STATUTORY RULES OF NORTHERN IRELAND

2013 No. 255

ENVIRONMENTAL PROTECTION

The Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013

Made - - - -	*31st October 2013*
Coming into operation	*30th November 2013*

The Department of the Environment in exercise of the powers conferred by Article 17(2) of the Litter (Northern Ireland) Order 1994 [F1] and Articles 2(3) and 5(7) of the Waste and Contaminated Land (Northern Ireland) Order 1997 [F2], makes the following Regulations.

F1 S.I. 1994 No. 1896 (N.I. 10)
F2 S.I. 1997/2870 (N.I. 19)

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013 and shall come into operation on 30th November 2013.

(2) In these Regulations—

"the 1994 Order" means the Litter (Northern Ireland) Order 1994;

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

[[F3]"Directive Waste" has the same meaning as "Relevant Waste" as set out in Schedule 1A to the Waste Management Licensing Regulations (Northern Ireland) 2003.**]**

F3 Words in reg. 1(2) substituted (31.12.2020) by The Environmental Protection (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/289), reg. 1, **Sch. 1 para. 8**; 2020 c. 1, Sch. 5 para. 1(1)

Waste which is not to be treated as household waste, industrial waste or commercial waste

2.—(1) Waste which is not Directive waste is not to be treated as household waste, commercial waste or industrial waste for the purposes of Part 2 of the 1997 Order.

(2) The following waste (where it is Directive waste) is not to be treated as household waste, industrial waste or commercial waste for the purposes of Part 2 of the 1997 Order—

(a) sewage sludge or septic tank sludge which is treated, kept or disposed of (otherwise than by means of mobile plant) within the curtilage of a sewage treatment works as an integral part of the operation of those works;

(b) sludge which is supplied or used in accordance with the Sludge (Use in Agriculture) Regulations (Northern Ireland) 1990 ("the 1990 Regulations") [F4];

(c) septic tank sludge which is used on agricultural land within the meaning of the 1990 Regulations.

(3) Animal by-products (where they are Directive waste) which are collected and transported in accordance with Article 21(1) to (3) of the Animal By-Products Regulation are not to be treated as household waste, industrial waste or commercial waste for the purposes of Article 5 of the 1997 Order.

(4) In this regulation—

(a) "animal by-products" has the meaning given in Article 3(1) of the Animal By-Products Regulation;

(b) "the Animal By-Products Regulation" means Regulation (EC) No 1069/2009[F5] of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal By-Products Regulation) **[**[F6]as amended by Directive 2010/63/EU of the European Parliament of the Council**]** .

F4 S.R. 1990 No. 880
F5 OJ L 300,14.11.2009
F6 Words in reg. 2(4)(b) added (24.12.2018) by The Environment (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/200), reg. 1(1), **Sch. 1 para. 32**

Household, industrial and commercial waste

3.—(1) Subject to regulation 2, the Schedule (household, industrial and commercial waste) has effect.

Litter

4.—(1) Part 2 of the 1997 Order has effect as if references to controlled waste collected under Article 20 include references to litter collected under Articles 7(1)(a), 12(10) and 12C(3) of the 1994 Order.

Amendments to other legislation

5.—(1) The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 [F7] shall be amended as follows.

(2) In regulation 1(2) insert the following definition in the appropriate alphabetical place "authorised officer" means an officer of the Department of the Environment.

(3) For regulations 2 to 4 substitute—

"**Transfer Notes**

2.—(1) Subject to paragraph (3), the transferor and transferee shall, at the same time as the written description of the waste is transferred in accordance with Article 5(1)(c)(ii) of the

1997 Order, ensure that such a document as is described in paragraph (2) ("a transfer note") is completed and signed by them or on their behalf.

(2) A transfer note shall—

(a) identify the waste to which it relates by reference to the appropriate categories of waste in the European Waste Catalogue and state—

(i) the quantity of that waste and whether on transfer it is loose or in a container;

(ii) if in a container, the kind of container;

(iii) the date, time and place of transfer;

(iv) the SIC code of the transferor;

(v) the origin of the waste, if known; and

(vi) the destination of the waste upon transfer;

(b) give the name and address of the transferor and the transferee and be signed by them;

(c) state in respect of the transferor and the transferee whether they are—

(i) the producer of the waste;

(ii) the importer of the waste;

(iii) the transporter of the waste or a waste broker or dealer;

(iv) a district council;

(v) a person who is a holder of a waste management licence under Article 6 of the 1997 Order or a permit under Article 9 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003 [F8], in which case the transfer note must include the waste authorisation number;

(vi) a person to whom Article 4(1) of the 1997 Order does not apply by virtue of regulations under paragraph (3) of that Article;

(vii) a person registered as a carrier of controlled waste under Article 39 of the 1997 Order, in which case the transfer note must include the registration number;

(viii) a person registered as a broker of or dealer in controlled waste, in which case the transfer note must include the registration number;

(d) confirm that the transferor has discharged the duty as required by regulation 17 of the Waste Regulations (Northern Ireland) 2011 [F9] (the Waste Hierarchy).

(3) A transfer note—

(i) may be in electronic form; and

(ii) where in electronic form, shall only be accepted if it is legible.

(4) Where the transfer note is in electronic form, the signature required by paragraph (2)(b) shall be an electronic signature and "electronic signature" means data in electronic form which is attached to or logically associated with the transfer note and which serves as a method of authentication.

(5) In this regulation "SIC code" means a code included in the UK Standard Industrial Classification of Economic Activities 2007 published by the Office for National Statistics on 14th December 2007 [F10].

Duty to keep copies of written descriptions of waste and transfer notes

3.—(1) The transferor and the transferee shall keep a transfer note, or a copy of it as appropriate, for at least 2 years from the date upon which it is completed and signed by them.

(2) This regulation shall not apply where the waste transferred is hazardous waste and the consignment note and, where appropriate, a schedule required by the Hazardous Waste Regulations (Northern Ireland) 2005 [F11] is completed and dealt with in accordance with those Regulations.

Duty to furnish documents

4.—(1) A person holding or transporting waste shall carry the associated transfer note with that waste and shall produce that transfer note to an authorised officer or a constable on demand.

(2) A person who has been served by the Department with a notice in writing specifying or describing any document and requiring its production shall, if the document is one which at that time he is under a duty to keep under regulation 3, furnish the Department with a copy of it within the period (not being less than 7 days) specified in the notice”.”

F7 S.R. 2002 No. 271
F8 S.R. 2003 No. 46
F9 S.R. 2011 No. 280
F10 ISBN 978-0-230-21012-7
F11 S.R. 2005 No. 300

Revocation

6. The Controlled Waste Regulations (Northern Ireland) 2002 [F12] are revoked.

F12 S.R. 2002 No. 248

Sealed with the Official Seal of the Department of the Environment on 31st October 2013

L.S.

Wesley Shannon
A senior officer of the
Department of the Environment

SCHEDULE

Regulation 3

Interpretation of the Schedule

1.—(1) In this Schedule the following definitions apply—

"agricultural waste" means waste from premises used for agriculture within the meaning of the Agriculture Act (Northern Ireland) 1949;

[[F13]"bed and breakfast" means an establishment meeting the criteria set out in Schedule 3 to the Categories of Tourist Establishment (Statutory Criteria) Regulations (Northern Ireland) 1992;**]**

"camp site" means land on which tents are pitched for the purpose of human habitation and land the use of which is incidental to that purpose;

"charity shop" means a premises used wholly or mainly for the sale of goods donated to a charity where the proceeds of sale (after deduction of expenses) are applied for the purposes of a charity;

"clinical waste" means waste from a healthcare activity (from medical, nursing, dental, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or research) that—

(a) contains viable micro-organisms or their toxins which are known or reliably believed to cause disease in humans or other living organisms;

(b) contains or is contaminated with drugs or medicine that contains a biologically active pharmaceutical agent; or

(c) is a sharp, swab or dressing, or a body fluid or other biological material (including human and animal tissue) containing or contaminated with a dangerous substance within the meaning of **[**[F14]Regulation (EC) 1272/2008 on classification, labelling and packaging of substances and mixtures (CLP);"**]**

"construction" includes improvement, repair or alteration;

"controlled waste" means household, industrial and commercial waste or any such waste;

"Directive waste" has the same meaning as in regulation 1(3) of the Waste Management Licensing Regulations (Northern Ireland) 2003 [F15];

[[F16]"European Waste Catalogue" has the same meaning as in the Waste Management Licensing Regulations (Northern Ireland) 2003;**]**

"factory" has the meaning given in Section 175 of the Factories Act (Northern Ireland) 1965 [F17];

"general medical practitioner" means a person registered in the General Practitioner Register kept by the General Medical Council under Section 34 of the Medical Act 1983 [F18];

[[F13]"guest House" means an establishment meeting the criteria set out in Schedule 2 to the Categories of Tourist Establishment (Statutory Criteria) Regulations (Northern Ireland) 1992;"**]**

"hazardous waste" has the same meaning as given in regulation 6 of the Hazardous Waste Regulations (Northern Ireland) 2005 [F19] (waste which displays one or more of the hazardous properties listed in Annex III of the Waste Framework Directive);

"Irish Traveller Community" means the community of people as described in Article 5 of the Race Relations (Northern Ireland) 1997 Order [F20];

"mixed hereditament" means a hereditament which is used partly for the purposes of a dwelling house as defined in Schedule 5 to the Rates (Northern Ireland) Order 1977 [F21] and partly for other purposes;