STATUTORY RULES OF NORTHERN IRELAND

2005 No. 301

ENVIRONMENTAL PROTECTION

The List of Wastes Regulations (Northern Ireland) 2005

Made - - - -	*20th June 2005*
Coming into operation	*16th July 2005*

The Department of the Environment, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the List of Wastes Regulations (Northern Ireland) 2005, and shall come into operation on 16th July 2005.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to the Regulations as it applies to an Act of the Northern Ireland Assembly.

Interpretation

2. In these Regulations, unless the context otherwise requires—

(a) "the Waste Directive" means Council Directive 75/442/EEC(**4**) on waste as amended by—

(i) Council Directives 91/156/EEC(**5**) and 91/692/EEC(**6**); and

(ii) Commission Decision 96/350/EC(**7**);

(b) Directive 67/548/EEC (the Dangerous Substances Directive, which is referred to in the Introduction to the List) means Directive 67/548/EEC(**8**) on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging

(**1**) S.I.1988/785, S.I. 1992/2870 and S.I. 1993/2661
(**2**) 1972 c. 68
(**3**) 1954 c. 33
(**4**) O.J. No. L194, 25.7.1975, p. 39
(**5**) O.J. No. L78, 26.3.1991, p. 32
(**6**) O.J. No. L377, 31.12.1991, p. 48
(**7**) O.J. No. L135, 6.6.1996, p. 32
(**8**) O.J. L196, 16.8.1967, p. 1

and labelling of dangerous substances as last amended by Council Regulation (EC) No. 807/2003(**9**); and

(c) "the Hazardous Waste Directive" means Council Directive 91/689/EEC(**10**) of 31st December 1991 on hazardous waste, as amended by Council Directive 94/31/EC(**11**), and a reference to—

(i) an annex of the Hazardous Waste Directive is a reference to that annex as it is for the time being set out in the relevant schedule to the Hazardous Waste Regulations (Northern Ireland); and

(ii) hazardous properties is a reference to the properties in Annex III as so set out.

(d) "the List of Wastes Decision" means Commission Decision 2000/532/EC(**12**) of 3rd May 2000 replacing Decision 94/3/EC(**13**) establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC(**14**) establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste, as amended by—

(i) Commission Decision 2001/118/EC(**15**);

(ii) Commission Decision 2001/119/EC(**16**); and

(iii) Council Decision 2001/573/EC(**17**);

(e) "the List of Wastes" means the "List of wastes pursuant to Article 1(a) of Directive 75/442/EEC on waste and Article 1(4) of Directive 91/689/EEC on hazardous waste" set out in the Annex to the List of Wastes Decision, being a list drawn up—

(i) in relation to wastes belonging to the categories listed in Annex I (Categories of Waste) of the Waste Framework Directive, by the Commission, acting in accordance with the procedure laid down in Article 18 of that Directive;

(ii) in relation to hazardous waste, in accordance with the procedure laid down in Article 18 of the Waste Framework Directive on the basis of—

(aa) Annex I (Categories or generic types of hazardous waste listed according to their nature or the activity which generated them) to the Hazardous Waste Directive; and

(bb) Annex II (Constituents of the wastes in Annex 1.B. which render them hazardous when they have the properties described in Annex III) to the Hazardous Waste Directive,

and a reference to the List of Wastes includes a reference to the Introduction thereto ("the Introduction to the List").

(f) "the Hazardous Waste Regulations" means the Hazardous Waste Regulations (Northern Ireland) 2005(**18**);

(g) "hazardous waste" has the meaning given by regulation 6 of the Hazardous Waste Regulations;

(**9**) O.J. L122, 16.5.2003, p. 36, which amended the committee procedure in Article 29 with effect from 5th June 2003. Directive 67/548/EEC was also amended from 1st May 2004 by Section K of Annex II to the Act of Accession of ten Member States (O.J. L236, 23.9.2003, p. 53 at p. 96 and was last adapted to technical progress for the 28th time by Commission Directive 2001/59/EC (O.J. No. L225, 21.8.2001, p. 1

(**10**) O.J. No. L377, 31.12.1991, p. 20

(**11**) O.J. No. L168, 2.7.1994, p. 28

(**12**) O.J. No. L226, 6.9.2000, p. 3

(**13**) O.J. No. L5, 7.1.1994, p. 15

(**14**) O.J. No. L356, 31.12.11994, p. 14

(**15**) O.J. No. L47, 16.2.2001, p. 1

(**16**) O.J. No. L47, 16.2.2001, p. 32

(**17**) O.J. No. L192, 14.7.2001, p. 24

(**18**) S.R. 2005 No. 300

(h) "waste" has the meaning given by regulation 3(1)(b) of the Hazardous Waste Regulations;

(i) "dangerous substance" means, notwithstanding paragraph 5 of the Introduction to the List, a substance which for the time being is a dangerous substance within the meaning of regulation 2 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002(**19**).

Effect of the List of Wastes

3.—(1) Subject to regulation 2(3)(d) and the following provisions of this regulation, the List of Wastes has effect, as it is set out for the time being in the Schedule to these Regulations (which sets out the Annex to the List of Wastes Decision), for purposes connected with the regulation of waste and hazardous waste, and in particular for the purposes of—

(a) the determination of whether a material or substance is a waste or a hazardous waste, as the case may be;

(b) the classification and coding of wastes and hazardous waste,

and accordingly the List of Wastes and the codes and chapter headings shall be recognised and used for those purposes.

(2) Paragraph (1) is without prejudice to regulations 8 to 11 of the Hazardous Waste Regulations.

(3) Subject to regulation 2(2)(c), the notes set out in the Introduction to the List have effect for the purposes of—

(a) the interpretation of the List of Wastes;

(b) the determination of whether a material or substance is a waste or a hazardous waste, as the case may be; and

(c) the identification of a waste or hazardous waste, as the case may be.

(4) The different types of wastes in the List of Wastes are fully defined by the six-digit code for the waste and the respective two-digit and four-digit chapter headings, and accordingly, for purposes connected with the regulation of waste or hazardous waste—

(a) any reference to a waste by its six-digit code as specified in the List of Wastes is to be treated as a reference to that waste; and

(b) a reference to wastes by the respective two-digit or four-digit chapter heading is a reference to the wastes listed in the List of Wastes under that chapter heading.

(5) Where any provision (howsoever expressed) of an enactment imposes a requirement that the six digit code be given, or authorises any action to be taken or requirement to be dispensed with on condition that the six digit code is given, that requirement or condition shall not be taken to have been complied with unless the code given is the code for the waste, or hazardous waste, as the case may be, in the List of Wastes.

(6) Subject to paragraph (7), a waste marked with an asterisk in the List of Wastes is considered, on account of regulation 4(a), to be featured in the List of Wastes as a hazardous waste for the purposes of regulation 6(a) of the Hazardous Waste Regulations.

(7) Where a waste marked with an asterisk in the List of Wastes comprises or contains one or more dangerous substances, it is considered a hazardous waste—

(a) where the description in the List of Wastes makes no reference to a dangerous substance, regardless of the actual concentration of any dangerous substance present or properties of the waste or that substance;

(**19**) S.I. 2002/1689 as amended by S.I. 2004/; these Regulations implement the Dangerous Substances Directive for the time being in Great Britain

(b) if a waste is identified as hazardous by a specific or general reference (howsoever expressed) to dangerous substances, if the concentrations of those substances are such (that is, percentage by weight) that the waste:

(i) presents one or more of the hazardous properties ; and

(ii) in the case of any of the hazardous properties H3 to H8, H10 or H11, satisfies the requirements of regulation 4.

Properties and characteristics of dangerous substances classified as hazardous waste

4. Wastes classified as hazardous are considered to display—

(a) one or more of the properties listed in Annex III to the Hazardous Waste Directive; and

(b) as regards H3 to H8, H10(**20**) and H11 of that Annex, they display one or more of the following characteristics—

— flash point ≤ 55°C,

— one or more substances classified(**21**) as very toxic at a total concentration ≥ 0,1 %,

— one or more substances classified as toxic at a total concentration ≥ 3 %,

— one or more substances classified as harmful at a total concentration ≥ 25 %,

— one or more corrosive substances classified as R35 at a total concentration ≥ 1 %,

— one or more corrosive substances classified as R34 at a total concentration ≥ 5 %,

— one or more irritant substances classified as R41 at a total concentration ≥ 10 %,

— one or more irritant substances classified as R36, R37, R38 at a total concentration ≥ 20 %,

— one substance known to be carcinogenic of category 1 or 2 at a concentration ≥ 0,1 %,

— one substance known to be carcinogenic of category 3 at a concentration ≥ 1 %,

— one substance toxic for reproduction of category 1 or 2 classified as R60, R61 at a concentration ≥ 0,5 %,

— one substance toxic for reproduction of category 3 classified as R62, R63 at a concentration ≥ 5 %,

— one mutagenic substance of category 1 or 2 classified as R46 at a concentration ≥ 0,1 %,

— one mutagenic substance of category 3 classified as R40 at a concentration ≥ 1 %.

(**20**) In Directive 92/32/EEC amending for the seventh time Directive 67/548/EEC the term “toxic for reproduction” was introduced. The term “teratogenic” was replaced by a corresponding term 'toxic for reproduction'. This term is considered to be in line with property H10 in Annex III to Directive 91/689/EEC

(**21**) The classification as well as the R numbers refer to the Dangerous Substances Directive. The concentration limits refer to those laid down in the Dangerous Preparations Directive (1999/45/EC; O.J. No. L200, 30.7.1999, p. 1) as amended by Regulation (EC) No. 1882/2003 (O.J. No. L284, 31.10.2003, p. 1)

Sealed with the Official Seal of the Department of the Environment on 20th June 2005.

Ian Maye
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Department of the Environment