
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various enactments in order to transpose aspects of Directive [2008/98/EC](#) on waste (“the Directive”) and to effect certain additional changes.

Regulation 2 amends the Environmental Protection Act 1990 (“the 1990 Act”). Paragraph (2) amends section 29 of the 1990 Act to insert appropriate definitions of expressions used and defined in the Directive. Paragraph (3) amends section 33(1)(c) of the 1990 Act to align the duty imposed by that provision with Article 13 of the Directive.

Paragraph (4)(a) amends section 34(1) of the 1990 Act to insert reference to dealers as well as brokers, in line with the Directive’s approach of equating the two, and to transpose Article 21(1)(a) of the Directive, which requires separate collection of waste oils where technically feasible. Paragraph (4)(b) extends the duty of care in section 34 to include compliance with the waste hierarchy set out in Article 4 of the Directive, while paragraph (4)(c) inserts relevant definitions and paragraph (4)(d) extends the offence of failure to comply with the duty of care to non-compliance with the new waste hierarchy provisions.

Paragraphs (5) and (6) amend section 35(3) of the 1990 Act to specify that the location of the boundaries of a waste management site may form part of the conditions of a site licence, while ensuring that any variation of the licence conditions cannot include removal of land from the authorised site (this should be dealt with as a surrender under section 39). Paragraphs (7) to (9) and (11) amend sections 38 to 40 and 42 of the 1990 Act so as to provide for partial suspension, revocation, surrender and transfer of a licence. Paragraph (10) enables the issuing of consolidated site and mobile plant licences for the treatment of waste. Paragraph (12) amends section 75 of the 1990 Act to insert relevant Directive definitions. The definition of “waste” however extends beyond waste falling within the scope of the Directive to enable the continued regulation under the 1990 Act of low-level radioactive waste and on-site remediation of contaminated land.

Regulation 3 amends the Environment Act 1995 to adjust the list of environmental licences in relation to which the Scottish Environment Protection Agency (SEPA) may charge fees under charging schemes, and to correct a typographical error in the current text of Schedule 20 to that Act. Regulation 4 amends section 277 of the Town and Country Planning (Scotland) Act 1997 by inserting a definition of “waste” which refers to section 75 of the 1990 Act as amended by regulation 2(12) of these Regulations.

Regulation 5 amends the National Waste Management Plan for Scotland Regulations 2007 to update definitions in line with the Directive; update the list of documents forming part of Scotland’s National Waste Management Plan; extend the provisions on national waste management planning to the Scottish marine area as defined in the Marine (Scotland) Act 2010; transpose the requirements of Article 28 of the Directive and align the objectives of the National Waste Management Plan with those of the Directive, including the application of the waste hierarchy set out in Article 4 of the Directive.

Regulation 6 amends the Special Waste Regulations 1996 in order to transpose requirements of the Directive relating to hazardous (special) waste and to remove references to the Hazardous Waste Directive ([91/689/EEC](#))(1) (which is repealed by the Directive).

Regulation 7 amends the Pollution Prevention and Control (Scotland) Regulations 2000 to include relevant Directive definitions, insert a new definition of “mobile plant” in line with that contained

(1) O.J. L 377, 31.12.1991, p. 20.

Status: This is the original version (as it was originally made).

in regulation 10 of the Waste Management Licensing (Scotland) Regulations 2011 and transpose Articles 21(1)(c) and 23(4) of the Directive (concerning mixing of waste oils and incineration or co-incineration with energy recovery).

Regulation 8 gives effect to the further minor amendments contained in the Schedule.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from Scottish Government Environmental Quality Division, Area 1-H North, Victoria Quay, Edinburgh EH6 6QQ.