1(2), **8(b)**

[^{F6}Meaning of the “Mining Waste Directive” ^{F9}...

2B.—(1) In regulation 2A(3)(a)(iii), “the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with paragraphs (2) and (3).

(2) Article 2 is to be read as if—

- (a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#) were a reference to that Article read in accordance with paragraph (7) of this regulation;
- (b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EEC](#)” there were substituted “ Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive ”.

- ^{F10}(4)
- ^{F10}(5)
- ^{F10}(6)

(7) For the purposes of paragraph (2)(a), Article 11(3)(j) of Directive [2000/60/EC](#) is to be read as if—

- (a) the first reference to “Member States” were a reference to the appropriate authority;
- (b) at the end, there were inserted—

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, has the same meaning as in those Regulations”.]

Textual Amendments

- F6** Regs. 2A, 2B inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(3)** (as amended by S.I. 2020/1339, regs. 1(3), **2(4)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F9** Words in reg. 2B heading omitted in earlier amending provision S.I. 2019/414, reg. 8(3) (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(4)(a)(ii)(aa)**
- F10** Reg. 2B(4)(5)(6) omitted in earlier amending provision S.I. 2019/414, reg. 8(3) (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(4)(a)(ii)(bb)**

[^{F11}Annex III to the Waste Directive

3. A reference in these Regulations to—

- (a) Annex III is a reference to Annex III (properties of waste which render it hazardous) to the Waste Directive^{F12} ...;
- (b) hazardous properties is a reference to the properties in Annex III.]

Textual Amendments

- F11** Reg. 3 substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 3**
- F12** Words in reg. 3(a) omitted (20.7.2015) by virtue of [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), **3(3)**

The List of Wastes

4.—^{F13}(1) In these Regulations, “the List of Wastes”(“*y Rhestr Wastraffoedd*”) means the list of wastes established by Commission Decision [2000/532/EC](#) replacing Decision [94/3/EC](#) establishing a list of wastes pursuant to Article 1(a) of Council Directive [75/442/EEC](#) on waste and Council Decision [94/904/EC](#) establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive [91/689/EEC](#) on hazardous waste, as amended from time to time.]

- (2) A reference in these Regulations in relation to any waste to—
 - (a) being “listed as a waste” and “listed as a hazardous waste” refers to that waste being listed as a waste, or as a hazardous waste, as the case may be, in the List of Wastes, provided, in the case of a waste to which a limit value of concentration applies, it is only to be considered to be listed as a hazardous waste where the relevant limit value of concentration is satisfied;
 - (b) being “not listed as hazardous” refers to that waste being not listed as a hazardous waste 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 are to be construed accordingly.

Textual Amendments

- F13** Reg. 4(1) substituted (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), **3(4)**

General Interpretation

- 5.—(1) In these Regulations—
 - “the 1990 Act” (“*Deddf 1990*”) means the Environmental Protection Act 1990^{M1};
 - “the 1995 Act” (“*Deddf 1995*”) means the Environment Act 1995^{M2};
 - ^{F14}
 - “the 1996 Regulations” (“*Rheoliadau 1996*”) means the Special Waste Regulations 1996^{M3};
 - ^{F15}“the Environmental Permitting Regulations” (“*y Rheoliadau Trwyddedu Amgylcheddol*”) means the Environmental Permitting (England and Wales) Regulations 2016;]
 - “the Agency” (“*yr Asiantaeth*”) means the Environment Agency;
 - ^{F16}“appropriate authority” (“*awdurdod priodol*”) means the Welsh Ministers, NRBW or the Agency;]

[^{F16}“asbestos waste” (“*gwastraff asbestos*”) means waste which contains or is contaminated by asbestos;

“the Assembly” (“*y Cynulliad*”) means the National Assembly for Wales;

“authorised person” (“*person awdurdodedig*”) has the meaning given by section 108(15) of the 1995 Act;

“business day” (“*diwrnod busnes*”) means any day other than any—

- (a) Saturday or Sunday;
- (b) Good Friday or Christmas Day;
- (c) day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 ^{M4}; or
- (d) other public holiday;
- (e) “carrier” (“*cludwr*”), in relation to a consignment of hazardous waste, means a person who takes one or more of the following actions, that is to say, collects the consignment from the premises at which it was produced or premises at which it is being held, delivers it to the consignee, or transports it in the course of its transfer from those premises to the consignee;

“consignee” (“*traddodai*”), in relation to a consignment of hazardous waste, means the person to whom the waste is or is to be transferred for recovery or disposal;

“consignment code” (“*cod traddodi*”) is to be construed in accordance with regulation 34(1);

[^{F17}“consignment note” (“*nodyn traddodi*”), in relation to a consignment of hazardous waste, means the identification document which is required to accompany the hazardous waste when it is transferred pursuant to Article 19(2) of the Waste Directive.]

“consignor” (“*traddodwr*”), 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;

[^{F18}“domestic waste” (“*gwastraff domestig*”) means waste produced by a household;]

“emergency or grave danger” (“*argyfwng neu berygl difrifol*”) has the meaning given by regulation 61;

“emergency services” (“*gwasanaethau brys*”) means those police, fire and ambulance services who are liable to be required to respond to an emergency;

[^{F19}“environmental permit” (“*trwydded amgylcheddol*”) has the meaning given in [^{F20}the Environmental Permitting Regulations];]

[^{F21}“harbour area” (“*ardal harbwr*”) has the same meaning as in the Dangerous Goods in Harbour Areas Regulations 2016;]

“hazardous waste” (“*gwastraff peryglus*”) is to be construed in accordance with regulation 6;

[^{F22}“the Landfill Directive” (“*y Gyfarwyddeb Dirlenwi*”) means Council [Directive 1999/31/EC](#) on the landfill of waste, as last amended by Directive (EU) 2018/850, and read as if—

in Article 2—

- (i) in point (a)—
 - (aa) the reference to the definition of ‘waste’ were omitted; and
 - (bb) for “[Directive 2008/98/EC](#)” there were substituted “the Waste Framework Directive”;
- (ii) after point (a) there were inserted—

“(aa) ‘waste’ has the meaning given by regulation 2(1)(b) of the Hazardous Waste (Wales) Regulations 2005”;

in Article 3—

- (i) in paragraph 2, for “Without prejudice to existing Community legislation the” there were substituted “The”;
- (ii) for paragraph 3 there were substituted—

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

“mixing” (“*cymysgu*”) is to be construed in accordance with regulation 18;

“mobile service” (“*gwasanaeth symudol*”) means a service operated from premises which consists of any one or more of the following activities, that is to say, the construction, maintenance or repair of any other premises, or of any fixtures, fittings or equipment located on those other premises, being a service in the course of which the operator of the service produces hazardous waste at those other premises;

[^{F23}“multiple collection” (“*amlgasgliad*”) means a journey made by a single carrier which meets the following conditions—

- (a) the carrier collects more than one consignment of hazardous waste in the course of the journey;
- (b) each consignment is collected from different premises;
- (c) all the premises from which a collection is made are in Wales; and
- (d) all consignments collected are transported by that carrier in the course of a journey to the same consignee;]

^{F24}

“non-hazardous waste” (“*gwastraffnad yw'n beryglus*”) has the meaning given by regulation 7;

[^{F25}“NRBW” (“*CANC*”) means the Natural Resources Body for Wales;]

[^{F26}“premises” (“*mangre*”) includes land and any ship and any other means of transport from which a mobile service is operated;]

“quarter” (“*chwarter*”) means any period of three months ending on 31 March, 30 June, 30 September or 31 December;

[^{F27}“radioactive substances activity” has the meaning given in Schedule 23 to the Environmental Permitting Regulations;]

[^{F28}“radioactive substances exemption” has the meaning given in regulation 2(1) of the Environmental Permitting Regulations;]

[^{F27}“radioactive waste” has the meaning given in Schedule 23 to the Environmental Permitting Regulations;]

[^{F29}“registered exemption” (“*esemptiad cofrestredig*”) means an exempt waste operation within the meaning of the Environmental Permitting Regulations;]

“schedule of carriers” (“*atodlen y cludwyr*”) means the form of schedule set out in Schedule 5 and required to be completed where more than one carrier transports, or is to transport, the consignment;

“SEPA” (“*SEPA*”) means the Scottish Environment Protection Agency;

“ship” (“*llong*”) means a vessel of any type whatsoever including submersible craft, floating craft and any structure which is a fixed or floating platform;

“six digit code” (“*cod chwe digid*”) 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;

“SIC” (“*SIC*”) means the publication entitled “the UK Standard Industrial Classification of Economic Activities 2003” prepared by the Office of National Statistics and published by Her Majesty’s Stationery Office on 31 December 2002 and implemented on 1 January 2003 ^{M5};

“United Kingdom ship” (“*llong y Deyrnas Unedig*”) has the meaning given by section 1 of the Merchant Shipping Act 1995 ^{M6};

F14
.....

[^{F30}“waste permit” (“*trwydded gwastraff*”) means a marine licence under Part 4 of the Marine and Coastal Access Act 2009 or an environmental permit.]

[^{F31}(2) In these Regulations—

“broker” (“*brocer*”) means an undertaking arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste;

“collection” (“*casglu*”) means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility;

“dealer” (“*deliwr*”) means any undertaking which acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste;

“disposal” (“*gwaredu*”) means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy (Annex I of the Waste Directive sets out a non-exhaustive list of disposal operations)

“holder” (“*deiliad*”) means the producer of the waste or the person who is in possession of it ;

“management” (“*rheoli*”) means the collection, transport, recovery [^{F32}(including sorting)] and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including actions taken as dealer or broker;

“producer” (“*cynhyrchydd*”) means anyone whose activities produce waste (“original waste producer”) or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of the waste;

“recovery” (“*adfer*”) means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy (Annex II of the Waste Directive sets out a non-exhaustive list of recovery operations);

“waste oil” (“*olew gwastraff*”) means any mineral or synthetic lubrication or industrial oil which has become unfit for the use for which it was originally intended, such as used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils,

and cognate expressions must be construed accordingly.]

(3) In these Regulations—

(a) any document which is to be provided or given to any person (other than a fixed penalty notice under Part 10) may be provided or given to that person in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;

(b) any requirement to make, keep or retain a record or to maintain a register may be satisfied in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;

- (c) any requirement for a signature on a notification, consignment note [^{F33}or schedule of carriers], may be satisfied by an electronic signature incorporated into the document; and
- [^{F34}(d) “electronic signature” (“*llofnod electronig*”) has the meaning given in Article 3(10) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market.]]

Textual Amendments

- F14** Words in reg. 5(1) omitted (6.4.2008) by virtue of [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 46(3)(a)** (with regs. 69-72)
- F15** Words in reg. 5(1) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 17(2)(a)** (with regs. 1(3), 77-79, Sch. 4)
- F16** Words in reg. 5(1) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in reg. 5(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 5(a)(i)**
- F18** Words in reg. 5(1) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 5(a)(ii)**
- F19** Words in reg. 5(1) inserted (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 46(3)(c)** (with regs. 69-72)
- F20** Words in reg. 5(1) substituted (6.4.2010 immediately after S.I. 2009/3381 comes into force) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1), **Sch. 26 para. 25(2)(b)** (with reg. 1(2))
- F21** Words in reg. 5(1) substituted (1.10.2016) by [The Dangerous Goods in Harbour Areas Regulations 2016 \(S.I. 2016/721\)](#), reg. 1, **Sch. 5 para. 7(a)** (with reg. 5)
- F22** Words in reg. 5(1) inserted by earlier amending provision S.I. 2019/414, **reg. 8(4)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)** (31.12.2020) as substituted by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(4)(b)**
- F23** Words in reg. 5(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 5(a)(iii)**
- F24** Words in reg. 5(1) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 5(a)(iv)**
- F25** Words in reg. 5(1) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 28** (with Sch. 7)
- F26** Words in reg. 5(1) substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **3**
- F27** Words in reg. 5(1) inserted (6.4.2010 immediately after S.I. 2009/3381 comes into force) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1), **Sch. 26 para. 25(2)(e)** (with reg. 1(2))
- F28** Words in reg. 5(1) inserted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 2 para. 4(a)**
- F29** Words in reg. 5(1) substituted (6.4.2010 immediately after S.I. 2009/3381 comes into force) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1), **Sch. 26 para. 25(2)(c)** (with reg. 1(2))
- F30** Words in reg. 5(1) substituted (6.4.2011) by [The Marine and Coastal Access Act 2009 \(Commencement No.5, Consequential and Transitional Provisions\) Order 2011 \(S.I. 2011/556\)](#), art. 1(3), **Sch. para. 6(2)(a)**
- F31** Reg. 5(2) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 5(b)**
- F32** Words in reg. 5(2) inserted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **4(3)**

Changes to legislation: There are currently no known outstanding effects for the *The Hazardous Waste (Wales) Regulations 2005*. (See end of Document for details)

- F33** Words in reg. 5(3)(c) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 5(c)**
- F34** Words in reg. 5(3)(d) substituted (22.7.2016) by [The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 \(S.I. 2016/696\)](#), reg. 1, **Sch. 3 para. 5(b)**

Marginal Citations

- M1** 1990 c. 43.
- M2** 1995 c. 25.
- M3** SI 1996/972 as amended by [S.I. 1996/2019](#), 1997/251, 2001/3148.
- M4** 1971 c. 80.
- M5** ISBN 0116216417.
- M6** 1995 c. 21.

PART 2

HAZARDOUS AND NON-HAZARDOUS WASTE

Hazardous waste

- 6. Subject to regulation 9, a waste is a hazardous waste if it is—
 - (a) listed as a hazardous waste in the List of Wastes ^{M7};
 - ^{F35}(b)
 - (c) a specific batch of waste which is determined pursuant to regulation 8 to be a hazardous waste,

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

Textual Amendments

- F35** [Reg. 6\(b\)](#) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**

Marginal Citations

- M7** 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.

Non-hazardous waste

- 7. The following are non-hazardous waste—
 - (a) a waste which is not a hazardous waste pursuant to regulation 6; or
 - (b) a specific batch of waste which is determined pursuant to regulation 9 to be a non-hazardous waste,

and the expression “non-hazardous” and cognate expressions are to be construed accordingly.

Specific waste to be treated as hazardous

8.—(1) The Assembly, having regard to [^{F36}Annex III] and the limit values of concentration in the List of Wastes, may determine, in exceptional cases, that a specific batch of waste in Wales which—

(a) is not listed in the List of Wastes;

^{F37}(b)

(c) though of a type listed as a hazardous waste in the List of Wastes, is treated as non-hazardous pursuant to regulation 9(2),

displays one or more of the hazardous properties, and accordingly that it is to be treated for all purposes as hazardous waste.

(2) A specific batch of waste produced in England, Scotland or Northern Ireland and not listed as hazardous in the List of Wastes and which is for the time being determined ^{F38}... to be hazardous pursuant to [^{F39}paragraph (3)], is to be treated for all purposes as hazardous waste in Wales.

[^{F40}(3) For the purposes of paragraph (2), a specific batch of waste is determined to be hazardous—

(a) in relation to England if—

(i) of a type listed in regulations made under section 62A(2) of the 1990 Act;

(ii) it is the subject of a determination by the Secretary of State under regulation 8 of the Hazardous Waste (England and Wales) Regulations 2005;

(b) in relation to Northern Ireland, it is the subject of a determination by the Department of Agriculture, Environment and Rural Affairs under regulation 9 of the Hazardous Waste Regulations (Northern Ireland) 2005;

(c) in relation to Scotland, it is the subject of a determination by the Scottish Ministers, because the Scottish Ministers consider that the waste displays one or more of the hazardous properties listed in Annex III.]

Textual Amendments

F36 Words in reg. 8(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 6**

F37 Reg. 8(1)(b) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**

F38 Words in reg. 8(2) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F39 Words in reg. 8(2) substituted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F40 Reg. 8(3) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Specific waste to be treated as non-hazardous

9.—(1) The Assembly may decide, in exceptional cases, on the basis of documentary evidence provided by the holder, and having regard to [^{F41}Annex III] and the limit values of concentration in the List of Wastes, that a specific batch of waste in Wales which—

(a) is listed as hazardous waste in the List of Wastes;

^{F42}(b)

(c) though of a type not listed as a hazardous waste in the List of Wastes, is treated as hazardous pursuant to regulation 8(2),

does not display any of the properties listed in Annex III ^{F43}...and accordingly that it is to be treated for all purposes as non-hazardous in Wales.

[^{F44}(1A) The power at paragraph (1) to decide that waste be treated as non-hazardous does not apply to waste which has been diluted or mixed with the aim of lowering the initial concentrations of hazardous substances to a level below the thresholds for defining waste as hazardous.]

(2) A specific batch of waste produced in England, Scotland or Northern Ireland and listed as a hazardous waste in the List of Wastes and which is for the time being determined ^{F45}... to be non-hazardous pursuant to [^{F46}paragraph (3)], is, subject to any determination made under regulation 8, to be treated for all purposes as non-hazardous in Wales.

[^{F47}(3) For the purposes of paragraph (2), a specific batch of waste is determined to be non-hazardous if it is the subject of a decision—

- (a) in relation to England, by the Secretary of State under regulation 9 of the Hazardous Waste (England and Wales) Regulations 2005;
- (b) in relation to Northern Ireland, by the Department of Agriculture, Environment and Rural Affairs under regulation 10 of the Hazardous Waste Regulations (Northern Ireland) 2005;
- (c) in relation to Scotland, by the Scottish Ministers that the Scottish Ministers consider that the waste displays none of the hazardous properties listed in Annex III.]

Textual Amendments

- F41** Words in reg. 9(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(a)(i)**
- F42** Reg. 9(1)(b) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(4), **3(2)**
- F43** Words in reg. 9(1) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(a)(ii)**
- F44** Reg. 9(1A) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 7(b)**
- F45** Words in reg. 9(2) omitted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F46** Words in reg. 9(2) substituted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(a)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F47** Reg. 9(3) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Provisions common to regulations 8 and 9

10.—(1) The Assembly may revoke a determination made under regulation 8 or 9.

(2) The Assembly must, before making a determination under regulation 8 or 9 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 batch of 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 Assembly must give notice of any determination made under regulation 8 or 9 or revocation made under regulation 8 or 9 to—

- (a) the requisite bodies;
 - (b) the holder of the batch of waste concerned; and
 - (c) any person it has consulted pursuant to paragraph (2)(c).
- (4) The notice must give reasons for the determination or revocation, as the case may be.

Requisite bodies

11. For the purposes of this Part, the “requisite bodies” are—

- (a) the Agency;
- [^{F48}(aa) the NRBW;]
- (b) SEPA;
- (c) The Secretary of State;
- (d) the Scottish Executive;
- (e) the Northern Ireland Department of the Environment ^{M8};
- (f) the Health and Safety Executive; and
- (g) any organisation appearing to the Assembly to be representative of persons likely to be affected by the relevant determination, or revocation of a determination, as the case may be.

Textual Amendments

F48 Reg. 11(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 29](#) (with Sch. 7)

Marginal Citations

M8 The Northern Ireland Department of the Environment includes its executive agency the Environmental Heritage Service.

PART 3

APPLICATION OF PARTS 4 TO 10

General application of Parts 4 to 10

12.—(1) Subject to paragraphs (2) to (4), these Regulations apply to hazardous waste.

[^{F49}(2) Except as provided in regulations 13 (asbestos waste) and 14 (separated domestic fractions), these Regulations do not apply to domestic waste.]

(3) Nothing in Part 6 of these Regulations (movement of hazardous waste) applies in relation to shipments of waste to which the provisions of [^{F50}Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste], other than Title III of that Regulation, apply.

(4) These Regulations apply to hazardous waste in Wales notwithstanding that the waste—

- (a) was produced on or removed from premises in Scotland, England, Northern Ireland or Gibraltar; or
- (b) is, or is to be, transported from premises in Wales to premises located in one of those places.

- (5) For the avoidance of doubt, in their application to—
- (a) ships' waste, these Regulations apply to any ship;
 - (b) the internal waters and the territorial sea of the United Kingdom adjacent to Wales, these Regulations apply, without prejudice to paragraph (3), to a consignment of waste transported in any ship,

in each case (whether the ship is a United Kingdom ship or otherwise and, if a United Kingdom ship, whether registered in Wales or otherwise).

Textual Amendments

- F49** Reg. 12(2) substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **4**
- F50** Words in reg. 12(3) substituted (17.12.2018) by [The Environment, Planning and Rural Affairs \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/1216\)](#), regs. 1(3), **6(2)**

Asbestos waste

[^{F51}**13.**—(1) These Regulations apply to asbestos waste whether or not it is domestic waste.

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

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

Textual Amendments

- F51** Reg. 13 substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **5**

[^{F52}**Separated domestic fractions**

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

- (a) is domestic waste; and
- (b) has been separated from other domestic waste.

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

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

- (a) from the domestic premises at which the waste was produced; or
- (b) at a site for the reception of domestic waste to which the separated domestic fractions are taken by an occupier of domestic premises.

(4) After separated domestic fractions have been removed from the premises at which the waste was produced and taken to other premises for collection, disposal or recovery, any establishment or undertaking which accepts the separated domestic fractions for collection, disposal or recovery

must be treated from the time at which the waste is so accepted as the producer of the waste for the purposes of these Regulations.]

Textual Amendments

F52 Reg. 14 substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **6**

[^{F53} Hazardous waste produced at shop premises

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

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

Textual Amendments

F53 Reg. 14A inserted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **7**

Radioactive waste

15.—[^{F54}(1) This regulation applies to radioactive waste where—

- (a) a radioactive substances activity in relation to that radioactive waste does not require an environmental permit by virtue of [^{F55}a radioactive substances exemption]; and
- (b) that radioactive waste has one or more hazardous properties arising other than from its radioactive nature.]

(2) Notwithstanding regulation 2(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.

Textual Amendments

F54 Reg. 15(1) substituted (6.4.2010 immediately after S.I. 2009/3381 comes into force) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1), **Sch. 26 para. 25(3)** (with reg. 1(2))

F55 Words in reg. 15(1)(a) substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 2 para. 4(b)**

Agricultural waste

16.—(1) These Regulations do not apply to agricultural waste before [^{F56}15 May 2007], 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 Agriculture Act 1947 ^{M9}.

Textual Amendments

F56 Words in reg. 16 substituted (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), regs. 1(2), **11(2)(a)**

Marginal Citations

M9 1947 c. 48 (see section 109(3)).

Mines and quarries waste

17. These Regulations do not apply to waste from a mine or quarry before [^{F57}15 May 2007], but apply on and after that date to such waste whenever it became waste.

Textual Amendments

F57 Words in reg. 17 substituted (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), regs. 1(2), **11(3)(a)**

PART 4

MIXING HAZARDOUS WASTE

Meaning of mixing hazardous waste

18.—(1) For the purposes of these Regulations, hazardous waste of any description is considered to have been mixed if it has been [^{F58}diluted or has been] mixed with—

- (a) a different category of hazardous waste;
- [^{F59}(aa) in the case of hazardous waste comprising waste oil, waste oil of different characteristics;]
- (b) a non-hazardous waste; or
- (c) any other substance or material.

Textual Amendments

F58 Words in reg. 18 inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 8(a)**

F59 Reg. 18(aa) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 8(b)**

Prohibition on mixing hazardous waste without a permit

19.—(1) Subject to paragraphs [^{F60}(2), (3) and (4)], no establishment or undertaking which carries out the disposal or recovery of hazardous waste, or which produces, collects or transports hazardous waste, may mix any hazardous waste.

(2) Paragraph (1) does 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.

(3) Paragraph (1) does not apply to the extent that the mixing is part of a disposal or recovery operation and is authorised by, and is conducted in accordance with, the requirements (howsoever expressed) of a waste permit ^{F61}....

[^{F62}(4) Paragraph (1) applies to the mixing of waste oil only where such mixing would impede regeneration or another recycling operation delivering an equivalent or a better overall outcome than regeneration.

(5) In paragraph (4)—

“recycling” means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes, including the reprocessing of organic material but not including energy recovery or reprocessing into materials that are to be used as fuels;

“regeneration” means any recycling operation whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, the oxidation products and the additives contained in such oils.]

Textual Amendments

F60 Words in reg. 19(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 9(a)**

F61 Words in reg. 19(3) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 9(b)**

F62 Reg. 19(4)(5) substituted for reg. 19(4) (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **4(4)**

Duty to separate mixed wastes

20.—(1) [^{F63}Paragraph (2)] applies to the holder where—

(a) the hazardous waste has been mixed other than under and in accordance with a waste permit ^{F64}..., whether by the holder or a previous holder; and

(b) separation is both—

(i) technically ^{F65}... feasible; and

(ii) necessary in order to comply with the Waste Directive conditions.

(2) The holder must make arrangements for separation of the waste to be carried out in accordance with a waste permit or registered exemption as soon as reasonably practicable.

[^{F66}(2A) Where separation is not required pursuant to paragraph (2), the holder must make arrangements for mixed hazardous waste to be treated at a facility authorised by a waste permit to treat that waste.]

(3) In this Regulation “separation” means separation of a waste from any other waste, substance, or material with which it has been mixed.

Textual Amendments

F63 Words in reg. 20(1) substituted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **4(5)(a)(i)**

F64 Words in reg. 20(1)(a) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 10**

- F65** Words in reg. 20(1)(b)(i) omitted (19.11.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **4(5)(a)(ii)**
- F66** Reg. 20(2A) inserted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **4(5)(b)**

PART 5

NOTIFICATION OF PREMISES

Requirement to notify premises

21.—(1) Where hazardous waste is produced at, [^{F67}collected at,] or removed from, any premises other than exempt premises, the premises must be notified to the [^{F68}NRBW] in accordance with the requirements of this Part.

(2) Premises duly notified to the [^{F69}NRBW] in accordance with this Part are notified premises for the purposes of these Regulations for the period of twelve months (“the period of notification”) commencing at the effective time and ending at the end of the last day of that twelve month period.

(3) It is the duty of a hazardous waste producer to notify the relevant premises in accordance with regulations 24 and 26 if they have not otherwise already been notified.

(4) Without prejudice to paragraph (3), a consignor may, in the circumstances described in regulation 25, notify the site premises in accordance with that regulation and regulation 26.

Textual Amendments

- F67** Words in reg. 21(1) inserted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **8**
- F68** Word in reg. 21(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(a)** (with Sch. 7)
- F69** Word in reg. 21(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(a)** (with Sch. 7)

Prohibition on removal of hazardous waste from premises unless notified or exempt

22.—(1) Subject to paragraph (2), no person may remove, or cause to be removed, or transport hazardous waste from any premises unless those premises are, at the time of removal of the waste, notified premises or exempt premises.

(2) Paragraph (1) does not apply to the removal or transport of hazardous waste from any premises if the waste was deposited at those premises in contravention of section 33 of the 1990 Act other than in purported compliance with [^{F70}an environmental permit] or registered exemption.

Textual Amendments

- F70** Words in reg. 22(2) substituted (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 46(4)** (with regs. 69-72)

Exemption from the requirement to notify

[^{F71}**23.**—(1) Exempt premises need not be notified to the [^{F72}NRBW] pursuant to this Part.

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

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

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

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

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

Textual Amendments

F71 Reg. 23 substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009](#) (S.I. 2009/2861), regs. 1(1), **9**

F72 Word in regs. 23-28 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (S.I. 2013/755), art. 1(2), **Sch. 5 para. 30(b)** (with Sch. 7)

Notification by producer

24.—(1) Subject to paragraph (2), a hazardous waste producer must notify to the [F72NRBW] the site premises or, where he or she operates a mobile service and elects to treat service premises as the relevant premises in relation to any related premises, the service premises—

- (a) before the first occasion on which he or she produces hazardous waste on the site premises, or, in the case of notification of service premises, on any of the related site premises, as the case may require;
- (b) where the relevant premises have previously been notified premises, but the period of notification has expired, before the next occasion on which he or she produces hazardous waste on the site premises or any of the related premises, as the case may require;
- (c) where the premises cease to be exempt premises, before the next occasion on which he or she produces hazardous waste on those premises; or
- (d) where the notified premises cease to be service premises in relation to any related premises on account of the qualifying limitation provided for in regulation 30 being exceeded in relation to those related premises, before those limitations are exceeded.

(2) Where it is not reasonably foreseeable that the producer's activities will produce hazardous waste, paragraph (1) applies as if for “before” on each occasion that it occurs, there were substituted “as soon as reasonably practicable after”.

Textual Amendments

F72 Word in regs. 23-28 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (S.I. 2013/755), art. 1(2), **Sch. 5 para. 30(b)** (with Sch. 7)

Notification by consignor

25.—(1) A consignor who proposes to remove, or cause to be removed, any hazardous waste from any premises must notify those premises to the [F72NRBW] if—

- (a) they are the site premises and the producer is not known or cannot be located without unreasonable inconvenience or expense; or

- (b) the waste was not produced at those premises.

Textual Amendments

F72 Word in regs. 23-28 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 30\(b\)](#) (with Sch. 7)

Common provisions on notifications

26.—(1) This regulation applies whether notification is given by or on behalf of the producer or consignor.

(2) Notification of the relevant premises may be given in writing or by telephone.

(3) Notification may not without the consent of the [F72NRBW] be given more than one month in advance of the effective time.

(4) The person giving notification must provide to the [F72NRBW] the following information—

- (a) his or her name and address and details of how he or she can be contacted, and where he or she is giving notification on behalf of another person, the name and address of that person and details of how that person can be contacted;
- (b) the address of the premises being notified;
- (c) the classification of the premises in accordance with the SIC; and
- (d) such other information as the [F72NRBW] may reasonably require in connection with its functions of monitoring the movement of hazardous waste, or carrying out inspections pursuant to regulation 56 of these Regulations or [F73]regulation 34(2) of [F74]the Environmental Permitting Regulations]].

(5) If there are any changes in the information provided pursuant to paragraph (4) during the period of notification, the premises are not to be treated as notified until the [F72NRBW] have received the updated information such that the requirements of paragraph (4) are met.

(6) The [F72NRBW] may prescribe a model format for notifications of premises in writing and, where for the time being a format is prescribed pursuant to this paragraph—

- (a) the [F72NRBW] must publish the model format on its website and in such other manner as it may consider appropriate for informing persons required to notify premises of its content; and
- (b) the [F72NRBW] is not obliged to consider any notification unless it is made in that model format, or in a format substantially to like effect.

(7) The person giving notification must pay to the [F72NRBW] the relevant fee payable in respect of the notification of premises at the same time as giving notification (but no fees are payable in relation to information provided pursuant to paragraph (5)).

[F75](8) The [F72NRBW] must inform on request, a person who is the holder of hazardous waste or who carries on the business of consigning or collecting hazardous waste, whether any premises from which that person proposes to remove, cause to be removed or transport any hazardous waste are notified premises, and if so, the particulars held by the [F72NRBW] concerning—

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

Textual Amendments

- F72** Word in regs. 23-28 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(b)** (with Sch. 7)
- F73** Words in reg. 26(4)(d) substituted (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 46(5)** (with regs. 69-72)
- F74** Words in reg. 26(4)(d) substituted (6.4.2010 immediately after S.I. 2009/3381 comes into force) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1), **Sch. 26 para. 25(4)** (with reg. 1(2))
- F75** Reg. 26(8) substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **10**

Premises code

27.—(1) When notification of relevant premises is duly made to and the relevant fee received by the [^{F72}NRBW], it must on receipt thereof issue to the person making the notification a registration code, being a code unique to those premises (a “premises code”).

(2) The premises code may consist of letters, numbers or symbols, or any combination of letters, numbers and symbols.

Textual Amendments

- F72** Word in regs. 23-28 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(b)** (with Sch. 7)

Effective time

28.—(1) Subject to paragraph (2) of this Regulation and without prejudice to regulation 26(3), the time at which notification takes effect (“the effective time”) is—

- (a) where a previous period of notification remains in force, on the expiration of that period;
- (b) where the person giving notification requests a date for commencement, at the beginning of the date so requested;
- (c) in any other case, at the beginning of the fourth business day following the day on which notification is given.

(2) A notification cannot take effect before the time at which the [^{F72}NRBW] issues the premises code for the period covered by the notification.

Textual Amendments

- F72** Word in regs. 23-28 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(b)** (with Sch. 7)

Mobile services

29.—(1) Where the producer of the hazardous waste operates a mobile service, premises to which paragraph (2) applies (“service premises”) are the relevant premises in relation to any related premises whilst that mobile service is operated within the qualifying limitation and the tenure restriction is observed in relation to each related premises.

- (2) The premises to which this paragraph applies are—
 - (a) the premises from which the mobile service is operated; or
 - (b) where the mobile service is operated from more than one set of premises, the producer's principal place of business.
- (3) Where any premises are both—
 - (a) site premises apart from the mobile service; and
 - (b) service premises in relation to the mobile service,
 a single notification may be made.

The qualifying limitation

- [^{F76}30.—(1) The qualifying limitation for—
 - (a) a mobile service is that the total aggregated quantity of hazardous waste produced at, collected at, or removed from any one set of related premises in the course of that service is less than 500kg in any period of twelve months; and
 - (b) any exempt premises, is that the total aggregated quantity of hazardous waste produced at, collected at, or removed from the premises is less than 500kg in any period of twelve months.
- (2) When calculating the aggregated quantity, any quantity of hazardous waste must not be counted against more than one of the activities in paragraph (1)(a) or (b).]

Textual Amendments
F76 Reg. 30 substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009](#) (S.I. 2009/2861), regs. 1(1), **11**

The tenure restriction

31. The tenure restriction is that the operator of the mobile service neither owns nor occupies those related premises.

General interpretation of Part 5

- 32.** In this Part—
 - ^{F77}
 “effective time” (“*amser effeithiol*”) has the meaning given by regulation 28;
 - “exempt premises” (“*mangre esempt*”) has the meaning given by regulation 23;
 - “notified premises” (“*mangre a hysbyswyd*”) has the meaning given by regulation 21(2);
 - ^{F77}
 “period of notification” (“*cyfnod hysbysu*”) has the meaning given by regulation 21(2);
 - [^{F78}“premises code” (“*cod mangre*”) has the meaning given by regulation 27(1);]
 - [^{F78}“qualifying limitation” (“*terfynau cymwys*”) has the meaning given by regulation 30;]
 - ^{F77}

“related premises” (“*mangre gysylltiedig*”) means the site premises at which a mobile service produces waste for which relevant premises are service premises in accordance with regulation 29;

“relevant premises” (“*mangre berthnasol*”) means the premises which the producer or consignor is required to notify;

“relevant fee” (“*ffi berthnasol*”) means the fee payable in accordance with a scheme made pursuant to section 41 of the 1995 Act;

“service premises” (“*mangre gwasanaeth*”) has the meaning given by regulation 29(1);

F77

“site premises” (“*mangre safle*”) means the premises at which hazardous waste is produced; and

F77

Textual Amendments

F77 Words in reg. 32 omitted (18.11.2009) by virtue of [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **12(a)**

F78 Words in reg. 32 inserted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **12(b)**

PART 6

MOVEMENT OF HAZARDOUS WASTE

Consignment codes

Coding standard

33.—(1) It is the duty of the [F79NRBW] from time to time to designate, and at all times to maintain in force a designation of, a standard (in these Regulations referred to as a “coding standard”), making provision for the composition of consignment codes for the purposes of this Part.

(2) The coding standard must enable each consignment of hazardous waste to be given a unique consignment code.

(3) The standard must make provision for different codes for consignment notes completed in relation to hazardous waste removed by pipeline pursuant to regulation 41, where piping is continuous for more than one quarter.

(4) The standard must make provision for consignment codes to consist of letters, numbers or symbols, or any combination of letters, numbers and symbols.

Textual Amendments

F79 Word in reg. 33(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(c)** (with Sch. 7)

Consignment codes

34.—(1) It is the duty of—

- (a) the producer, in relation to—
 - (i) a consignment of hazardous waste to be removed from premises at which the waste is produced (other than a ship);
 - (ii) hazardous waste to be removed by pipeline from premises (other than a ship) situated in a case to which regulation 41 applies; or
 - (iii) hazardous waste to be deposited within the curtilage of premises at which it was produced;
- (b) the master of the ship, in relation to any hazardous waste removed from a ship in a harbour area (including waste accidentally spilled on land adjacent to the ship); and
- (c) the consignor, in relation to any other consignment of hazardous waste,

to assign to the hazardous waste a unique code in accordance with the coding standard for the time being in force.

(2) The code assigned pursuant to paragraph (1) is to be the consignment code of the hazardous waste concerned for the purposes of these Regulations.

Documents to be completed for consignments

Completion of the consignment note

35.—(1) Where hazardous waste is removed from any premises—

- (a) a consignment note must be completed in accordance with paragraph [^{F80}(2)] of this regulation and the requirements of the relevant regulation if one of the following regulations applies—
 - (i) regulation 36 (standard procedure);
 - (ii) regulation 39 (removal of ship's waste to reception facilities);
 - (iii) regulation 40 (removal of ship's waste other than to reception facilities);
 - (iv) regulation 41 (removal of waste by pipeline); or
 - (v) where the consignment or any part thereof is rejected by the consignee, in accordance in each case with regulation 42 and 43;
- (b) if regulation 37 (Schedule of carriers) applies, a schedule of carriers must be completed in accordance with that regulation and paragraph (3) of this regulation; and

^{F81}(c)

(2) The form of consignment note set out in Schedule 4, or a form requiring the same information in substantially the same format, is to be used and must be completed so as to contain (in the place indicated in the form) all the information provided for in that Schedule which is applicable to the case.

(3) The form of the schedule of carriers set out in Schedule 5, or a form requiring the same information in substantially the same format, is to be used and must be completed so as to contain (in the place indicated in the form) all the information provided for in that Schedule which is applicable to the case.

^{F82}(4)

(5) In this Part, a reference to a part of a [^{F83}consignment note or schedule of carriers] by its number or description is a reference to that part as it is required to be so numbered or described as the case may be in the form in [^{F84}Schedule 4 or 5] as the case may require.

[^{F85}(6) Until the end of the period of 6 months beginning with the day on which the Waste (Miscellaneous Provisions) (Wales) Regulations 2011 are made—

- (a) a carrier may elect to use the multiple collection procedure which applied immediately before the coming into force of those Regulations; and
- (b) the forms set out in these Regulations as originally enacted, or forms requiring the same information is substantially the same format, may be used instead of those substituted by the Waste (Miscellaneous Provisions) (Wales) Regulations 2011.]

Textual Amendments

- F80** Word in reg. 35(1)(a) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\), reg. 1\(2\), Sch. para. 11\(a\)](#)
- F81** Reg. 35(1)(c) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\), reg. 1\(2\), Sch. para. 11\(b\)](#)
- F82** Reg. 35(4) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\), reg. 1\(2\), Sch. para. 11\(b\)](#)
- F83** Words in reg. 35(5) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\), reg. 1\(2\), Sch. para. 11\(c\)\(i\)](#)
- F84** Words in reg. 35(5) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\), reg. 1\(2\), Sch. para. 11\(c\)\(ii\)](#)
- F85** Reg. 35(6) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\), reg. 1\(2\), Sch. para. 11\(d\)](#)

Standard procedure

36.—(1) This regulation applies in all cases where a consignment of hazardous waste is to be removed from premises except in cases to which any of regulations [^{F86}39] to 41 apply.

(2) Before the consignment is removed—

- (a) the hazardous waste producer, or holder, as the case may be, must—
 - (i) prepare a copy of the consignment note for each of the following: the hazardous waste producer or holder (where different from the consignor); the consignor; the carrier; and the consignee;
 - (ii) complete Parts A and B on each copy; and
 - (iii) give every copy to the carrier;
- (b) the carrier must complete Part C on each copy and give every copy to the consignor;
- (c) the consignor must—
 - (i) complete Part D on each copy;
 - (ii) where the hazardous waste producer or holder, as the case may be, is not the consignor, give one copy to him or her;
 - (iii) retain one copy; and
 - (iv) give every remaining copy to the carrier.

(3) The carrier must ensure that every copy which he or she has received—

- (a) travels with the consignment; and

- (b) is given to the consignee on delivery of the consignment.
- (4) Subject to regulation 42, on receiving the consignment the consignee must—
 - (a) complete Part E on both copies; and
 - (b) give one copy to the carrier.

Textual Amendments

F86 Word in [reg. 36\(1\)](#) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), [reg. 1\(2\)](#), [Sch. para. 12](#)

Schedule of carriers

37.—(1) This regulation applies in all cases (whether under regulation 36, or regulation 40) where more than one carrier transports, or is to transport, the consignment.

- (2) Before the consignment is removed—
 - (a) the consignor must—
 - (i) prepare a copy of the schedule of carriers for the hazardous waste producer or holder (where different from the consignor), the consignor, every carrier and the consignee; and
 - (ii) give every copy to the first carrier;
 - (b) the first carrier must ensure that every copy he or she has received travels with the consignment;
 - (c) on delivery of the consignment to each subsequent carrier—
 - (i) the previous carrier must give the subsequent carrier every copy of the schedule which he or she has received;
 - (ii) the subsequent carrier must complete the relevant certificate on each copy, give one to the previous carrier who must retain it, and ensure that every remaining copy which he or she has received travels with the consignment; and
 - (iii) when the consignment is delivered to a consignee, the carrier must retain one copy of the carrier's schedule and give every remaining copy to the consignee.
- (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) there is a change in any such arrangements after transport commences for any reason,
 paragraph (2) applies 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 consignor 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, regulation 36 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)(a)(i), the reference to “the carrier” were a reference to “every carrier”;
 - (c) in paragraphs (2)(a)(iii), 2(b) and (2)(c)(iv), the reference to “the carrier” were a reference to “the first carrier”;

- (d) in paragraph (3)(b), in relation to a carrier who is not the final carrier, the reference to “the consignee” were a reference to “the subsequent carrier”;
- (e) in paragraph (4)(b), the reference to “the carrier” were a reference to “the final carrier”.

Multiple collections

^{F87}38.

Textual Amendments

F87 Reg. 38 omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011](#) (S.I. 2011/971), reg. 1(2), **Sch. para. 13**

Removal of ships' wastes to reception facilities

39.—(1) This Regulation applies where hazardous waste is removed from a ship (including excesses or spillage from loading or unloading, which have been accidentally spilled on land adjacent to the ship) in a harbour area—

- (a) to 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 the master of the ship must—
- (a) prepare two copies of the consignment note;
 - (b) complete Parts A, B and D on each copy;
 - (c) retain one copy; and
 - (d) give one copy to the operator of the facilities.

(3) Subject to regulation 42, on receiving a consignment of hazardous waste the operator of the facilities must complete Part E on the copy which he or she has received.

Removal of ships' wastes other than to reception facilities

40.—(1) This regulation applies where hazardous waste is removed from a ship in a harbour area other than in a case to which regulation 39 applies.

- (2) Before the consignment is removed—
- (a) the master of the ship must—
 - (i) prepare three copies of the consignment note;
 - (ii) complete Parts A and B on each copy; and
 - (iii) give every copy to the carrier;
 - (b) the carrier must complete Part C on each copy;
 - (c) the master of the ship must—
 - (i) complete Part D on each copy;
 - (ii) retain one copy; and
 - (iii) give every remaining copy to the carrier;
 - (d) the carrier must ensure that every copy which he or she has received—
 - (i) accompanies the consignment; and
 - (ii) is given to the consignee on delivery of the consignment.

- (3) Subject to regulation 42, on receiving the consignment the consignee must—
- (a) complete Part E on both copies; and
 - (b) give one copy to the carrier.

Removal of wastes by pipeline

41.—(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.

(2) Before the waste is piped, and, where the piping is continuous, at the commencement of each quarter, the producer, or holder, as the case may be, must—

- (a) prepare one copy of the consignment note for each of the following: the producer or holder, as the case may be (where different from the consignor), the consignor and the consignee;
- (b) complete Parts A, B and D on each copy, provided that in Part B3 the average flow rate must be recorded, together with an estimate of the total volume of waste to be piped per week or calendar month.

(3) The consignee must complete Part E on each copy with the following modifications—

- (a) in Part E1, the reference to the date on which the waste was received is to 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 E2, the particulars of the vehicle registration are not required.

(4) The consignee must retain one copy and ensure that a copy is given to the consignor, and to the hazardous waste producer or holder (where different from the consignor).

Rejected consignments

Duty of consignee not accepting delivery

42.—(1) This regulation and [^{F88}regulation 43] apply where the consignee does not accept delivery of a consignment of hazardous waste, whether wholly or in part.

(2) The requirements of regulation 36(4), ^{F89}... 39(3) or 40(3) (which relate to the duties of the consignee on acceptance of the consignment) as the case may be, do not apply to the consignee in respect of a consignment, or part thereof, which has been rejected.

(3) If copies of the consignment note relating to a rejected consignment have been given to the consignee he or she must—

- (a) [^{F90}indicate, in the part headed “consignee’s certificate”] of each copy that he or she receives that he or she does not accept the consignment, or part of the consignment, as the case may be, and the reasons why he or she does not accept the consignment or part;
- (b) retain one copy;
- (c) give one copy to the carrier; and
- (d) as soon as reasonably practicable, send a copy to the consignor, and (if different from the consignor), the producer or holder, where known.

(4) If no copy of the consignment note has been given to the consignee he or she must—

- (a) prepare a written explanation of his or her reasons for not accepting delivery, including such details of the consignment, the hazardous waste producer or holder, the consignor and the carrier as are known to him or her;
- (b) give such written explanation to the carrier;

- (c) as soon as reasonably practicable, send one copy to the consignor, and (if different from the consignor) the producer or holder, where known; and
 - (d) retain a copy of his or her written explanation.
- (5) On being informed that the consignee will not accept delivery of the consignment or part, the carrier must—
- (a) inform the ^{F91}NRBW];
 - (b) seek instructions from the hazardous waste producer or holder; and
 - (c) take all reasonable steps to ensure those instructions are fulfilled (including completing any consignment note on their behalf).
- (6) It is the duty of the hazardous waste producer or holder identified in the relevant part of the consignment note, as the case may be, to—
- ^{F92}(a) make arrangements as soon as reasonably practicable for the transfer of the rejected consignment or part to another specified consignee who holds a waste permit or carries on an exempt waste operation for the recovery or disposal of waste; and,
 - (b) forthwith—
 - (i) give instructions to the carrier accordingly; and
 - (ii) inform the ^{F93}NRBW] of the arrangements and instructions.
- (7) If in any case within paragraph (6)(a) no alternative consignee can be found within 5 business days, the hazardous waste producer or holder identified in the relevant part of the consignment note must make arrangements to return the waste to premises from which it was removed for its storage in accordance with the Waste Directive conditions until a suitable consignee can be found.
- ^{F94}(8) In this regulation, “exempt waste operation” (“*gwaith gwastraff esempt*”) has the meaning given in regulation 5 of ^{F95}the Environmental Permitting Regulations].]

Textual Amendments

- F88** Words in reg. 42(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 14(a)**
- F89** Words in reg. 42(2) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 14(b)**
- F90** Words in reg. 42(3)(a) substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **13(a)**
- F91** Word in reg. 42(5)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(d)** (with Sch. 7)
- F92** Reg. 42(6)(a) substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **13(b)**
- F93** Word in reg. 42(6)(b)(ii) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(d)** (with Sch. 7)
- F94** Reg. 42(8) inserted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **13(c)**
- F95** Words in reg. 42(8) substituted (6.4.2010 immediately after S.I. 2009/3381 comes into force) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1), **Sch. 26 para. 25(5)** (with reg. 1(2))

Further consignment note for rejected consignment

43.—(1) This regulation applies to the removal of any consignment following rejection by the consignee^{F96}

(2) Before the consignment or part is moved from the original place for delivery, the hazardous waste producer or holder identified in the relevant part of the original consignment note must ensure that a copy of a new consignment note is prepared in respect of the rejected consignment or part for each of the following:

- (a) the hazardous waste producer;
- (b) where the hazardous waste producer or holder is not the consignor, the consignor;
- (c) the carrier; and
- (d) the new consignee.

(3) The producer or holder must —

- (a) complete Parts A and B on each copy of the note as follows—
 - (i) the information required to complete Part A should be copied from the original consignment note, including the relevant consignment code to which the letter “R” must be added to the end;
 - (ii) the new consignee's name and address (including the postcode) must be entered in Part A4; and
 - (iii) subject to paragraph (4), the relevant information from the original consignment note must (where part of the load is rejected, in so far as it relates to that part) be copied to Part B; and
- (b) give every copy to the carrier.

(4) Where the consignee who rejected the consignment or part states in his or her written explanation that the description of the waste in the original consignment note is incorrect, the producer or holder must instead include an accurate description of the waste in the new consignment note.

(5) The carrier must complete Part C on each copy.

(6) The producer or holder identified in the relevant part of the original consignment note must—

- (a) complete Part D on each copy;
- (b) where the producer or holder is not the consignor, give one copy to the producer or holder as the case may be; and
- (c) give every remaining copy to the carrier.

(7) The carrier must ensure that every copy of the new consignment note which he or she has received—

- (a) travels with the rejected consignment or part; and
- (b) is given to the new consignee on delivery of the consignment or part.

(8) The new consignee must—

- (a) complete Part E on both copies of the new consignment note; and
- (b) give one copy to the carrier.

(9) Where there is to be more than one carrier—

- (a) in paragraphs (3)(b), (5) and (6)(c), references to the carrier are to be treated as references to the first carrier;
- (b) in paragraphs 2(c) and (7), references to the carrier are to be treated as references to each carrier;

- (c) in paragraph (7)(b), in relation to a carrier who is not the final carrier, the reference to “the new consignee” is to be treated as a reference to “the subsequent carrier”; and
- (d) in paragraph (8)(b) the reference to the carrier is to be treated as a reference to the final carrier.

Textual Amendments

F96 Words in [reg. 43\(1\)](#) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), [reg. 1\(2\)](#), [Sch. para. 15](#)

Procedure for rejected multiple collection consignments

^{F97} **44.**

Textual Amendments

F97 [Reg. 44](#) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), [reg. 1\(2\)](#), [Sch. para. 16](#)

Duty to deliver within time limit

Duty to deliver consignment promptly

45. It is the duty of the carrier to deliver the consignment to the consignee promptly and without undue delay.

Cross-border movements

Cross-border movement of hazardous waste

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

PART 7

RECORDS AND RETURNS

Site records

Records of tipped (discharged) hazardous waste

47.—(1) Any person who tips (discharges) hazardous waste (whether by way of disposal or storage) in or on any land must record and identify the waste in accordance with the following requirements of this regulation and regulation 51.

- (2) A record must include either—
 - (a) a site plan marked with a grid, or

- (b) a site plan with overlays on which the deposits of the tipped (discharged) waste are shown in relation to the contours of the site.
- (3) Records made under this regulation are to be kept in a register.
- (4) Deposits must be identified by reference to both—
- the relevant description and six digit code in the List of Wastes, together with a description of the composition of the waste; and
 - the consignment note relating to such waste, save that where waste is disposed of within the curtilage of the premises at which it is produced the deposits must be described by reference to the quarterly return made to the [F98NRBW] by the hazardous waste producer under regulation 53.
- (5) A person who is required to compile or retain a register pursuant to this regulation must—
- update the register as soon as reasonably practicable and in any event within 24 hours of the receipt, or deposit, as the case may be, of the waste;
 - keep the register on the site where the tipping takes place; F99...
 - [F100subject to paragraph (5A),] retain the records—
 - for three years after deposit of the waste; or
 - if he or she has a waste permit pursuant to which the site is operated, until that permit is surrendered or revoked.
- [F101(5A) If the person required to make or retain a register has a waste permit pursuant to which the site is operated, the period for retention of a consignment note required to be kept by regulation 51(2)(a) is—
- for 5 years after the deposit of the waste; or
 - if the permit authorises disposal of waste in a landfill, until the permit is surrendered or revoked.
- (5B) In paragraph (5A), “landfill” has the meaning given in Article 2(g) of [F102the Landfill Directive] but does not include any operation excluded from the scope of that Directive by Article 3(2) [F103or (3)].]
- (6) In reckoning any period of hours for the purposes of this regulation or regulation 48, only the days or hours of any business day are to be counted.

Textual Amendments

- F98** Word in reg. 47(4)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(e)** (with Sch. 7)
- F99** Word in reg. 47(5) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 17(a)**
- F100** Words in reg. 47(5)(c) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 17(b)**
- F101** Reg. 47(5A)(5B) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 17(c)**
- F102** Words in reg. 47(5B) substituted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(7)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F103** Words in reg. 47(5B) inserted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **4(6)(b)**

Records of disposal or recovery by other means

48.—(1) Any person who—

- (a) disposes of hazardous waste in or on land (other than any disposal covered by regulation 47);
- (b) recovers hazardous waste in or on land; or
- (c) receives hazardous waste at a transfer station,

must record and identify any hazardous waste received in accordance with the following requirements of this regulation and regulation 51.

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

(3) The record must include—

- (a) the quantity, nature and origin of any such waste;
- (b) the relevant hazardous properties;

[^{F104}(c) the disposal or recovery method in respect of the waste by reference to the numbering and description applicable in accordance with [^{F105}Annex I or II of the Waste Directive (as the case may be)]; and]

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

(4) Records made under this regulation must be kept in a register.

(5) The register must be updated as soon as reasonably practicable and in any event no later than 24 hours after—

- (a) a consignment of hazardous waste is received;
- (b) any recovery or disposal operations are carried out or any hazardous waste is placed in storage at the transfer station, as the case may be; or
- (c) any hazardous waste is removed from the premises.

(6) A person who is required to make or retain records pursuant to this regulation must—

(a) keep the register of the records on the site where the recovery operations take place or the transfer station is operated, as the case may be, ^{F106}...

(b) [^{F107}subject to paragraph (6A),] 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; or
- (ii) if he or she has a waste permit pursuant to which the site is operated, until that permit is surrendered or revoked.

[^{F108}(6A) If the person required to make or retain a register has a waste permit pursuant to which the site is operated, the period for retention of a consignment note required to be kept by regulation 51(2)(a) is—

- (a) for 5 years after the disposal or recovery of the waste; or
- (b) if the permit authorises disposal of waste in a landfill (in addition to other treatment), until the permit is surrendered or revoked.

(6B) In paragraph (6A), “landfill” has the meaning given in Article 2(g) of [^{F109}the Landfill Directive] but does not include any waste excluded from the scope of that Directive by Article 3(2) [^{F110}or (3)].]

Textual Amendments

- F104** Reg. 48(3)(c) substituted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), regs. 1(1), **14**
- F105** Words in reg. 48(3)(c) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 18(a)**
- F106** Word in reg. 48(6)(a) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 18(b)**
- F107** Words in reg. 48(6)(b) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 18(c)**
- F108** Reg. 48(6A)(6B) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 18(d)**
- F109** Words in reg. 48(6B) substituted (31.12.2020) by virtue of [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **8(7)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F110** Words in reg. 48(6B) inserted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **4(7)(b)**

Producer and transport records

Producers', holders' and consignors' records

49.—(1) A producer or holder of hazardous waste, and where different from the producer [F111 or holder], a [F112 consignor or broker of, or dealer in, hazardous waste], must 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 the duty in paragraph (1) includes a requirement to keep a record of particulars sufficient to identify the carrier.

[F113(3) Any person required to keep a record by paragraph (1) must preserve it—

- (a) while the person is a holder of the waste or (if not a holder) has control of the waste; and
- (b) for 3 years after 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 must be recorded [F114 chronologically] in a register kept by the producer, holder [F115, dealer, broker] or consignor, as the case may be, for the purpose.

(5) The register required to be kept and retained by a producer, holder [F116, dealer, broker] or consignor under paragraph (4) of this regulation must be kept—

- (a) in relation to the register required to be kept by a producer or holder—
 - (i) at the premises notified pursuant to regulation 24;
 - (ii) if he or she no longer occupies those premises, at his or her principal place of business (or such other address as agreed with the [F117 NRBW] for that purpose); or
 - (iii) if no premises were notified in relation to the waste, at his or her principal place of business (or such other address as agreed with the [F117 NRBW] for that purpose).
- (b) the register required to be kept by a [F118 dealer, broker or] consignor other than the producer or holder must be kept at his or her principal place of business.

(6) If the producer or holder ceases to occupy the notified premises before the period referred to in paragraph (3) expires, he or she must inform the [F119 NRBW] forthwith.

Textual Amendments

- F111** Words in reg. 49(1) inserted (18.11.2009) by [The Hazardous Waste \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/2861\)](#), reg. 1(1), **15**
- F112** Words in reg. 49(1) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 19(a)**
- F113** Reg. 49(3) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 19(b)**
- F114** Words in reg. 49(4) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 19(c)(ii)**
- F115** Words in reg. 49(4) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 19(c)(i)**
- F116** Words in reg. 49(5) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 19(d)(i)**
- F117** Word in reg. 49(5)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(f)** (with Sch. 7)
- F118** Words in reg. 49(5) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 19(d)(ii)**
- F119** Word in reg. 49(6) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(f)** (with Sch. 7)

Carrier's records

50.—(1) An establishment or undertaking which transports hazardous waste must 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 in accordance with the following requirements of this regulation.

(2) The establishment or undertaking must keep the records to be made pursuant to this regulation for at least twelve months commencing on the date of delivery of the waste to its destination.

(3) The information required to be recorded pursuant to paragraph (1) must be entered [^{F120}chronologically] in a register and the register kept at the carrier's principal place of business.

Textual Amendments

- F120** Word in [reg. 50\(3\)](#) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 20**

Registers and records: common provisions

51.—(1) The following provisions of this regulation apply in relation to registers required to be kept under regulations 47 to 50.

(2) A person who is required to keep a register must enter in the register each copy received by them of—

- (a) any consignment note (including ^{F121}..., where consignments are not accepted, the original note, a copy of any explanation of the reasons for rejection prepared pursuant to regulation 42 and the consignment note prepared pursuant [^{F122}to] regulation 43 ^{F123}...),
- (b) any consignee's return to the producer, holder or consignor received pursuant to regulation 54; and
- (c) any carrier's schedule given to him or her pursuant to regulation 37.

(3) A person who is required to keep a register or retain records until his or her waste permit is surrendered or revoked must send those records or that register to the [F124NRBW] when the permit is surrendered or revoked.

(4) Every register kept or record made pursuant to regulation 15 or 16 of the 1996 Regulations, and every record made pursuant to regulation 13 or 14 of the Control of Pollution (Special Waste) Regulations 1980, must—

- (a) be kept with the register kept pursuant to regulation 47 to 49 by the person required to keep that register for so long as is mentioned in the relevant regulation; and
- (b) be sent by that person together with that register if it is sent to the [F125NRBW].

Textual Amendments

- F121** Words in reg. 51(2)(a) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), [Sch. para. 21\(a\)](#)
- F122** Word in reg. 51(2)(a) inserted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), [Sch. para. 21\(c\)](#)
- F123** Words in reg. 51(2)(a) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), [Sch. para. 21\(b\)](#)
- F124** Words in reg. 51(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 30\(g\)](#) (with Sch. 7)
- F125** Words in reg. 51(4)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 30\(g\)](#) (with Sch. 7)

Previous holder's right to information

52.—(1) An establishment or undertaking to which hazardous waste is delivered for disposal or recovery, as the case may be, has the duty, owed to any previous holder of the waste, to supply to that previous holder on request documentary evidence that the disposal or recovery operation concerned has been carried out, indicating where applicable, the relevant entry listed in [F126Annex I or Annex II], as the case may be, to the Waste Directive.

(2) Any request for information under this regulation must be in writing and must specify the period (which may not be less than seven days) within which the information is to be supplied.

Textual Amendments

- F126** Words in [reg. 52\(1\)](#) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), [Sch. para. 22](#)

Consignee and self-disposal quarterly returns

53.—(1) Every consignee must make a return, in these Regulations referred to as a consignee quarterly return, to the [F127NRBW] of information relating to all consignments of hazardous waste received by him or her in any quarter in accordance with paragraph (4).

(2) The return must include—

- (a) rejected consignments;
- (b) hazardous waste delivered by pipeline where regulation 41 applies; and
- (c) in the case of multiple collections, each individual consignment collected.

(3) Where in any quarter hazardous waste is disposed of by depositing it within the curtilage of the premises at which it is produced, the producer must make a return in respect of that quarter of information relating to the deposit to the [F127NRBW], in accordance with paragraph (4).

(4) A return to be made pursuant to this regulation in respect of a quarter must be made no later than the time specified in the right hand column of the table below in relation to the quarter specified in the left hand column:

Quarter in which the hazardous waste was received, or deposited, as the case may be	Return to be received by the [F127NRBW] not later than
Ending on 31 March	30 April in the same year as the quarter falls
Ending on 30 June	31 July in the same year as the quarter falls
Ending on 30 September	31 October in the same year as the quarter falls
Ending on 31 December	31 January in the year next following the year in which quarter falls

(5) The [F127NRBW] may prescribe a format for returns to be made under this regulation and, where for the time being a format is prescribed pursuant to this paragraph—

- (a) the [F127NRBW] must publish the format on its website and in such other manner as it may consider appropriate for informing persons required to submit such returns of its content; and
- (b) the [F127NRBW] is not obliged to consider a return as properly made for the purposes of these Regulations unless it is made in that format, or in a format substantially to like effect.

(6) If the [F127NRBW] prescribes a fee payable by a consignee by charging scheme made under section 41 of the Environment Act 1995 as a means of recovering its costs incurred in performing functions in relation to the consignments included on the consignee quarterly returns, a consignee may recover from a consignor any fees paid under these Regulations in relation to consignments sent by that consignor.

Textual Amendments

F127 Words in reg. 53 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 30\(h\)](#) (with [Sch. 7](#))

Consignee's return to the producer, holder or consignor

54.—(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 must send to a producer or holder identified in the relevant part of a consignment note—

- (a) a return in a form corresponding to that set out in Schedule 8 or a form substantially to like effect within one month of the end of the quarter in which the waste concerned was accepted; or
- (b) a copy of the consignment note together with a description of the method of disposal or recovery undertaken in relation to the waste, within one month of the end of the quarter in which the waste concerned was accepted.

(2) Where hazardous waste was delivered by pipeline in a case to which regulation 41 applies, paragraph (1) applies so that the return required under sub-paragraph (a) or the information required

under sub-paragraph (b) is to be supplied within one month of the end of the quarter in which the waste concerned was piped.

(3) Where regulation 42 applies, this regulation does not apply to the consignment or part concerned.

Duties to supply information

55.—(1) A person who is required to retain any record pursuant to any of the foregoing provisions of this Part must, at any time during the period in which the record is required to be retained produce that record to the [F128NRBW] or emergency services on request.

(2) A producer, holder, previous holder, consignor, carrier or consignee of hazardous waste must supply to the [F128NRBW] on request such information as the [F128NRBW] 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, treatment, recovery and disposal of hazardous waste.

(3) An establishment or undertaking to which hazardous waste is delivered for recovery or disposal, as the case may be, has the duty to supply to the [F128NRBW] on request documentary evidence that the disposal or recovery operation concerned has been carried out, indicating, where applicable, the relevant entry listed in [F129Annex I or Annex II], as the case may be, of the Waste Directive.

(4) A person who is required to supply information to the [F128NRBW] pursuant to this regulation must supply that information in such form as the [F128NRBW] may reasonably request.

(5) The power conferred by paragraph (4) includes power to require the production in a visible and legible documentary form of any information held in electronic form.

(6) Any request for information under this regulation is to be in writing and must specify the period within which the information is to be supplied.

Textual Amendments

F128 Words in reg. 55 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 30(j)** (with Sch. 7)

F129 Words in reg. 55(3) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 22**

PART 8

THE [F130NRBW's] FUNCTIONS

Textual Amendments

F130 Word in Pt. 8 heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 31** (with Sch. 7)

Inspections

Inspections of hazardous waste producers

56. It is the duty of the [^{F131}NRBW] to carry out appropriate periodic inspections of hazardous waste producers.

Textual Amendments

F131 Word in reg. 56 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 32(a)** (with Sch. 7)

Inspections of collection and transport operations

^{F132}57.

Textual Amendments

F132 Reg. 57 omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 23**

[^{F133}NRBW] to retain registers etc

58. The [^{F133}NRBW] must retain registers and any accompanying records sent to it pursuant to regulation 51(3) for a period of not less than three years commencing with the receipt thereof by the [^{F133}NRBW].

Textual Amendments

F133 Word in reg. 58 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 32(b)** (with Sch. 7)

Fees

59.—(1) Section 41 of the 1995 Act (power to make schemes imposing charges) is amended as follows.

(2) For subsection (1)(c) substitute—

“(c) as a means of recovering costs incurred by it in performing functions conferred by regulations made for the purpose of implementing Council Directive [91/689/EEC](#) the Agency may require the payment to it of such charges as may from time to time be prescribed;”.

(3) Schedule 9 has effect to make provision in relation to fees to be charged by the Agency in connection with these Regulations until a charging scheme under section 41 of the 1995 Act to recover the costs incurred by the Agency in performing functions under these Regulations takes effect.

Provision of information to the National Assembly

60.—(1) The [F134NRBW] must inform the Assembly each year of any changes in the following information for every establishment or undertaking which carries out disposal or recovery of hazardous waste principally on behalf of third parties^{F135} ...

- (a) name and address;
- (b) the method used to treat waste; and
- (c) the types and quantities of waste which can be treated.

^{F136}(2)

Textual Amendments

F134 Word in reg. 60(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 5 para. 32(c) (with Sch. 7)

F135 Words in reg. 60(1) omitted (31.12.2020) by virtue of The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/414), regs. 1(2)(b), 8(8); 2020 c. 1, Sch. 5 para. 1(1)

F136 Reg. 60(2) omitted (29.3.2011) by virtue of The Waste (Miscellaneous Provisions) (Wales) Regulations 2011 (S.I. 2011/971), reg. 1(2), Sch. para. 24(b)

PART 9

EMERGENCIES AND GRAVE DANGER

General

61.—(1) This Part has effect for the purpose of making provision for an emergency or grave danger.

(2) For the purposes of these Regulations, an “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.

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

62.—(1) In cases of emergency or grave danger, a holder of hazardous waste must—

- (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 or she must notify the [F137NRBW] as soon as reasonably practicable of the circumstances.

(4) Where the holder takes any step in compliance with paragraph (1), he or she must, save where such step has completely averted the emergency or grave danger without breach of these Regulations, notify the [F137NRBW] as soon as reasonably practicable.

(5) For the purposes of paragraph (4), an emergency or grave danger is not 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 or she has completely destroyed, retrieved or rendered harmless the substance or object.

(6) In the event of notification pursuant to paragraph (3) or (4) being made orally, the holder must confirm in writing to the [^{F137}NRBW] the matters notified within one week of the oral notification.

(7) For the purposes of this regulation a person is not to be released from any requirement imposed by this regulation merely because he or she has ceased to be the holder through the waste having left his or her possession or control due to the release.

Textual Amendments

F137 Word in [reg. 62](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 32\(d\)](#) (with [Sch. 7](#))

General duties of the [^{F138}NRBW]

63.—(1) The [^{F138}NRBW] must exercise its functions (whether under these Regulations or otherwise) so as to take all reasonably practicable steps necessary or expedient to avert or mitigate an emergency or grave danger.

(2) An authorised person must, in exercising functions in relation to an emergency or grave danger, so exercise his or her powers under sections 108 and 109 of the 1995 Act as to take all reasonably practicable steps to avert or mitigate the emergency or grave danger.

Textual Amendments

F138 Word in [reg. 63](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 32\(d\)](#) (with [Sch. 7](#))

PART 10

ENFORCEMENT

Enforcement

64.—(1) Subject to paragraph (2), it is the duty of the [^{F139}NRBW] to enforce these Regulations.

(2) Paragraph (1) is without prejudice to any right of action which any person may have arising apart from these Regulations, or any other right, power or duty of any person either at law or arising pursuant to any agreement or arrangement (expressly or impliedly) or in consequence of any act or omission.

Textual Amendments

F139 Word in [reg. 64](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 32\(d\)](#) (with [Sch. 7](#))

Offences

65. It is an offence for a person to fail to comply with any requirement imposed on that person by or under the following provisions of these Regulations—

- (a) Part 4;
- (b) regulations 21, 22, 24, 25 and 26;
- (c) regulations 34 to ^[F140]43;
- (d) regulation 46 and Schedule 7;
- (e) Part 7 (with the exception of regulation 52); and
- (f) regulation 62.

Textual Amendments

F140 Word in reg. 65(c) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), [Sch. para. 25](#)

^[F141]Civil sanctions

65A.—(1) ^[F142]The NRBW] may impose a variable monetary penalty, restoration notice, compliance notice or stop notice, or accept an enforcement undertaking, in relation to an offence under regulation 68 or under regulation 65 for a failure to comply with a provision (other than regulation 68) in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (Wales) Order 2010.

Table of civil sanctions

<i>Offence under these Regulations</i>	<i>Variable monetary penalty</i>	<i>Restoration notice</i>	<i>Compliance notice</i>	<i>Stop notice</i>	<i>Enforcement undertaking</i>
regulation 19	Yes	Yes	Yes	Yes	Yes
regulation 20	Yes	Yes	Yes	Yes	Yes
regulation 22	Yes	No	No	No	Yes
regulation 34	Yes	No	Yes	No	Yes
regulation 35	Yes	No	Yes	No	Yes
regulation 36	Yes	No	Yes	No	Yes
regulation 37	Yes	No	Yes	No	Yes
regulation 38	Yes	No	Yes	No	Yes
regulation 39	Yes	No	Yes	No	Yes
regulation 40	Yes	No	Yes	No	Yes
regulation 41	Yes	No	Yes	No	Yes
regulation 42	Yes	No	Yes	No	Yes
regulation 43	Yes	No	Yes	No	Yes

<i>Offence under these Regulations</i>	<i>Variable monetary penalty</i>	<i>Restoration notice</i>	<i>Compliance notice</i>	<i>Stop notice</i>	<i>Enforcement undertaking</i>
F143	F143	F143	F143	F143	F143
...
regulation 46 and Schedule 7	Yes	No	Yes	No	Yes
regulation 47	Yes	No	Yes	No	Yes
regulation 48	Yes	No	Yes	No	Yes
regulation 49	Yes	No	Yes	No	Yes
regulation 50	Yes	No	Yes	No	Yes
regulation 51	Yes	No	Yes	No	Yes
regulation 53	Yes	No	No	No	Yes
regulation 54	Yes	No	No	No	Yes
regulation 55	Yes	No	No	No	No
regulation 62	Yes	Yes	Yes	Yes	No
regulation 68	Yes	No	No	No	No

(2) The terms used in this regulation have the same meaning as in that Order.

(3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.]

Textual Amendments

F141 Reg. 65A inserted (15.7.2010) by [The Environmental Civil Sanctions \(Miscellaneous Amendments\) \(Wales\) Regulations 2010 \(S.I. 2010/1820\)](#), regs. 1, 4

F142 Word in reg. 65A(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 33** (with Sch. 7)

F143 Words in reg. 65A(1) omitted (29.3.2011) by virtue of [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), reg. 1(2), **Sch. para. 26**

Defences

66. It is a defence for a person charged with an offence under regulation 65 to prove that—

- (a) he or she was not reasonably able to comply with the provision in question by reason of an emergency or grave danger and that he or she took all steps as were reasonably practicable in the circumstances for—
 - (i) minimising any threat to the public or the environment; and
 - (ii) ensuring that the provision in question was complied with as soon as reasonably practicable after the event; or
- (b) if there is no emergency or grave danger, he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Liability of persons other than the principal offender

67.—(1) Where the commission by any person of an offence under this Part 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.

(2) Where an offence under this Part 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, that person, as well as the body corporate, is liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts or defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

False and misleading information

68.—(1) Any person who, in purported compliance with a requirement imposed by or under any of the foregoing provisions of these Regulations to furnish any information, makes a statement which he or she 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.

(2) 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.

Penalties

69.—(1) A person who commits an offence under regulation 65 in connection with any of the following regulations—

- (a) regulation 21 (requirement to notify premises);
- (b) regulation 22 (prohibition on removal of waste from premises unless notified or exempt);
- (c) regulations 24 to 26 (notifications);
- (d) regulation 34 (consignment codes);
- (e) regulations 35 to [F144 43] (consignment notes);
- (f) regulation 46 and Schedule 7 (cross-border consignments);
- (g) regulation 53 (consignee and self-disposal quarterly returns);
- (h) regulation 54 (consignee's return to the producer, holder or consignor); or
- (i) regulation 55 (duties to supply information),

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

(2) A person who commits an offence under regulation 65 or 68 in connection with any other requirement under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

Textual Amendments

F144 Word in [reg. 69\(1\)\(e\)](#) substituted (29.3.2011) by [The Waste \(Miscellaneous Provisions\) \(Wales\) Regulations 2011 \(S.I. 2011/971\)](#), [reg. 1\(2\)](#), [Sch. para. 27](#)

Fixed penalties

70.—(1) Where an authorised person acting on behalf of the [F145NRBW] has reason to believe that a person has committed an offence under regulation 65 to which this regulation applies, the authorised person may give that person a notice offering that person 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) a failure to comply with any requirement of; or
- (b) making a false or misleading statement in purported compliance with,

any of the regulations listed in regulation 69(1)(a) to (i).

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

- (a) no proceedings may be instituted for that offence before the expiration of twenty eight days following the date of the notice; and
- (b) he or she may not be convicted of that offence if he or she pays the fixed penalty before the expiration of that period.

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

(5) 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).

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

(7) A fixed penalty notice issued pursuant to this section must be in the form set out in Schedule 10.

(8) The fixed penalty payable in pursuance of a notice under this regulation is £300; and as respects the sums received by or on behalf of the [F145NRBW], those sums must be paid to the Assembly.

(9) In any proceedings a certificate which—

- (a) purports to be signed by or on behalf of the chief finance officer of the [F145NRBW];
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In paragraph (9), “chief finance officer” means the person having responsibility for the financial affairs of the [F145NRBW].

Textual Amendments

F145 Word in reg. 70 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 34](#) (with Sch. 7)

PART 11

FINAL PROVISIONS

Savings for certain privileges

71.—(1) Nothing in these Regulations is to be taken as requiring any person to produce any documents or records if he or she would be entitled to refuse to produce those documents or records in any proceedings in any court on the grounds that they are the subject of legal professional privilege, or as authorising any person to take possession of any documents or records which are in the possession of a person who would be so entitled.

(2) Except as provided in paragraph (3), nothing in these Regulations may be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person's spouse.

(3) A person must comply with a request from the [^{F146}NRBW] to give information pursuant to regulation 55(2), notwithstanding that to do so may incriminate that person or that person's spouse, but information given in response to such a request may not be given in evidence in any criminal proceedings against that person or that person's spouse.

Textual Amendments

F146 Word in reg. 71(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 5 para. 34](#) (with Sch. 7)

Revocations and savings

72.—(1) Subject to the following paragraphs, the 1996 Regulations are revoked.

(2) Where a consignment has been removed from premises before these Regulations come into force, and a consignment note has been raised in relation to that consignment under the 1996 Regulations, then—

- (a) for a period of 72 hours after these Regulations come into force entirely—
 - (i) the 1996 Regulations continue to apply in all other respects to that consignment;
 - (ii) the provisions of these Regulations (other than regulation 62 (general duties on the holder in the event of an emergency or grave danger)) do not apply to that consignment during that period;
- (b) thereafter—
 - (i) these Regulations apply to that consignment except that the requirement to make a consignee quarterly return in relation to that consignment pursuant to regulation 53 does not arise; and
 - (ii) the requirement on the consignee to send a copy of the consignment note sent to the Agency continues to apply in relation to any consignment sent pursuant to the 1996 Regulations.

Consequential Amendments

73. Schedule 11 (which makes consequential amendments to legislation) has effect.

Transitional Provisions

74. Schedule 12 (which makes provisions transitional upon these Regulations coming into force) has effect.

^{M10}Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998

D. Elis-Thomas
The Presiding Officer of the National Assembly

Marginal Citations

M10 1998 c. 38

Changes to legislation:

There are currently no known outstanding effects for the The Hazardous Waste (Wales) Regulations 2005.