This Scottish Statutory Instrument supersedes S.S.I. 2003/208 and is being issued free of charge to all known recipients of that instrument.

SCOTTISH STATUTORY INSTRUMENTS

2003 No. 235

ENVIRONMENTAL PROTECTION

The Landfill (Scotland) Regulations 2003

Made - - - - 10th April 2003

Coming into force in accordance with article 1(1)

The Scottish Ministers, in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999 [F1] (the "1999 Act"), having in accordance with section 2(4) of the 1999 Act consulted the Scottish Environment Protection Agency, such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively, and such other bodies and persons as they consider appropriate, and having by order made by statutory instrument [F2] designated Directive 99/31/EC[F3] ("the Landfill Directive") as a relevant directive for the purposes of paragraph 20(2)(c) of Schedule 1 to the 1999 Act, hereby make the following Regulations, a draft of which has in accordance with section 2(8) of the 1999 Act been laid before, and approved by a resolution of, the Scottish Parliament:

F1 1999 c. 24; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46), as read with section 5(3) of the said Act of 1999.
F2 S.S.I. 2003/185.
F3 O.J. No. L 182, 16.7.99, p.1.

PART I

PRELIMINARY

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Landfill (Scotland) Regulations 2003 and shall come into force on the day after the day on which they are made (hereinafter referred to as "the relevant date").

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

[[F4]"the 2012 Regulations" means the Pollution Prevention and Control (Scotland) Regulations 2012;**]**

[[F5]"Batteries Directive" means Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators**[**[F6], as last amended by **[**[F7]Directive (EU) 2018/849**]**[F8] of the European Parliament and of the Council**];]**

[[F9]" battery" means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or one or more secondary battery cells (rechargeable; an accumulator), but does not include—

(a) equipment connected with the protection of essential security interests, arms, munitions and war material, with the exclusion of products that are not intended for specifically military purposes, or

(b) equipment designed to be sent into space,**]**

"biodegradable waste" means any waste that is capable of undergoing anaerobic or aerobic decomposition, such as food, garden waste, paper and cardboard.

[[F10]"European Waste Catalogue" means the list of wastes set out in Commission Decision 2000/532/EC establishing a list of wastes, **[**[F11]as last amended by Commission Decision 2014/995/EU,**]]**

[[F12]"hazardous waste" means any waste which is special waste in terms of regulation 2 of the Special Waste Regulations 1996 [F13],**]**

"holder" means the producer of waste or the person who is in possession of it;

[[F14]"industrial battery" means any battery or battery pack which is—

(a) designed exclusively for industrial or professional uses;

(b) used as a source of power for propulsion in an electric vehicle;

(c) unsealed but is not an automotive battery; or

(d) sealed but is not a portable battery;

"inert waste" means waste which–

— – does not undergo any significant physical, chemical or biological transformations;

— – does not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health; and

— – has insignificant total leachability and pollutant content and ecotoxicity of its leachate are insignificant and, in particular, does not endanger the quality of any surface water or groundwater;

"isolated settlement" means a settlement –

(a) with no more than 500 inhabitants per municipality or settlement and no more than 5 inhabitants per square kilometre; and

(b) where the distance to the nearest urban agglomeration with at least 250 inhabitants per square kilometre is not less than 50km, or with difficult access by road to those nearest agglomerations, due to harsh meteorological conditions during a significant part of the year;

"landfill" means a landfill to which these Regulations apply (see regulations 3 and 4);

[F15“Landfill Directive” means Council Directive 1999/31/EC on the landfill of waste**[**F16, as last amended by **[**F17Directive (EU) 2018/850 of the European Parliament and of the Council**]**F18, as read with Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to that Directive;**]**

“landfill gas” means any gas generated from landfilled waste;

“landfill permit” means the permit which is required by **[**F19the 2012 Regulations**]** for the carrying out of the disposal of waste in a landfill;

“leachate” means any liquid percolating through deposited waste and emitted from or contained within a landfill;

F20 . . . . . .

[F21“municipal waste” means—

(a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture,

(b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households,

but does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or waste generated by construction and demolition activities,**]**

“non-hazardous waste” means waste which is not hazardous waste;

“operator” has the meaning given by regulation 2(1) of **[**F19the 2012 Regulations**]**;

[F22“portable battery” means any battery or battery pack which—

(a) is sealed;

(b) can be hand-carried by an average natural person without difficulty; and

(c) is neither an automotive battery nor an industrial battery;**]**

“relevant authorisation” means, in relation to a landfill, the landfill permit or waste management licence for the time being in force in relation to the landfill;

“relevant waste acceptance criteria” means, in relation to a landfill, the waste acceptance criteria set out in Schedule 2 which apply to the class of landfill to which that landfill belongs;

“treatment”**[**F23, except in relation to waste batteries,**]** means physical, thermal, chemical or biological processes (including sorting) that change the characteristics of waste in order to reduce its volume or hazardous nature, facilitate its handling or enhance recovery;

[F24“waste” has the same meaning as in section 75(2)(a) of the Environmental Protection Act 1990 F25 as read with section 75A of that Act,**]**

[F26“Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives, as last amended by **[**F27Directive (EU) 2018/851 of the European Parliament and of the Council**]**F28,**]**

“waste management licence” means a waste management licence within the meaning of Part II of the Environmental Protection Act 1990 F29...

[

F30(1A) In relation to batteries and subject to regulation 2(1), expressions defined in Article 3 of the Batteries Directive have the same meanings in these Regulations as in that Directive.**]**

[

F31(1B) Expressions not defined in paragraph (1) and used in these Regulations and in the Landfill Directive have the same meaning as in that Directive.**]**

(2) In these Regulations, unless the context otherwise requires, any reference to–

(a) a numbered regulation or Schedule is a reference to the regulation in, or Schedule to, these Regulations bearing that number; and

(b) a numbered paragraph is a reference to the paragraph in that regulation or Schedule bearing that number in the regulation or Schedule of which that paragraph forms part.**]]**

F4 Words in reg. 2(1) substituted (7.1.2013) by The Pollution Prevention and Control (Scotland) Regulations2012 (S.S.I. 2012/360), reg. 1(2), **Sch. 11 para. 11(2)(a)** (with reg. 71)

F5 Words in reg. 2(1) inserted (6.7.2009) by The Waste Batteries (Scotland) Regulations 2009 (S.S.I. 2009/247), art. 1(1), **reg. 7(2)(a)** (with regs. 8-10)

F6 Words in reg. 2(1) inserted (28.2.2019) by The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 (S.S.I. 2018/391), regs. 1(1), **12(2)(a)**

F7 Words in reg. 2(1) substituted (4.12.2020) by The Waste (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/314), regs. 1(1), **4(2)(a)**

F8 OJ L 150, 14.6.2018, p.93.

F9 Words in reg. 2(1) substituted (31.12.2020) by The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/26), regs. 1, **9(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F10 Words in reg. 2(1) substituted (8.6.2015) by The Waste (Meaning of Hazardous Waste and European Waste Catalogue) (Miscellaneous Amendments) (Scotland) Regulations 2015 (S.S.I. 2015/188), regs. 1(1), **4(a)**

F11 Words in reg. 2(1) substituted (28.2.2019) by The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 (S.S.I. 2018/391), regs. 1(1), **12(2)(b)**

F12 Words in reg. 2(1) substituted (31.12.2020) by The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/26), regs. 1, **9(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F13 S.I. 1996/972, amended by regulation 7 of these regulations. Previous relevant amending instrument is S.S.I. 2004/112.

F14 Words in reg. 2(1) inserted (6.7.2009) by The Waste Batteries (Scotland) Regulations 2009 (S.S.I. 2009/247), art. 1(1), **reg. 7(2)(b)** (with regs. 8-10)

F15 Words in reg. 2(1) inserted (1.8.2013) by The Landfill (Scotland) Amendment Regulations 2013 (S.S.I. 2013/222), regs. 1, **2(2)(a)(i)**

F16 Words in reg. 2(1) inserted (28.2.2019) by The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 (S.S.I. 2018/391), regs. 1(1), **12(2)(c)**

F17 Words in reg. 2(1) substituted (4.12.2020) by The Waste (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/314), regs. 1(1), **4(2)(b)**

F18 OJ L 150, 14.6.2018, p.100.

F19 Words in reg. 2(1) substituted (7.1.2013) by The Pollution Prevention and Control (Scotland) Regulations2012 (S.S.I. 2012/360), reg. 1(2), **Sch. 11 para. 11(2)(b)** (with reg. 71)

F20 Words in reg. 2(1) omitted (28.2.2019) by virtue of The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 (S.S.I. 2018/391), regs. 1(1), **12(2)(d)**

F21 Words in reg. 2(1) substituted (4.12.2020) by The Waste (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/314), regs. 1(1), **4(2)(c)**

F22 Words in reg. 2(1) inserted (6.7.2009) by The Waste Batteries (Scotland) Regulations 2009 (S.S.I. 2009/247), art. 1(1), **reg. 7(2)(c)** (with regs. 8-10)

F23 Words in reg. 2(1) inserted (6.7.2009) by The Waste Batteries (Scotland) Regulations 2009 (S.S.I. 2009/247), art. 1(1), **reg. 7(2)(d)** (with regs. 8-10)

F24 Words in reg. 2(1) substituted (31.12.2020) by The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/26), regs. 1, **9(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
F25 1990 c.43, relevant amending instrument is S.S.I 2011/226.
F26 Words in reg. 2(1) substituted (28.2.2019) by The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 (S.S.I. 2018/391), regs. 1(1), **12(2)(e)**
F27 Words in reg. 2(1) substituted (4.12.2020) by The Waste (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/314), regs. 1(1), **4(2)(d)**
F28 OJ L 150, 14.6.2018, p.109.
F29 Words in reg. 2(1) omitted (1.8.2013) by virtue of The Landfill (Scotland) Amendment Regulations 2013 (S.S.I. 2013/222), regs. 1, **2(2)(a)(iii)**
F30 Reg. 2(1A) inserted (6.7.2009) by The Waste Batteries (Scotland) Regulations 2009 (S.S.I. 2009/247), art. 1(1), **reg. 7(3)** (with regs. 8-10)
F31 Reg. 2(1B) inserted (1.8.2013) by The Landfill (Scotland) Amendment Regulations 2013 (S.S.I. 2013/222), regs. 1, **2(2)(b)**

Application of regulations

3.—(1) Subject to regulation 4, these Regulations apply to landfills.

(2) Subject to paragraphs (3) and (4), for the purposes of this regulation a landfill is a waste disposal site for the deposit of the waste onto or into land.

(3) Landfills include–

(a) subject to paragraph (4), any site which is used for more than a year for the temporary storage of waste; and

(b) any internal waste disposal site, that is to say a site where a producer of waste is carrying out its own waste disposal at the place of production.

(4) Landfills do not include–

(a) any facility where waste is unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere;

(b) any site where waste is stored as a general rule for a period of less than three years prior to recovery or treatment; or

(c) any site where waste is stored prior to disposal for a period of less than one year.

Cases where regulations do not apply

4. These Regulations do not apply to–

(a) the spreading of sludges (including sewage sludges and sludges resulting from dredging operations) and similar matter on the soil for the purposes of fertilisation or improvement;

(b) the use of suitable inert waste for redevelopment, restoration and filling-in work or for construction purposes;

[F32(ba) waste which falls within the scope of the Management of Extractive Waste (Scotland) Regulations 2010;**]**

(c) the deposit of–

(i) non-hazardous dredging sludges alongside the bank or towpath of a small waterway from which they have been dredged where that activity falls within the exemption from waste management licensing in paragraph 25 of **[**F33Schedule 1 to the Waste Management Licensing (Scotland) Regulations 2011**]**;

(ii) non-hazardous sludges in surface waters, including the bed and its sub-soil;