1989 No. 115

EUROPEAN COMMUNITIES

PUBLIC HEALTH

The Transfrontier Shipment of Hazardous Waste Regulations (Northern Ireland) 1989

Made . . . . . 29th March 1989

Coming into operation in accordance with regulation 1

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SCHEDULE

EXCEPTED SUBSTANCES

The Department of the Environment, being a department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the regulation and control of the transit, import and export of waste (including recyclable materials) which is dangerous or which requires the taking of special precautions and in relation to anything supplemental or incidental to those matters, in exercise of the powers conferred by that section and by Articles 17(1), (2), (3), 36(4) and 86(2) of the Pollution Control and Local Government (Northern Ireland) Order 1978(**c**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Transfrontier Shipment of Hazardous Waste Regulations (Northern Ireland) 1989 and shall come into operation as follows—

(*a*) Regulations 3 to 18 and 31 shall come into operation on 15th June 1989.

(*b*) This regulation and the remaining regulations shall come into operation on 15th May 1989.

Interpretation and application

2.—(1) In these regulations—

''acknowledgement'' means an acknowledgement under Article 4 of the Directive;

''carrier'' means any person who transports a consignment;

''completed'' means, in the case of a consignment note, completed in accordance with the instructions set out in Annex IV to Commission Directive 85/469/EEC(**d**) and in the case of a uniform document, completed in accordance with the instructions on that document;

''consignee'' means the person to whom a consignment is transported for disposal;

''consignment'' means a quantity of hazardous waste that is intended to be, is being, or has been transported from one state to another without its being divided or added to;

''consignment note'' means a consignment note printed in accordance with Annex III to Commission Directive 85/469/EEC to be completed in accordance with Annex IV of that Directive and, in relation to such a note, ''copy 1'', ''copy 2'' and ''copy 3'' mean respectively the copies of the note so numbered and entitled ''copy for the authority issuing the acknowledgement'', ''copy for the holder of the waste'' and ''copy accompanying the waste'';

(**a**) S.I. 1985/1195
(**b**) 1972 c. 68
(**c**) S.I. 1978/1049 (N.I. 19)
(**d**) OJ No. L272, 12.10.1985, p. 1 as amended by Commission Directive 87/112/EEC (OJ No. L48, 17.2.1987, p. 31)

"the Department" means the Department of the Environment for Northern Ireland;

"Directive" means Council Directive 84/631/EEC on the supervision and control within the European Community of the transfrontier shipment of hazardous waste(**a**);

"hazardous waste" has the same meaning as "special waste" in regulation 3 of the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981(**b**), other than waste which is special waste solely because—

(*a*) it consists of, or contains any of, the substances listed in the Schedule, or

(*b*) it is a medicinal product in accordance with regulation 3(1)(*b*) of those regulations;

"holder" means the person having a consignment in his possession or control immediately before it is transported from the premises at which it is produced or stored;

"member State" means a state other than the United Kingdom that is a member of the European Economic Community;

"member State of destination" means the member State in which a consignment is, or is to be, disposed of;

"member State of dispatch" means the member State in which a consignment originates;

"member State of transit" means any member State through which a consignment is, or is to be, transported for disposal in another state;

"non-ferrous metal consignment" means a consignment that is, or is to be, transported for the purpose of enabling its non-ferrous metal content to be re-used, regenerated or recycled;

"objection" means an objection under Article 4 of the Directive;

"port" means seaport or airport;

"third state" means a state that is not a member of the European Economic Community;

"third state of destination" means the third state in which a consignment is, or is to be, disposed of;

"third state of dispatch" means the third state in which a consignment originates;

"third state of transit" means any third state through which a consignment is, or is to be, transported for disposal in another state;

"uniform document" means a uniform document printed in accordance with Annex III to Commission Directive 85/469/EEC and, in relation to such a document, "copy 1", "copy 2", "copy 3" and "copy 4"

(**a**) OJ No. L326, 13.12.1984, p. 31 as amended by Council Directive 86/279/EEC (OJ No. L181, 4.7.1986, p. 13), and as adapted to technical progress by Commission Directive 85/469/EEC and Commission Directive 87/112/EEC

(**b**) S.R. 1981 No. 252

mean respectively the copies of the document so numbered and entitled "copy for the consignee of the waste", "copy for the competent authority", "copy for the holder of the waste" and "copy for the competent authority";

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

(2) Any reference in these regulations to the competent authority of a member State is a reference to the authority designated by that member State in pursuance of Article 16 of the Directive.

(3) Where, under these regulations, anything is to be done by or to a third state, it shall be done by or to either the government of that state, or by or to the authority in that state specified by that government.

(4) Other expressions used in these regulations shall have the meaning they bear in the 1978 Order.

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

(6) These regulations do not apply to the off-loading of waste from a ship to land where the waste is produced by the normal operation of the ship.

PART II

DUTIES OF HOLDERS OF HAZARDOUS WASTE

Consignment to a member State: single consignment

3. Subject to regulations 4 and 5, a holder shall not transport, or cause or permit to be transported, a consignment from Northern Ireland to a destination in a member State unless, before the consignment is removed from the premises at which it was produced, or at which it is stored, he—

(*a*) enters into a contract with the consignee for the disposal of the consignment;

(*b*) sends to the competent authority of the member State of destination a completed consignment note relating to the transport of the consignment;

(*c*) sends a photocopy of the completed copy 1 to—

(i) the district council for the area in which the consignment is currently located;

(ii) the district council for the area in which is situated the port through which the consignment is to leave Northern Ireland;

(iii) the Secretary of State for the Environment, where the consignment is to be transported through England, the Secretary of State for Wales, where the consignment is to be transported through Wales, and the Secretary of State for Scotland, where the consignment is to be transported through Scotland;

(iv) the competent authority of any member State of transit; and

(v) any third state of transit;

(**a**) 1954 c. 33 (N.I.)