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The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002

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STATUTORY RULES OF NORTHERN IRELAND

2002 No. 271

ENVIRONMENTAL PROTECTION

The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002

Made

27th August 2002

Coming into operation

1st October 2002

The Department of the Environment, in exercise of the powers conferred on it by Articles 2(3) and 5(7) of the Waste and Contaminated Land (Northern Ireland) Order 1997^[1] and of all other powers enabling it in that behalf, hereby makes the following regulations: -

Citation, commencement and interpretation

1. - (1) These Regulations may be cited as the Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 and shall come into operation on 1st October 2002.

(2) In these Regulations -

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

"European Waste Catalogue" means the list of wastes set out in the Annex to Commission Decision 2000/532/EC, as for the time being amended(d);

"scrap metal" means any old metal, and any broken, worn out, defaced or partly manufactured articles made wholly or partly of metal and any metallic wastes, and also includes old, broken, worn out or defaced tooltips or dies made of any of the materials commonly known as hard metal or of cemented or sintered metallic carbides;

"transferor" and "transferee" mean respectively, in relation to a transfer of controlled waste by a person who is subject to the duty imposed by Article 5(1) of the 1997 Order, the person who in compliance with that Article transfers a written description of the waste and the person who receives that description.

Transfer Notes

2. - (1) Subject to paragraph (3), the transferor and the transferee shall, at the same time as the written description of the waste is transferred, ensure that such a document as is

described in paragraph (2) ("a transfer note") is completed and signed on their behalf.

(2) A transfer note shall -

(a) identify the waste to which it relates by reference to the appropriate codes in the European Waste Catalogue and state -

(i) its quantity and whether on transfer it is loose or in a container;

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

(iii) the time and place of transfer;

(b) give the name and address of the transferor and the transferee;

(c) state whether or not the transferor is the producer or importer of the waste and, if so, which;

(d) if the transfer is to a person for authorised transport purposes, specify which of those purposes; and

(e) state as respects the transferor and the transferee which, if any, of the categories of person shown in column 1 of the following Table describes him, and provide any relevant additional information specified in column 2 of the Table.

(3) Paragraph (1) shall not apply where the waste transferred is special waste within the meaning of the Special Waste Regulations (Northern Ireland) 1998^[5] and the consignment note and, where appropriate, schedule required by those Regulations are completed and dealt with in accordance with those Regulations.

TABLE

<i>Category of Person</i>	<i>Additional information</i>
A district council as waste collection and disposal authority for the purposes of Part II of the 1997 Order.	

<p>A person who is the holder of a waste management licence under Article 6 of the 1997 Order or of a disposal licence under Article 7 of the Pollution Control and Local Government (Northern Ireland) Order 1978[6].</p> <p>A person who is the holder of an authorisation under Article 6 of the Industrial Pollution Control (Northern Ireland) Order 1997(e) in so far as such authorisation concerns controlled waste for the purposes of Article 5 of the 1997 Order</p>	<p>If the waste is to be kept, treated or disposed of by that person, the relevant licence number and the name of the licensing authority.</p>
<p>A person to whom Article 4(1) of the 1997 Order does not apply by virtue of regulations under paragraph (3) of that Article.</p>	
<p>A person registered as a carrier of controlled waste under Article 39 of the 1997 Order.</p>	<p>His registration number.</p>
<p>A person who is not required to be so registered by virtue of regulations under Article 38(3) of the 1997 Order.</p>	

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

3. The transferor and the transferee shall each keep the written description of the waste and the transfer note or copies thereof for a period of two years from the transfer of the controlled waste.

Duty to furnish documents

4. 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.

Amendment of the Controlled Waste Regulations (Northern Ireland) 2002

5. The Controlled Waste Regulations (Northern Ireland) 2002[7] shall be amended as follows: -

(a) at the end of regulation 3 there shall be added -

" (2) Waste of the following descriptions shall be treated as household waste for the purposes only of Article 5(2) (household waste produced on domestic property) -

(a) waste arising from works of construction or demolition, including waste arising from work preparatory thereto; and

(b) septic tank sludge.";

(b) at the end of each of regulations 4 and 8 there shall be added -

" (2) Scrap metal shall not be treated as household or, as the case may be, industrial or commercial waste, for the purposes of Article 5 at any time before the day appointed under Article 1(2) of the Order for the repeal of Articles 5 to 12 of the 1978 Order in relation to controlled waste which is scrap metal.";

(c) in regulation 6 -

(i) for "Subject to regulation 8" there shall be substituted "Subject to paragraph (2) and regulation 8"; and

(ii) at the end there shall be added -

" (2) Waste described in paragraphs 7 and 8 of Schedule 3 shall not be treated as industrial waste for the purposes of Article 5(2) of the Order.";

(d) at the end of regulation 8 there shall be added -

" (3) Animal by-products which are collected and transported in accordance with Schedule 2 to the Animal By-Products Regulations (Northern Ireland) 1993 shall not be treated as industrial waste or commercial waste for the purpose of Article 5 (duty of care etc as respects waste).

(4) In this regulation "animal by-products" has the same meaning as in regulation 2(1) of the Animal By-Products Regulations (Northern Ireland) 1993."; and

(e) in Schedule 3, paragraph 17(1) for "Waste oil or waste solvent" there shall be substituted "Waste oil, waste solvent or (subject to regulation 8(2)) scrap metal,".

Sealed with the Official Seal of the Department of the Environment on

27th August 2002.

L.S.

Dermot Nesbitt
Minister of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Regulation 2(1) and (2) requires the transferor and the transferee to complete and sign a transfer note at the same time as the written description of the waste is transferred. The transfer note must identify the waste in question and state its quantity, how it is stored, the time and place of transfer, the name and address of the transferor and the transferee, whether the transferor is the producer or importer of the waste, which (if any) authorised transport purpose applies, in which category of person the transferor and the transferee are and certain additional information. Regulation 2(3) disapplies regulation 2(1) and (2) where special waste (within the meaning of the Special Waste Regulations (Northern Ireland) 1998) is transferred and a consignment note and (where appropriate) the schedule are completed and dealt with in accordance with those Regulations.

Regulation 3 requires the transferor and the transferee to keep the written description of the waste and the transfer note or copies of them for two years from the transfer.

Regulation 4 imposes a duty on a person who is under a duty to keep any document by virtue of regulation 3, to furnish a copy of that document to the Department if he is required by notice to do so by the Department. The document must be furnished to the Department within the period specified in the notice (not being less than 7 days).

Regulation 5 amends the Controlled Waste Regulations (Northern Ireland) 2002 to bring certain wastes within the scope of the duty of care.

Copies of the Commission Decisions referred to in these Regulations can be obtained from The Stationery Office Bookshop, 16 Arthur Street, Belfast, BT1 4GD.