1981 No. 252

PUBLIC HEALTH

The Pollution Control (Special Waste) Regulations (Northern Ireland) 1981

Made . . . . . *24th July 1981*

Coming into operation . . . *4th January 1982*

The Department of the Environment, in exercise of the powers conferred on it by Articles 17(1)(*a*), (*d*) and (*e*), (2)(*b*) and (*d*), (3)(*a*), (*b*) and (*c*), 36(4)(*a*) and (*b*) and 86 of the Pollution Control and Local Government (Northern Ireland) Order 1978(**a**) and of every other power enabling it in that behalf, hereby makes the following regulations:—

PART I: INTRODUCTORY

Citation and commencement

1. These regulations may be cited as the Pollution Control (Special Waste) Regulations (Northern Ireland) 1981 and shall come into operation on 4th January, 1982.

Interpretation

2.—(1) In these regulations:—

"carrier", "consignment note", "disposer" and "producer" have the meanings respectively assigned to them in regulations 5(5), 5(1), 7 and 5(1);

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

(2) Any reference in these regulations to a numbered Article shall be construed as a reference to the Article bearing that number in the Order.

Meaning of special waste

3.—(1) The term "special waste" shall apply to any controlled waste which—

(*a*) consists of or contains any of the substances listed in Part I of Schedule 1 and by reason of the presence of such substance,

(i) is dangerous to life within the meaning of Part II of Schedule 1, or

(ii) has a flashpoint of 21 degrees Celsius or less as determined by the methods and with the apparatus laid down by the British Standards Institution in BS 3900: Part A, 8: 1976 (EN53) or

(*b*) is a medicinal product, as defined in section 130 of the Medicines Act 1968(**b**), which is available only in accordance with a prescription given by an appropriate practitioner as defined in section 58(1) of that Act.

(**a**) S.I. 1978/1049 (N.I. 19)
(**b**) 1968 c. 67

Certain radioactive waste to be special waste

4.—(1) Article 17 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 Article 36(4) and, subject to section 9(1) of the Radioactive Substances Act 1960(**a**), regulation 3(1) shall apply to any such waste as if it were controlled waste.

(2) In Part III of Schedule 1 to the Radioactive Substances Act 1960, after paragraph 26 there shall be inserted the following paragraph:

"27. The Pollution Control (Special Waste) Regulations (Northern Ireland) 1981."

PART II: CONSIGNMENT NOTES

Duties of producers

5.—(1) Any person who produces special waste (in these regulations referred to as "the producer") shall, before any such waste is removed from the premises at which it is produced, prepare six copies of the form set out in Schedule 2 (in these regulations referred to as "the consignment note"), shall complete parts A and B and shall furnish one copy to the district council for the district in which it is to be disposed of.

(2) A producer may prepare fewer than six copies of the consignment note if he has reasonable grounds to suppose that a lesser number will be needed.

(3) Copies of consignment notes for the purposes of regulation 5(1) must be furnished not more than one month and not less than three clear days before the removal of the waste and in reckoning this period of days any Saturday, Sunday or public holiday shall be disregarded.

(4) A copy shall be treated as furnished in accordance with regulation 5(3) if it is so posted as to arrive in the ordinary course of post in compliance with the time limit there specified.

(5) Any person who transfers special waste from the premises at which it is produced to another person for disposal (in these regulations referred to as "the carrier") shall, before any such waste is removed from those premises, complete Part C of the consignment note and the producer shall then complete Part D.

(6) The producer shall retain one copy of the consignment note on which Parts A, B, C and D have been completed and, if the waste is to be disposed of in the district of a council other than that in whose district the waste was produced, shall forthwith furnish another such copy to the council for his own district.

(7) The producer shall furnish all the remaining copies to the carrier.

Duties of carriers

6.—(1) The carrier shall transmit the copies furnished to him under regulation 5 to the disposer and shall retain one copy of the consignment note on which Parts A, B, C, D and E have been completed.

(2) A district council shall not be obliged to comply with this regulation in respect of waste collected by them within their own district and disposed of within that district.

(**a**) 1960 c. 34

Duties of disposers

7.—(1) Any person who disposes of special waste (in these regulations referred to as "the disposer") shall, on receiving a consignment of such waste—

(*a*) complete Part E of the consignment note on three of the remaining copies;

(*b*) retain one copy;

(*c*) forthwith furnish one copy to the district council in whose district the waste was produced; and

(*d*) forthwith furnish one copy to the carrier.

(2) A copy shall be treated as furnished to the district council in accordance with regulation 7(1)(*c*) if it is posted to them by first class mail within one day of the receipt of the consignment and in calculating this period any Saturday, Sunday or public holiday shall be disregarded.

(3) A district council shall not be obliged to comply with this regulation in respect of waste collected by them within their own district and disposed of within that district.

Importers and exporters

8.—(1) These regulations shall apply to a person who imports special waste into Northern Ireland as they apply to a producer and as if the waste were produced at the place where it first enters Northern Ireland.

(2) Regulation 7 shall apply to a person who exports special waste from Northern Ireland as it applies to a disposer.

Pipelines and on-site disposal

9. Nothing in regulation 5, 6, 7 and 8 shall require records to be kept of any waste disposed of by pipeline or within the curtilage of a factory or other premises at which it has been produced.

Part III: Exception for Regular Consignments

Directions by district councils

10.—(1) A district council may direct, in writing, that any named producer or disposer may in respect of any special waste to be produced in their area furnish copies of his consignment notes to them, and to any other district council to whom he is obliged to furnish such copies, at intervals not exceeding twelve months and not in accordance with regulations 5 and 7.

(2) In deciding whether to give such a direction a district council shall have regard to the frequency at which consignments of special waste having a similar composition are transferred for disposal to the same site.

(3) A district council may revoke a direction by notice in writing.

Disposal in another council's district

11.—(1) Where a district council proposes to make a direction under regulation 10 in respect of waste which is to be disposed of in the area of another district council it shall be their duty, before they do so—

(*a*) to refer the proposal to that council; and

(*b*) to consider any representations about the proposal which they receive from the council within 21 days or such longer period as may be agreed in writing.

(2) If the district council to which a proposal has been referred request, within the period specified above, that a direction should not be given, either council may refer the matter to the Department and no direction shall be given except in accordance with its decision.

Appeals

12.—(1) A producer or disposer may apply in writing for a district council to make a direction under regulation 10 and if they refuse to do so may appeal to the Department and where on such an appeal the Department determines that the decision is to be altered it shall be the duty of the district council to give effect to the determination.

(2) If within the period of two months beginning with the date on which a district council receive an application under paragraph 1 or within such longer period as the council and the applicant may at any time agree in writing, the council have neither made a direction nor given notice to the applicant that they refuse to do so, the council shall be deemed to have refused to make a direction.

(3) Notice of appeal under paragraph 1 shall be given in writing within six months of the date of the refusal or deemed refusal or such longer period as the Department may at any time allow.

Forecasts

13.—(1) Where a direction under regulation 10 has been made the producer or disposer named therein shall at three-monthly intervals prepare a forecast of the special waste the removal or disposal of which he expects to notify in accordance with the direction at the end of the following three months and shall forthwith furnish copies of the forecast to the district council who made the direction and, in the case of a producer whose waste is to be disposed of in the area of another district council, to that council.

(2) Where special waste materially different from that recorded in the forecast is to be removed or disposed of, the producer or disposer, as the case may be, shall furnish notice of amendment of the forecast to any district council to whom the forecast was sent.

Part IV: Registers and Site Records

Registers

14.—(1) A producer shall keep at each site a register containing copies of all consignment notes relating to special waste produced at that site.

(2) A carrier shall keep a register containing copies of all consignment notes relating to special waste which he has transferred for disposal.

(3) A disposer shall keep at each site a register containing copies of all consignment notes relating to special waste disposal of at that site, provided that a district council shall not be obliged to keep such a register in respect of a site within its own area.

(4) Producers and carriers shall keep each consignment note in the register for not less than two years from the date on which the waste to which it relates was removed from the premises where it was produced.

(5) A disposer shall keep the register until his disposal licence is surrendered or revoked and shall then furnish the register to the district council in whose district the site is situated.

Site records

15.—(1) Any person who makes a deposit of special waste on land shall record the location of each such deposit, shall keep such records until his disposal licence is surrendered or revoked and shall then send the records, for retention, to the district council in whose district the site is situated.

(2) Such records shall comprise either—

(*a*) a site plan marked with a grid; or

(*b*) a site plan with translucent overlays on which deposits are shown in relation to the contours of the site.

(3) Deposits shall be described in such records by reference to the register of consignment notes kept under regulation 14, save that where either—

(*a*) waste is disposed of by pipeline or within the curtilage of a factory or other premises at which it is produced, or

(*b*) a district council dispose of waste on a site within their own district,

the deposits shall be described by reference to a record of the composition of the waste and the date of its disposal.

(4) In the case of liquid wastes discharged without containers into underground strata or disused workings the record shall comprise only a written record of the quantity and composition of special waste so discharged.

PART V: DIRECTIONS AS TO THE DISPOSAL OF SPECIAL WASTE

16.—(1) The Department may give a direction in respect of any place in respect of which a disposal licence under Article 7 or a resolution in pursuance of Article 13 is in force.

(2) Such a direction may require the holder of a disposal licence, or the council which passed the resolution to accept and dispose of at the place, on such terms as are specified in the direction (including terms as to the making of payments to the recipient of the direction), such special waste as is so specified.

(3) Where the Department proposes to give a direction under this regulation it shall (except in case of emergency) give not less than 28 days' notice to the person who is to receive it and shall have regard to any representations it receives from that person within that period.

PART VI: ENFORCEMENT

Offences

17.—(1) A producer, disposer or carrier who fails to comply with any provision of these regulations other than regulation 16 shall be liable on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to imprisonment for a term not exceeding two years and a fine.

(2) Any person who fails to comply with a direction under regulation 16 shall be liable on summary conviction to a fine not exceeding £400.

(3) In any proceedings for an offence under these regulations it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.