



Environmental Protection Act 1990

1990 CHAPTER 43

PART II

WASTE ON LAND

[^{F1}Special waste][^{F1}Hazardous waste] and non-controlled waste

Textual Amendments

- F1** Words in s. 62 cross-heading substituted (E.W.) (16.7.2005) by [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, **72(1)** (with reg. 75)

62 Special provision with respect to certain dangerous or intractable waste.

[^{F2}(1) If the Secretary of State considers that controlled waste of any kind is or may be so dangerous or difficult to treat, keep or dispose of that special provision is required for dealing with it he shall make provision by regulations for the treatment, keeping or disposal of waste of that kind (“special waste”).

(2) Without prejudice to the generality of subsection (1) above, the regulations may include provision—

- (a) for the giving of directions by waste regulation authorities with respect to matters connected with the treatment, keeping or disposal of special waste;
- (b) for securing that special waste is not, while awaiting treatment or disposal in pursuance of the regulations, kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;
- (c) in connection with requirements imposed on consignors or consignees of special waste, imposing, in the event of non-compliance, requirements on any person carrying the consignment to re-deliver it as directed;

Status: Point in time view as at 17/09/2018.

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- (d) for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to a prescribed authority;
 - (e) for the keeping of records by waste regulation authorities and by persons who import, export, produce, keep, treat or dispose of special waste or deliver it to another person for treatment or disposal, for the inspection of the records and for the furnishing by such persons to waste regulation authorities of copies of or information derived from the records;
 - (f) for the keeping in the register under section 64(1) below of copies of such of those records, or such information derived from those records, as may be prescribed;
 - (g) providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence, which shall not exceed, on summary conviction, a fine at level 5 on the standard scale and, on conviction on indictment, imprisonment for a term of two years or a fine or both.
- (3) Without prejudice to the generality of subsection (1) above, the regulations may include provision—
- [^{F3}(a) for the supervision by waste regulation authorities—
 - (i) of activities authorised by virtue of the regulations or of activities by virtue of carrying on which persons are subject to provisions of the regulations, or
 - (ii) of persons who carry on activities authorised by virtue of the regulations or who are subject to provisions of the regulations,
 and for the recovery from persons falling within sub-paragraph (ii) above of the costs incurred by waste regulation authorities in performing functions conferred upon those authorities by the regulations;]
 - (b) as to the recovery of expenses or other charges for the treatment, keeping or disposal or the re-delivery of special waste in pursuance of the regulations;
 - (c) as to appeals to the Secretary of State from decisions of waste regulation authorities under the regulations.
- [^{F4}(3A) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).]
- (4) In the application of this section to Northern Ireland “waste regulation authority” means [^{F5}the Department of the Environment for Northern Ireland].]

Extent Information

E1 S. 62: for extent of s. 62(2)(e) to Northern Ireland see s. 164(4)

Textual Amendments

- F2** S. 62 omitted (E.W.) (16.7.2005) by virtue of [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, **72(2)** (with reg. 75)
- F3** S. 62(3)(a) substituted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 80(2)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**
- F4** S. 62(3A) added (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 80(3)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F5** Words in s. 62(4) substituted (17.9.1998) by S.I. 1997/2778 (N.I. 19), art. 83(1), **Sch. 5 para. 4**; S.R. 1998/288, **art. 2**

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Modifications etc. (not altering text)

- C1** S. 62(3)(c): power to delegate functions conferred (1.4.1996) by 1995 c. 25, s.114 (with ss. 7(6), 115, 117); S.I. 1995/186, art.3

[^{F6}62A Lists of waste displaying hazardous properties

- (1) The Secretary of State shall by regulations list any controlled waste in England which—
- is not listed as a hazardous waste in the Hazardous Waste List; and
 - appears to him to display any of the properties listed in Annex III to [^{F7}Directive 2008/98/EC][^{F8}, as last amended by Council Regulation (EU) 2017/997].
- (2) The National Assembly for Wales shall by regulations list any controlled waste in Wales which—
- is not listed as a hazardous waste in the Hazardous Waste List; and
 - appears to it to display any of the properties listed in Annex III to [^{F9}Directive 2008/98/EC][^{F10}, as last amended by Council Regulation (EU) 2017/997].
- [^{F11}(3) In this section “the Hazardous Waste List” means the list of wastes established by [^{F12}Commission Decision 2000/532/EC, as amended from time to time].]
- (4) Regulations under subsection (2) shall be made by statutory instrument but section 161(2) shall not apply to regulations under that subsection.]

Textual Amendments

- F6** S. 62A inserted (E.W.) (16.7.2005) by [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, **72(3)** (with reg. 75)
- F7** Words in s. 62A(1)(b) substituted (1.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1360\)](#), regs. 1(1), **2(a)** (with Sch. 2)
- F8** Words in s. 62A(1)(b) inserted (17.9.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) Regulations 2018 \(S.I. 2018/942\)](#), regs. 1(2), **2**
- F9** Words in s. 62A(2)(b) substituted (1.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1360\)](#), regs. 1(1), **2(a)** (with Sch. 2)
- F10** Words in s. 62A(2)(b) inserted (W.) (5.7.2018) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/721\)](#), regs. 1(2), **2**
- F11** S. 62A(3) substituted (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), reg. 1(2), **Sch. 4 para. 3(7)(b)** (with regs. 2, 47(2))
- F12** Words in s. 62A(3) substituted (1.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/1360\)](#), regs. 1(1), **2(b)** (with Sch. 2)

63 Waste other than controlled waste.

- (1) [^{F13}The Secretary of State may, after consultation with such bodies as he considers appropriate, make regulations providing that prescribed provisions of this Part shall have effect in a prescribed area—
- as if references in those provisions to controlled waste or controlled waste of a kind specified in the regulations included references to such waste as is mentioned in section 75(7)(c) below which is of a kind so specified; and
 - with such modifications as may be prescribed;

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and the regulations may make such modifications of other enactments as the Secretary of State considers appropriate.]

^{F14}[^{F15}(2) A person who deposits, or knowingly causes or knowingly permits the deposit of, any waste—

- (a) which is not controlled waste, but
- (b) which, if it were controlled waste, would be special waste,

in a case where he would be guilty of an offence under section 33 above if the waste were special waste and any waste management licence were not in force, shall, subject to subsection (3) below, be guilty of that offence and punishable as if the waste were special waste.]

(3) [^{F16}No offence is committed by virtue of subsection (2) above if the act charged was done under and in accordance with any consent, licence, approval or authority granted under any enactment (excluding any planning permission under the enactments relating to town and country planning).]

(4) [^{F13}Section 45(2) and section 47(1) above shall apply to waste other than controlled waste as they apply to controlled waste.]

[^{F17}(5) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

Textual Amendments

- F13** S. 63(1)(4) repealed (E.W.) (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), **reg. 2(5)**
- F14** S. 63(2)(3) omitted (E.W.) (16.7.2005) by virtue of [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, **73** (with reg. 75)
- F15** S. 63(2) substituted (1.4.2015 for S.) by [Environment Act 1995 \(c. 25\)](#), s. 125(3), **Sch. 22 para. 81** (with ss. 7(6), 115, 117); [S.S.I. 2015/73](#), art. 2(1)
- F16** S. 63(2)(3) omitted (E.W.) (16.7.2005) by virtue of [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, **73** (with reg. 75)
- F17** S. 63(5) added (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 40(4)**; [S.S.I. 2014/160](#), art. 2(1)(2), sch.

Modifications etc. (not altering text)

- C2** S. 63(1) applied (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), **20(7)** (with s. 20(10))
- C3** S. 63(1) applied (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), **22(7)** (with s. 22(10))

Commencement Information

- I1** S. 63 partly in force; s. 63 not in force at Royal Assent see s. 164(3); s. 63(1) in force at 18.2.1993 by [S.I. 1993/274](#), **art. 2(1)**

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