

2003 No. 595

ENVIRONMENTAL PROTECTION, ENGLAND

**The Waste Management Licensing (Amendment)
(England) Regulations 2003**

<i>Made</i> - - - - -	<i>9th March 2003</i>
<i>Laid before Parliament</i>	<i>10th March 2003</i>
<i>Coming into force</i> - -	<i>1st April 2003</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste, in exercise of the powers conferred upon her by section 2(2) of that Act and sections 33(3) and 74(6)(c) of the Environmental Protection Act 1990(d) (having in particular had regard in exercising her powers under section 33(3) of that Act to the matters specified in section 33(4) of that Act), hereby makes the following Regulations—

Citation, commencement and territorial application

1.—(1) These Regulations may be cited as the Waste Management Licensing (Amendment) (England) Regulations 2003 and shall come into force on 1st April 2003.

(2) These Regulations apply to England only.

Amendment of the Waste Management Licensing Regulations 1994

2. The Waste Management Licensing Regulations 1994(e) are hereby amended in accordance with the following provisions of these Regulations.

(a) S.I. 1992/2870.

(b) 1972 c. 68.

(c) Section 74(6) enables regulations to be made prescribing the qualifications and experience required of a person for the purposes of the management of an activity authorised by a waste management licence granted under section 35. The qualifications and experience so prescribed are treated by regulation 4(5)(b) of S.I. 2000/1973 (which applies to England and Wales as the qualifications and experience required of a person for the purposes of technical competence to manage a waste management activity authorised by a permit under Part II of that instrument (which implements Council Directive 91/61/EC concerning integrated pollution prevention and control, O.J. No. L257, 10.10.96, p. 26). The extension of that instrument to landfills by regulation 6 of S.I. 2002/1559 (which apply to England and Wales and which implement Council Directive 99/31/EC on the landfill of waste (O.J. L182, 16.7.99, p. 1)) has the effect that the qualifications and experience prescribed pursuant to section 74(6) apply to persons managing a landfill pursuant to a landfill permit.

(d) 1990 c. 43. The relevant functions of the Secretary of State in so far as they relate to Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46); and so far as they relate to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1.

(e) S.I. 1994/1056, which apply to Great Britain. These Regulations were last amended (in relation to England and Wales) by regulation 6 of S.I. 2002/2980).

Interpretation – scrap metal dealer

3. In regulation 1(3)(a), for the definition of “scrap metal” there is substituted the following—

“scrap metal dealer” has the meaning given by section 9(1), and “scrap metal” has the meaning given by section 9(2), of the Scrap Metal Dealers Act 1964(b);”.

Technical competence

4. For regulation 4(c) there is substituted the following—

“Technical competence

4.—(1) Subject to paragraph (2) of this regulation and regulation 5 below, and without prejudice to the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002(d), Schedule 1A has effect to prescribe for the purposes of section 74(3)(b) of the 1990 Act (management of activities to be in the hands of a technically competent person) the qualifications required of a person if that person is to be considered technically competent in relation to a facility of a type listed in Table 1 of that Schedule.

(2) Paragraph (1) does not apply in relation to a facility which is used exclusively for the purpose of—

- (a) carrying on business as a scrap metal dealer;
- (b) dismantling motor vehicles; or
- (c) the burial of dead domestic pets.”.

Transitional provision

5. In regulation 5, the following paragraph is added at the end—

“(8) Where—

- (a) a person was technically competent for the purposes of section 74(3)(b) of the 1990 Act in relation to a description of facility immediately prior to the coming into force of the Waste Management Licensing (Amendment) (England) Regulations 2003 (“the 2003 Regulations”) (whether or not the management of a facility of that description was in the hands of that person at that time); and
- (b) that person would, in order to manage a facility of that description, be required to obtain a new certificate in order to remain technically competent in relation thereto as a result of the 2003 Regulations,

then, until the expiry of two years commencing on the coming into force of the 2003 Regulations that person shall be treated as technically competent in relation to a facility of that description for the purposes of section 74(3)(b) of the 1990 Act.”.

Insertion of Schedule 1A – Certificates of Technical Competence

6. There is inserted into the Waste Management Licensing Regulations 1994 after Schedule 1 the schedule set out in the Schedule to these Regulations.

Michael Meacher

Minister of State,

9th March 2003

Department for Environment, Food and Rural Affairs

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- (a) There are amendments to regulation 1(3) not relevant to this amendment.
 - (b) 1964 c. 69. Section 9(1) was amended by section 43 of, and paragraph 2 of the Schedule to, the Vehicles (Crime) Act 2001 (c. 3). There are other amendments to that Act not relevant to these Regulations.
 - (c) Regulation 4 was amended by S.I. 1996/634 and 1997/2203.
 - (d) S.I. 2002/2934, implementing Council Directive 92/51/EEC on a second general system for the recognition of professional education and training. Part 1 of Schedule 2 (Professions Regulated by Law or Public Authority) designates WAMITAB as the authority for certified technically competent persons.

“SCHEDULE 1A

CERTIFICATES OF TECHNICAL COMPETENCE

1. The qualifications required of a person if he is to be regarded as technically competent for the purposes of section 74(3)(b) of the 1990 Act to manage a facility of a description listed in Table 1 are that that person must hold one of the certificates awarded by the Waste Management Industry Training and Advisory Board(a) the codes of which are specified in relation to that description of facility in that Table; and the certificates to which the codes refer are set out in Table 2.

Table 1

Number	Type of Facility	Certificate Code
1	Landfill site for hazardous waste	A, D or G
2	Landfill site for hazardous waste—single waste stream	A, D, G or H
3	Landfill site for non-hazardous waste	A, B, D, E, G or I
4	Landfill site for non-hazardous waste—single waste stream	A, B, D, E, G, H, I or J
5	Landfill site for inert waste with a total capacity of greater than 50,000 cubic metres	A, B, C, D, E, F, G, I or K
6	Landfill site for inert waste with a total capacity of greater than 50,000 cubic metres—single waste stream	A, B, C, D, E, F, G, H, I, J, K or L
7	Closed landfill site for hazardous waste	A, D, G or M
8	Closed landfill site for hazardous waste—single waste stream	A, D, G, H or M
9	Closed landfill site for non-hazardous waste	A, B, D, E, G, I or M
10	Closed landfill site for non-hazardous waste—single waste stream	A, B, D, E, G, H, I, J or M
11	Closed landfill site for inert waste with a total capacity of greater than 50,000 cubic metres	A, B, C, D, E, F, G, I, K or M
12	Closed landfill site for inert waste with a total capacity of greater than 50,000 cubic metres—single waste stream	A, B, C, D, E, F, G, H, I, J, K, L or M
13	Treatment plant where hazardous waste is subjected to a chemical or physical process	N, P or S
14	Treatment Plant where hazardous clinical waste is subjected to a physical or chemical process	N, P, S or Ss
15	Treatment plant where hazardous waste is subjected to a chemical or physical process for the treatment of contaminated land	N, P, S or T
16	Treatment plant where non-hazardous waste is subjected to a chemical or physical process	N, P, Q, S or U
17	Treatment plant where non-hazardous waste is subjected to a composting process	N, P, Q, S, U or W
18	Treatment plant where non-hazardous waste is subjected to a chemical or physical process for the treatment of contaminated land	N, P, Q, S, T, U or V

(a) WAMITAB is a private law body which was set up by the waste management industry.

Number	Type of Facility	Certificate Code
19	Treatment plant where non-hazardous clinical waste is subjected to a chemical or physical process	N, P, S, Ss or X
20	Treatment plant where inert waste is subjected to a chemical or physical process	N, O, P, Q, R, S, U or Y
21	Transfer station for hazardous waste where the capacity of the facility is greater than 5 cubic metres	Z, DD or II
22	Transfer station for hazardous clinical waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, II or JJ
23	Transfer station for non-hazardous waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, EE, II or KK
24	Transfer station for non-hazardous clinical waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, II, JJ or LL
25	Transfer station for inert waste where the capacity is greater than 50 cubic metres	Z, AA, DD, EE, FF, II, KK or MM
26	Civic amenity site where the amount of waste accepted is 5000 tonnes per annum or less	Z, BB, DD, EE, GG, II, KK or NN
27	Civic amenity site where the amount of waste accepted is greater than 5000 tonnes per annum	Z, DD, EE, II or KK
28	Site where waste is burned in an incinerator designed to incinerate waste at a rate of more than 50 kilograms per hour but less than 1 tonne per hour	CC, HH or OO

Notes to table 1:

The following certificates ceased to be awarded on 9th October 1997: A, B, C, N, O, Z, AA, BB, and CC. The following certificates will cease to be awarded on 31st March 2003: D, E, F, P, Q, R, DD, EE, FF, GG, and HH.

Table 2

Code	Relevant Certificate of Technical Competence
A	Managing Landfill Operations: Special Waste (Level IV)
B	Managing Landfill Operations: Biodegradable Waste (Level IV)
C	Landfill Operations: Inert Waste (Level III)
D	Managing Landfill Operations: Special Waste (Level 4)
E	Managing Landfill Operations: Biodegradable Waste (Level 4)
F	Landfill Operations: Inert Waste (Level 3)
G	Level 4 in Waste Management Operations—Managing Landfill Hazardous Waste
H	Level 4 in Waste Management Operations—Managing Landfill Hazardous Waste (Single Waste Stream)
I	Level 4 in Waste Management Operations—Managing Landfill Non-Hazardous Waste
J	Level 4 in Waste Management Operations—Managing Landfill Non-Hazardous Waste (Single Waste Stream)
K	Level 3 in Waste Management Operations—Inert Waste (landfill)

Code	Relevant Certificate of Technical Competence
L	Level 3 in Waste Management Operations—Inert Waste (Single Waste Stream)
M	Level 3 in Waste Management Operations—Closed Landfill
N	Managing Treatment Operations: Special Waste (Level IV)
O	Treatment Operations: Inert Waste (Level III)
P	Managing Treatment Operations: Clinical or Special Waste (Level 4)
Q	Managing Treatment Operations: Biodegradable Waste (Level 4)
R	Treatment Operations: Inert Waste (Level 3)
S	Level 4 in Waste Management Operations—Managing Treatment Hazardous Waste
Ss	Level 4 in Waste Management Operations—Managing Treatment Hazardous Waste (Clinical)
T	Level 4 in Waste Management Operations—Managing Treatment Hazardous Waste (Remediation of Contaminated Land)
U	Level 4 in Waste Management Operations—Managing Treatment Non-Hazardous Waste
V	Level 4 in Waste Management Operations—Managing Treatment Non-Hazardous Waste (Remediation of Contaminated Land)
W	Level 4 in Waste Management Operations—Managing Treatment Non-Hazardous Waste (Composting)
X	Level 4 in Waste Management Operations—Managing Treatment Non-Hazardous Waste (Clinical)
Y	Level 3 in Waste Management Operations—Inert Waste (Treatment)
Z	Managing Transfer Operations: Special Waste (Level IV)
AA	Transfer Operations: Inert Waste (Level III)
BB	Civic Amenity Site Operations (Level III)
CC	Managing Incineration Operations: Special Waste (Level IV)
DD	Managing Transfer Operations: Clinical or Special Waste (Level 4)
EE	Managing Transfer Operations: Biodegradable Waste (Level 4)
FF	Transfer Operations: Inert Waste (Level 3)
GG	Civic Amenity Site Operations: (Level 3)
HH	Managing Incinerator Operations: Special Waste (Level 4)
II	Level 4 in Waste Management Operations: Managing Transfer Hazardous Waste
JJ	Level 4 in Waste Management Operations: Managing Transfer Hazardous Waste (Clinical)
KK	Level 4 in Waste Management Operations: Managing Transfer Non-Hazardous Waste

Code	Relevant Certificate of Technical Competence
LL	Level 4 in Waste Management Operations: Managing Transfer Non-Hazardous Waste (Clinical)
MM	Level 3 in Waste Management Operations: Inert Waste (Transfer)
NN	Level 3 in Waste Management Operations: Civic Amenity Site
OO	Level 4 in Waste Management Operations: Managing Incineration

2.—(1) In Table 1 above—

“civic amenity site” means a place provided under section 1 of the Refuse Disposal (Amenity) Act 1978(a) or by virtue of section 51(1)(b) of the 1990 Act;

“clinical waste” means—

- (a) any waste which consists wholly or partly of human or animal tissue, blood or other body fluids, excretions, drugs or other pharmaceutical products, swabs or dressings, or syringes, needles or other sharp instruments, being waste which unless rendered safe may prove hazardous to any person coming into contact with it; and
- (b) any other waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or research, or the collection of blood for transfusion, being waste which may cause infection to any person coming into contact with it;

“closed landfill site” means a landfill site—

- (a) which ceased to accept waste before 16th July 2001; or
- (b) in relation to which the Environment Agency has, pursuant to regulation 15(4)(b)(iii) of the Landfill (England and Wales) Regulations 2002(b), notified the operator by notice in writing served on the operator that it approves the closure,

and in relation to a landfill site where sub-paragraph (a) or (b) applies to only part of the site, means that part of the site only;

“hazardous waste” means—

- (a) Directive waste which is hazardous waste within the meaning of Article 1(4) of Council Directive 91/689/EEC(c) on hazardous waste (the “Hazardous Waste Directive”), as amended by Council Directive 94/31/EC(d); and
- (b) medicinal waste, that is to say, any waste medicinal product which is not domestic waste within the meaning of the Hazardous Waste Directive,

and in this definition, “medicinal product” means a product as defined in section 130 of the Medicines Act 1968(e) (meaning of “medicinal product” and related expressions) of a description, or falling within a class, specified in an order under section 58 of that Act(f) (medicinal products on prescription only);

“landfill site” means a waste disposal site for the deposit of waste onto or into land, including—

- (a) subject to sub-paragraph (b), any site which is used for more than a year for the temporary storage of waste; and
- (b) any internal waste disposal site, that is to say a site where a producer of waste is carrying out its own waste disposal at the place of production;

but excluding—

- (i) any facility where waste is unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere;
- (ii) any site where waste is stored as a general rule for a period of less than three years prior to recovery or treatment; and
- (iii) any site where waste is stored for a period of less than one year prior to disposal;

“non-hazardous waste” means any waste which is not covered by the definition of hazardous waste;

“single waste stream” in relation to a waste disposal site refers to a site where the producer of all of the waste disposed of at that site is also the holder of the waste management licence for that site; and

“transfer station” means a facility where waste is unloaded in order to permit its preparation for further transport for treatment, keeping or disposal elsewhere.

(a) 1978 c. 3.

(b) S.I. 2002/1559.

(c) O.J. No. L377, 31.12.1991, p. 20.

(d) O.J. No. L168, 2.7.1994, p. 28.

(e) 1968 c. 67; section 130 was amended by paragraph 3(7) to (10) of Schedule 1, and Schedule 2, to the Animal Health and Welfare Act 1984 (c. 40).

(f) Section 58 was amended by section 1 of the Medicinal Products: Prescription by Nurses etc. Act 1992 (c. 28).

- (2) Waste is inert waste if—
- (a) it does not undergo any significant physical, chemical or biological transformations;
 - (b) it does not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health; and
 - (c) its total leachability and pollutant content and the ecotoxicity of its leachate are insignificant and, in particular, do not endanger the quality of any surface water or groundwater.”.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations make provision for the qualifications to be required of a person to manage activities authorised by a waste management licence if the holder of the licence is to be considered a fit and proper person pursuant to section 74 of the Environmental Protection Act 1990 (c. 43).

The qualifications recognised for the purposes of section 74 are treated by regulation 4(5)(b) of the Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973) as those recognised for the purposes of permits for a waste management activity granted pursuant to those Regulations. These permits include landfill permits granted pursuant to the Landfill (England and Wales) Regulations 2002 (S.I. 2002/1559).

Qualifications are granted by the Waste Management Industry Training and Advisory Board (WAMITAB), Peterbridge House, 3 The Lakes, Northampton, NN4 7HE (Tel: 01604 231950, Fax: 01604 232457, Email: info.admin@wamitab.org.uk, website www.wamitab.org.uk).

These Regulations replace regulation 4 (technical competence) of the Waste Management Licensing Regulations 1994 (S.I. 1994/1056 (“the principal Regulations”), as amended in relation to Great Britain by S.I. 1996/972 and England and Wales by S.I. 2000/1973) thereby giving recognition to changes in the system of WAMITAB certificates with effect from 1st April 2003 (regulation 4).

A new paragraph (8) is added to regulation 5 (transitional provisions) of the principal Regulations (regulation 5). This enables a person who is, immediately before these Regulations come into force, technically competent in relation to a description of facility (whether or not that person manages a facility of that description at the time) to remain technically competent in relation to facilities of that description for two years following the coming into force of these Regulations.

A new Schedule 1A to the principal Regulations is introduced, setting out the facilities for the management of which WAMITAB certificates are required and the appropriate range of certificates for each type of facility (regulation 6 and the Schedule).

There is a drafting amendment to regulation 1(3) of S.I. 1994/1056; a definition of “scrap metal dealer” is provided (regulation 3).

£2.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0280 4/2003 130280 19585

ISBN 0-11-045722-6



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