STATUTORY RULES OF NORTHERN IRELAND

1998 No. 289

EUROPEAN COMMUNITIES ENVIRONMENTAL PROTECTION

The Special Waste Regulations (Northern Ireland) 1998

Made - - - -	*14th August 1998*
Coming into operation	*18th September 1998*

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 regulation and control of the transit, import and export of waste (including recyclable materials), the prevention, reduction and elimination of pollution caused by waste and the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on it by section 2(2) of that Act, Articles 5(1), 17, 36(4) and 86(2) of the Pollution Control and Local Government (Northern Ireland) Order 1978(**3**), Articles 2(3), 30 and 48 of the Waste and Contaminated Land (Northern Ireland) Order 1997(**4**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Special Waste Regulations (Northern Ireland) 1998 and shall come into operation on 18th September 1998.

(2) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(3) These Regulations do not apply in relation to any special waste in respect of which, in accordance with regulation 22(2), the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981(**6**) continue to have effect.

(4) In these Regulations—

"the 1978 Order" means the Pollution Control and Local Government (Northern Ireland) Order 1978;

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

(**1**) S.I. 1993/2661, S.I. 1992/2870 and S.I. 1988/785
(**2**) 1972 c. 68
(**3**) S.I. 1978/1049 (N.I. 19), *See* Article 2(2) for definition of "Department", "prescribed" and "regulations"
(**4**) S.I. 1997/2778 (N.I. 19), *See* Article 2(2) for definition of "Department" and "regulations"
(**5**) 1954 c. 33 (N.I.)
(**6**) S.R. 1981 No. 252 as amended by Part IV of Schedule 6 to the Radioactive Substances Act 1993 (1993 c. 12)

"the approved classification and labelling guide" means the document published by the Health and Safety Commission entitled "Approved Guide to the Classification and Labelling of Substances and Preparations Dangerous for Supply (Second Edition)"(**7**) approved by the Department of Economic Development for the purposes of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(**8**);

"the approved supply list" means the document published by the Health and Safety Commission entitled "Information Approved for the Classification and Labelling of Substances and Preparations Dangerous for Supply (3rd Edition)" as revised by the document published by the Health and Safety Commission and entitled "Approved Supply List Supplement"(**9**) approved by the Department of Economic Development for the purposes of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995;

"authorised person" means a person authorised in writing by the Department for the purposes of these regulations;

"carrier", in relation to a consignment of special waste, means the person who collects that waste from the premises at which it is being held and delivers it to another person for treatment or disposal;

"carrier's round", in relation to consignments of special waste, means a journey made by a carrier during which he collects more than one consignment of special waste and transports all consignments collected to the same consignee who is specified in the consignment note;

"carrier's schedule" means a schedule prepared in accordance with regulation 8;

"consignee", in relation to any consignment of special waste, means the person to whom that waste is to be delivered for treatment or disposal;

"consignment note", in relation to a consignment of special waste, means a note in the form set out in Schedule 1, and giving the details required by these Regulations to be shown in respect of that consignment (including, where the consignment is one in a succession of consignments, any details required to be shown in respect of other consignments in the succession);

"consignor", in relation to a consignment of special waste, means the person who causes that waste to be removed from the premises at which it is being held;

"controlled waste" has the same meaning as in Part II of the 1997 Order;

"conveyance" includes a vehicle designed to carry goods by road or rail and a vessel designed to carry goods by water;

"disposal licence" has the same meaning as in Part II of the 1978 Order;

"harbour area" has the same meaning as in the Dangerous Substances in Harbour Areas Regulations (Northern Ireland) 1991(**10**);

"the Hazardous Waste Directive" means Council Directive 91/689/EEC on hazardous waste, as amended by Council Directive 94/31/EC(**11**);

"household waste" has the same meaning as in Part II of the 1997 Order, other than—

(a) asbestos;

(b) waste from a laboratory;

(**7**) The approved classification and labelling guide is available from HSE Books, PO Box 1999, Sudbury, Suffolk, C10 6FS
(**8**) S.R. 1995 No. 60, relevant amendments are S.R. 1996 No. 376 and S.R. 1997 No. 398
(**9**) The Approved Supply List and Supplement are available from HSE Books, PO Box 1999, Sudbury, Suffolk, C10 6FS
(**10**) S.R. 1991 No. 509
(**11**) Council Directive 91/689/EEC is to be found at O.J. No. L377, 31.12.91, p. 20; Council Directive 94/31/EC at O.J. No. L168, 2.7.94, p. 28. *See also* Council Decision 94/904/EC (O.J. No. L356, 31.12.94, p. 14)

(c) waste from a hospital, other than waste from a self-contained part of a hospital which is used wholly for the purposes of living accommodation;

"premises" includes any ship;

"relevant code", in relation to a consignment note or carrier's schedule, means the code assigned in accordance with regulation 4 to the consignment of special waste to which the consignment note or carrier's schedule relates or, where the consignment is one in a carrier's round, to the consignments in that round;

"risk phrase" means the risk phrase shown under Part III of the approved supply list;

"ship" means a vessel of any type whatsoever operating in the marine environment including submersible craft, floating craft and any structure which is a fixed or floating platform; and

"special waste" has the meaning given by regulation 2.

Meaning of special waste

2.—(1) Any controlled waste, other than household waste—

(a) to which a six-digit code is assigned in the list set out in Part I of Schedule 2 (which reproduces the list of hazardous waste annexed to Council Decision 94/904/EC(**12**) establishing a list of hazardous waste pursuant to Article 1(4) of the Hazardous Waste Directive); and

(b) which displays any of the properties specified in Part II of that Schedule (which reproduces Annex III to the Hazardous Waste Directive),

is special waste.

(2) Any other controlled waste, other than household waste, which—

(a) displays the property H3-A (first indent), H4, H5, H6, H7 or H8 specified in Part II of Schedule 2; or

(b) is a medicinal product, as defined in section 130 of the Medicines Act 1968(**13**) (meaning of "medicinal product" etc), of a description, or falling within a class, specified in an order under section 58 of that Act(**14**) (medicinal products on prescription only),

is special waste.

(3) For the purposes of paragraphs (1) and (2) waste shall be treated as displaying none of the properties H4 to H8 specified in Part II of Schedule 2 if it satisfies none of the criteria set out in Part III of that Schedule.

(4) Part IV of Schedule 2 (which contains rules for the interpretation of that Schedule) shall have effect.

Certain radioactive waste to be special waste

3. Article 30 of the 1997 Order (Special provision with respect to certain dangerous or intractable waste) shall have effect, without modification, so as to empower the Department to make provision for waste which would be controlled waste but for the fact that it is radioactive waste within the meaning of the Radioactive Substances Act 1993(**15**); and paragraphs (1) and (2) of regulation 2 shall apply to any such waste as if it were controlled waste.

(**12**) O.J. No. L356, 31.12.94, p. 14
(**13**) 1968 c. 67; section 130 is amended by paragraph 3(7) to (10) of Schedule 1, and Schedule 2, to the Animal Health and Welfare Act 1984 (1984 c. 40)
(**14**) Section 58 is amended by section 1 of the Medicinal Products: Prescription by Nurses etc. Act 1992 (1992 c. 28)
(**15**) 1993 c. 12

Coding of consignments

4.—(1) Subject to paragraph (3), the Department shall assign or supply forthwith to any person, on request, for the purpose of assigning to a consignment of special waste or, where the consignment is one in a carrier's round, to the consignments in that round, a code unique to that consignment or round, as the case may be.

(2) A code assigned or supplied in accordance with paragraph (1) may consist of letters, numbers or symbols, or any combination of letters, numbers and symbols, or a bar code which enables the consignment or carrier's round, as the case may be, to be identified electronically.

(3) The Department need not assign or supply a code for a consignment or round until any fee required in respect of it under regulation 13 has been paid.

Consignment notes: standard procedure

5.—(1) Except in a case to which regulation 6, 8 or 9 applies, this regulation applies where a consignment of special waste is to be removed from the premises at which it is being held.

(2) Before the consignment is removed—

(a) five copies of the consignment note shall be prepared, and, on each copy, Parts A and B shall be completed and the relevant code entered;

(b) the consignor shall ensure that one of those copies (on which Parts A and B have been completed and the relevant code entered) is furnished to the Department;

(c) the carrier shall complete Part C on each of the four remaining copies; and

(d) the consignor—

(i) shall complete Part D on each of those copies;

(ii) shall retain one copy (on which Parts A to D have been completed and the relevant code entered); and

(iii) shall give the three remaining copies (on which Parts A to D have been completed and the relevant code entered) to the carrier.

(3) The carrier shall ensure that the copies which he has received—

(a) travel with the consignment; and

(b) are given to the consignee on delivery of the consignment.

(4) Subject to regulation 10, on receiving the consignment the consignee

shall—

(a) complete Part E on the three copies of the consignment note given to him;

(b) retain one copy;

(c) give one copy to the carrier; and

(d) forthwith furnish one copy to the Department.

(5) The carrier shall retain the copy of the consignment note given to him by the consignee.

Consignment notes: cases in which pre-notification is not required

6.—(1) For the purposes of regulation 7, except in a case to which regulation 8 applies, this regulation applies—

(a) subject to paragraph (2)(*a*), to the removal, from the premises at which it is being held, of each of the second and any subsequent consignment of special waste in a succession of consignments of special waste,

(b) subject to paragraph (2)(*b*), to the removal as a consignment of special waste of a product or material for the purposes of the return by the person to whom the product or material had been supplied to the person who supplied it to him or who manufactured it,

(c) subject to paragraph (2)(*c*), to the removal of a consignment of special waste where the consignor and the consignee are bodies corporate belonging to the same group,

(d) to the removal from a ship in a harbour area of a consignment of special waste to a conveyance for transportation to a place outside that area, and

(e) to the removal of a consignment of special waste which consists entirely of lead acid motor vehicle batteries.

(2) This regulation does not apply unless—

(a) in the case mentioned in paragraph (1)(*a*), in respect of each consignment—

(i) the waste is of the same description as the waste in the first of the consignments in the succession;

(ii) the consignor is the same person;

(iii) the consignee is the same person;

(iv) the premises from which the consignment is removed are the same;

(v) the place to which the consignment is transported is the same; and

(vi) the removal of the consignment takes place within one year of the removal of the first consignment in the succession;

(b) in the case mentioned in paragraph (1)(*b*), the person to whom the product or material was supplied is satisfied that, as supplied, the product or material fails to meet any specification which he expected it to meet;

(c) in the case mentioned in paragraph (1)(*c*), the removal is for either storage of waste pending any of the operations listed in Annex IIA to Council Directive 75/442/EEC(**16**), or storage of waste consisting of materials intended for submission to any operation listed in Annex IIB to that Directive, but, in either case, excluding temporary storage, pending collection, on the site where the waste is produced, and the consignee, either—

(i) is the holder of a disposal licence which authorises the relevant operation; or

(ii) carries on any activity which, by virtue of paragraphs 7, 14, 15, 16B, 16C, 16D or 24 of Schedule 6 to the Waste Collection and Disposal Regulations (Northern Ireland) 1992(**17**), does not require a disposal licence.

(3) In paragraph (1)(*c*) "group", in relation to a body corporate, means that body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company; and for these purposes—

"body corporate" does not include a corporation sole, but includes a company incorporated elsewhere than in Northern Ireland; and

"holding company" and "subsidiary" have the meaning given by Article 4 of the Companies (Northern Ireland) Order 1986(**18**).

Consignment notes: procedure where pre-notification is not required

7. Paragraph (2), with the exception of sub-paragraph (*b*), and paragraphs (3) to (5) of regulation 5 shall apply in cases to which regulation 6 applies as if—

(**16**) O.J. No. L194, 25.7.75, p. 39; as amended by Council Directive 91/156/EEC (O.J. No. L78, 26.3.91, p. 32)
(**17**) S.R. 1992 No. 254
(**18**) S.I. 1986/1032 (N.I. 6) as amended by S.I. 1990/1504 (N.I. 10) Article 62