

This Statutory Instrument supersedes S.I. 2005/1528 published on 21st June 2005 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2005 No. 1728

**ENVIRONMENTAL PROTECTION, ENGLAND AND
WALES**

**The Waste Management Licensing (England and
Wales)(Amendment and Related Provisions)(No. 3) Regulations
2005**

Made - - - - - 29th June 2005

Laid before Parliament 29th June 2005

Coming into force in accordance with regulation 1(2)

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 on her by section 2(2) of that Act and sections 29(10) and 64(1) and (8) of the Environmental Protection Act 1990(c) makes the following Regulations:

Citation, commencement and territorial application

1.—(1) These Regulations may be cited as the Waste Management Licensing (England and Wales)(Amendment and Related Provisions)(No.3) Regulations 2005.

(2) These Regulations shall come into force—

(a) for the purposes of the revocation of regulations 3 to 22 of the Waste Management Licensing (England and Wales)(Amendment and Related Provisions)(No.2) Regulations 2005(d), on 30th June 2005;

(b) for all other purposes, on 1st July 2005 (“the amendment date”).

(3) These Regulations extend to England and Wales but regulation 6 applies to England only.

(a) S.I. 1992/2870.

(b) 1972 c.68.

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

(d) S.I. 2005/1528.

Revocation of the Waste Management Licensing (England and Wales)(Amendment and Related Provisions)(No.2) Regulations 2005

2. The Waste Management Licensing (England and Wales)(Amendment and Related Provisions)(No.2) Regulations 2005(a) are revoked.

Amendment of the Environment Act 1995

3.—(1) The Environment Act 1995(b) is amended as follows.

(2) In section 56(1) in the definition of “environmental licence” which applies in the application of Part 1 of that Act in relation to the Environment Agency, in paragraph (j) after “in respect of”, insert “an activity which requires notification under regulation 18AA of those Regulations or”.

Amendment of the Waste Management Licensing Regulations 1994

4.—The Waste Management Licensing Regulations 1994(c) are amended in accordance with regulations 5 to 18.

Amendment of regulation 1: interpretation

5. In regulation 1(3) insert at the appropriate place—

““internal drainage board” has the meaning given by section 1(1) of the Land Drainage Act 1991(d); and

“notifiable exempt activity” means an exempt activity falling within paragraph 7A, 8A, 9A, 10A, 19A or 46A of Schedule 3 to these Regulations”.

Amendment of regulations 10 and 12: public registers and mobile plant

6.—(1) In regulation 10, in paragraph (1)(g)—

(a) omit paragraph (i); and

(b) at the end insert—

“(iv)the scores which result from any risk appraisal relating to a site which is the subject of a waste management licence;”.

(2) In regulation 12, in paragraph (1)—

(a) for sub-paragraph (d) substitute—

“(d) plant for the treatment of clinical waste;”;

(b) after sub-paragraph (e) insert—

“(f) plant for the dewatering of muds, sludges, soils and dredgings;

(g) plant for the treatment by lime stabilisation of sludge;

(h) plant for the treatment of contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters;”;

(c) after paragraph (2) insert—

“(3) For the purposes of paragraph (1)(h) above “controlled waters” has the meaning given by section 104 of the Water Resources Act 1991(e)”.

(a) S.I. 2005/1528.

(b) 1995 c. 25.

(c) S.I. 1994/1056; relevant amending instruments are S.I. 1995/288, S.I. 1996/593, S.I. 1996/634, S.I. 1996/972, S.I. 1998/606, S.I. 2000/1973 and S.I. 2002/1559.

(d) 1991 c.59.

(e) 1991 c.57.

Amendment of regulation 17: exemptions from waste management licensing

7. In regulation 17—

(a) in paragraph (2), for the list of paragraphs of Schedule 3, substitute “4, 7A, 8A, 8B, 9A, 11, 13, 14, 15, 17, 18, 19A, 25, 37, 40, 41, 45 or 46A”; and

(b) after paragraph (5) insert—

“(5A) It shall be the duty of each appropriate registration authority (as defined in regulation 18(10)) to have regard to any guidance issued to it by the Secretary of State with respect to the discharge of its functions in relation to any exempt activity.”.

Amendment of regulation 18: registration in connection with exempt activities

8.—(1) In regulation 18—

(a) in paragraph (1), for “, (1B) and (7)” substitute “and (1B)”

(b) in paragraph (4), after “undertaking” insert “carrying on an exempt activity other than a notifiable exempt activity”;

(c) insert before paragraph (6)—

“(5A) The duty to maintain a register in paragraph (2) above includes the duty to remove an entry in relation to an establishment or undertaking if—

(a) the appropriate registration authority has become aware that the undertaking or establishment has ceased to carry on the relevant activity;

(b) the activity is not being carried on in compliance with the conditions or limitations of the relevant paragraph in Schedule 3; or

(c) regulation 17(1) is disappplied in relation to the activity by virtue of any of the provisions in regulation 17(1A) to (4).”

(d) in paragraph (6), for sub-paragraphs (a) and (b) substitute—

“(a) in the case of a notifiable exempt activity, level 3 on the standard scale; and

(b) in any other case, level 2 on the standard scale.”; and

(e) omit paragraph (7).

Supervision of exempt activities

9. After regulation 18 insert—

“Supervision of exempt activities

18AA.—(1) An establishment or undertaking which wishes to be registered as carrying on a notifiable exempt activity must provide to the appropriate registration authority—

(a) a notice of its relevant particulars and such other information as the authority reasonably requires in relation to the activity as indicated on a form provided for the purpose by the authority;

(b) such plans and other documents as the authority reasonably requires;

(c) the quantity of waste to be disposed of or recovered; and

(d) any applicable charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995.

(2) For the purposes of paragraph (1), the total area covered by a notice in relation to any exempt activity falling within paragraph 7A of Schedule 3 shall not exceed 50 hectares.

(3) The information required under paragraph (1) above shall include a certificate prepared by a person with appropriate technical expertise containing such evidence as can reasonably be expected to demonstrate that, in relation to an exempt activity falling within paragraphs 7A, 8A or 9A(1)(b) of Schedule 3, the activity will result in benefit to

agriculture or ecological improvement and will be consistent with the need to attain the objectives mentioned in paragraph 4(1)(a) of Part 1 of Schedule 4.

(4) Where it receives notification pursuant to paragraph (1), the appropriate registration authority shall—

- (a) enter the relevant particulars in the register; or
- (b) before the end of the relevant period refuse to enter the relevant particulars in the register (such decision, and the reasons for it, to be set out in writing and served on the establishment or undertaking).

(5) An establishment or undertaking which carries on a notifiable exempt activity and wishes to maintain its entry on the register must, within 12 months of the date that the particulars were entered or last renewed, provide to the appropriate registration authority a renewal notice including—

- (a) a notice confirming that it continues to carry on the exempt activity together with such other information as the authority reasonably requires in relation to the activity as indicated on a form provided for that purpose by the authority;
- (b) such plans or other documents as the authority may reasonably require;
- (c) the quantity of waste to be disposed of or recovered; and
- (d) any applicable charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995.

(6) An establishment or undertaking which wishes to dispose of or recover a quantity of waste which exceeds the amount notified by it to the appropriate registration authority shall provide a revised notification under paragraph (1) (including any applicable charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995).

(7) The appropriate registration authority shall remove from the register an entry in relation to an establishment or undertaking which carries on a notifiable exempt activity if—

- (a) it has not received a renewal notice in accordance with paragraph (5) within 12 months of the date on which the particulars were entered into the register or were last renewed; or
- (b) it has decided to refuse to renew a registration in response to such a notice within the relevant period (such decision, and the reasons for it, to be set out in writing and served on the establishment or undertaking).

(8) Subject to paragraph (9), an establishment or undertaking carrying on a notifiable exempt activity shall keep records of the quantity, nature, origin, and where relevant destination and treatment method of all waste disposed of or recovered in the course of that activity.

(9) Paragraph (8) does not apply in relation to the carrying on of an exempt activity under—

- (a) paragraph 9A of Schedule 3 at any place where the quantity of waste recovered in reliance on the exemption at that place is less than 2,500 cubic metres; or
- (b) paragraph 19A of Schedule 3 at any place where the quantity of waste recovered in reliance on the exemption at that place is less than 2,500 tonnes.

(10) Records kept under paragraph (8) shall be kept for a period of at least two years in such form as to show for each month the total quantity of waste disposed of or recovered at that place during that month, and during those two years shall be made available to the appropriate registration authority on request.

(11) An establishment or undertaking which carries on an exempt activity in breach of paragraph (6), (8) or (10) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(12) In this regulation, “the relevant period” means the period of 35 days beginning with the date of receipt of the notice by the authority (or such longer period as the appropriate registration authority and establishment or undertaking may agree in writing). ”.

Land treatment

10. For paragraph 7 of Schedule 3 substitute—

“7A.—(1) The treatment of land used for agriculture with any kind of waste specified from the corresponding source specified in Table 2(A)A where such treatment results in benefit to agriculture or ecological improvement.

(2) The treatment with any of the kinds of wastes listed in Part 1 of Table 2(A)A of—

- (a) operational land of a railway, light railway, water undertaker, internal drainage board, British Waterways Board or the Environment Agency (where in relation to an internal drainage board “operational land” means land which is held for the purpose of carrying out its functions as an internal drainage board); or
- (b) land which is a forest, woodland, park, garden, verge, landscaped area, sports ground, recreation ground, churchyard or cemetery,

where the land in question is not used for agriculture and such treatment results in ecological improvement.

Table 2(A)A

Source of Waste	Kind of Waste
PART 1	
Wastes from forestry, aquaculture, horticulture and fishing	Plant-tissue waste
Wastes from sugar processing	Soil from cleaning and washing beet
Wastes from wood processing and the production of panels and furniture	Waste bark and cork Sawdust shavings, cuttings, wood and particle board
Wastes from pulp, paper and cardboard production and processing	Waste bark and wood, pulp from virgin timber
Soil (excluding excavated soil from contaminated sites), stones and dredging spoil	Soil and stones
Wastes from aerobic treatment of solid wastes	Compost of biodegradable garden and park waste
Garden and park wastes (including cemetery waste)	Biodegradable waste Soil and stones
PART 2	
Wastes from the preparation and processing of meat, fish and other foods of animal origin	Blood and gut contents from abattoirs, poultry preparation plants or fish preparation plants Wash waters and sludges (with or without treatment) from abattoirs, poultry preparation plants or fish preparation plants Shells from shellfish processing
Wastes from fruit, vegetables, cereals, edible oils, cocoa, coffee, tea and tobacco preparation and processing; conserve production; yeast and yeast extract production, molasses preparation and fermentation	All wastes derived from the processing of such materials
Wastes from sugar processing	All wastes derived from the processing of sugar
Wastes from the dairy products industry	Wastes derived from the processing of dairy

	products
Wastes from the baking and confectionery industry	All wastes derived from the processing of raw materials used in the baking and confectionery industry
Wastes from the production of alcoholic and non-alcoholic beverages (except coffee, tea and cocoa)	All wastes derived from the processing of the raw materials used in the production of such beverages
Wastes from pulp, paper and cardboard production and processing	De-inked paper sludge and de-inked paper pulp from paper recycling Lime mud waste
Wastes from the leather and fur industry	Sludges from on-site effluent treatment free of chromium
Wastes from the textile industry	Organic matter from natural products Wastes from finishing other than those containing organic solvents Sludges from on-site effluent treatment Wastes from textile fibres
Wastes from the manufacture of cement, lime and plaster and articles and products made from them	Wastes from calcinations and hydration of lime Gypsum
Wastes from power stations and other combustion plants	Gypsum
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Dredging spoil (other than those containing dangerous substances)
Wastes from aerobic treatment of waste	Compost derived from source segregated biodegradable waste Liquor from aerobic treatment of source segregated biodegradable waste Digestate from aerobic treatment of source segregated biodegradable waste
Wastes from anaerobic treatment of waste	Compost derived from source segregated biodegradable waste Liquor from anaerobic treatment of source segregated biodegradable waste Digestate from anaerobic treatment of source segregated biodegradable waste
Wastes from the preparation of water intended for human consumption or water for industrial use	Sludges from water clarification

(3) The secure storage, at the place where it is to be used, of not more than 1250 tonnes of waste intended to be used in reliance upon the exemption conferred by sub-paragraph (1) or (2), if—

- (a) the waste is stored at a distance of not less than—
 - (i) 10 metres from any watercourse;
 - (ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes; or
 - (iii) 250 metres from any borehole used to supply water for domestic or food production purposes;
- (b) no waste is stored within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon; and
- (c) the waste is stored for no more than twelve months.

- (4) Sub-paragraphs (1) and (2) apply only if—
- (a) in relation to—
 - (i) sugar beet soil, no more than 1,500 tonnes,
 - (ii) dredging spoil from inland waters, no more than 5,000 tonnes, or
 - (iii) any other waste, no more than 250 tonnes,
 of waste per hectare is used on the land in any period of twelve months; and
 - (b) the activity is carried on in accordance with any requirements imposed by the Animal By-Products Regulations 2003^(a).
- (5) In this paragraph “agriculture” has the same meaning as in the Agriculture Act 1947^(b).
- (6) In this paragraph, paragraph 8A and paragraph 8B below “domestic purposes” has the same meaning as in the Water Industry Act 1991^(c) and “food production purposes” has the same meaning as in Part 3 of that Act.”.

Storage and spreading of sludge

11. For paragraph 8 of Schedule 3 substitute—

- “**8A.**—(1) The treatment with sludge of land which is not agricultural land within the meaning of the 1989 Regulations if—
- (a) it results in ecological improvement, or in the case of the treatment of land used for non-food crops not grown in short term rotation with food crops, it results in benefit to agriculture;
 - (b) it does not cause the concentration in the soil of any of the elements listed in column 1 of the soil table set out in Schedule 2 to the 1989 Regulations to exceed the limit specified in column 2 of the table; and
 - (c) no more 250 tonnes of sludge per hectare is used on the land in any period of twelve months.
- (2) The storage in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place) of sludge intended to be used for land treatment in reliance upon the exemption conferred by sub-paragraph (1) if—
- (a) the sludge is stored at the place where it is to be used;
 - (b) no sludge is stored at a distance less than—
 - (i) 10 metres from any watercourse;
 - (ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes;
 - (iii) 250 metres from any borehole used to supply water for domestic or food production purposes;
 - (c) no sludge is stored within a zone defined by a 50 day travel time for groundwater to reach a groundwater source used to supply water for domestic or food production purposes;
 - (d) no sludge is stored within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon;
 - (e) no sludge is stored for a period of more than twelve months; and
 - (f) no more than 1,250 tonnes of sludge is stored at any one time.
- (4) In this paragraph and paragraph 8B below—

(a) S.I2003/1482.
 (b) 1947 c.48.
 (c) 1991 c.56.

- (a) “the 1989 Regulations” means the Sludge (Use in Agriculture) Regulations 1989(a); and
- (b) “sludge” (in relation to sewage) has the meaning given by regulation 2(1) of the 1989 Regulations.

8B. The storage in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place) of sludge which is to be used in accordance with the 1989 Regulations if—

- (a) the sludge is stored at the place where it is to be used;
- (b) no sludge is stored at a distance less than—
 - (i) 10 metres from any watercourse;
 - (ii) 50 metres from any spring or well, or from any borehole not used to supply water for domestic or food production purposes;
 - (iii) 250 metres from any borehole used to supply water for domestic or food production purposes;
- (c) no sludge is stored within a zone defined by a 50 day travel time for groundwater to reach a groundwater source used to supply water for domestic or food production purposes;
- (d) no sludge is stored within 0.3 metres of the top of an open storage container or within 0.75 metres of the top of an earthbank tank or lagoon;
- (e) no sludge is stored for a period of more than twelve months; and
- (f) no more than 1,250 tonnes of sludge is stored at any one time.”.

Reclamation or improvement of land

12. For paragraph 9 of Schedule 3 substitute—

“**9A.**—(1) Subject to sub-paragraph (2)—

- (a) the spreading of any kind of wastes from the corresponding source listed in Part 1 of Table 2AA on any land; or
- (b) the spreading of any kind of waste from the corresponding source listed in Part 2 of the Table on any land where that activity results in benefit to agriculture or ecological improvement.

Table 2AA

Source of Waste	Kind of Waste
PART 1	
Wastes from physical and chemical processing of non-metalliferous minerals	Waste gravel and crushed rocks Waste sand and clays
Wastes from sugar processing	Soil from cleaning and washing beet
Wastes from power stations and other combustion plants (except wastes from waste management facilities, off-site waste water treatment plants and the preparation of water intended for human consumption and water for industrial use)	Pulverised fuel ash, bottom ash and slag

(a) S.I. 1989/1263, amended by S.I. 1990/880.

Wastes from manufacture of ceramic goods, bricks, tiles and construction products	Waste ceramics, bricks, tiles and construction products (after thermal processing)
Wastes from manufacture of cement, lime and plaster and articles and products made from them	Waste concrete and concrete sludge
Concrete, bricks, tiles and ceramics	Bricks Tiles and ceramics Mixtures of concrete, bricks, tiles and ceramics
Wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, palletising) not otherwise specified.	Minerals (for example sand, stones)
Wastes from soil and groundwater remediation	Solid wastes from soil remediation (other than those containing dangerous substances)
Garden and park wastes (including cemetery waste)	Soil and stones
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Track ballast other than those containing dangerous substances
PART 2	
Wastes from pulp, paper and cardboard production and processing	De-inked paper sludge and de-inked paper pulp Lime mud waste
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Soil and stones other than those containing dangerous substances Dredging spoil other than those containing dangerous substances
Wastes from aerobic treatment of solid wastes	Compost
Wastes from waste water treatment plants	Sludges from treatment of urban waste water
Wastes from the preparation of water intended for human consumption or water for industrial use.	Sludges from water clarification
Wastes from soil and groundwater remediation	Sludges from soil remediation (other than those containing dangerous substances)

(2) Sub-paragraph (1) applies only where—

- (a) the waste is spread for the purpose of reclamation, restoration or improvement of land which has been subject to industrial or other man-made development, and the use to which that land could be put would be improved by the spreading;
- (b) the waste is spread in accordance with any requirement in or under the Town and Country Planning Act 1990(a);
- (c) the waste is spread to a depth not exceeding the lesser of 2 metres or the final cross-sections shown on a plan submitted under regulation 18AA of these Regulations; and
- (d) no more than 20,000 cubic metres of waste is spread per hectare.

(3) The secure storage for a period not exceeding six months, at the place where it is to be spread, of waste intended to be spread in reliance upon sub-paragraph (1).”.

(a) 1990 c.8.

Recovery operations at water and sewage treatment works

13. For paragraph 10 of Schedule 3 substitute—

“10A.—(1) The treatment within the curtilage of a water treatment works of—

- (a) sludges from water clarification;
- (b) sludges from decarbonation solutions;
- (c) sludges from regeneration of solutions and ion exchanges; and
- (d) waste water and bore-hole flushings,

arising from water treatment at the works if the total quantity of waste which is treated in any period of twelve months does not exceed 10,000 cubic metres.

(2) The secure storage of waste intended to be submitted to the activities mentioned in sub-paragraph (1) if that storage is at the works where the waste is produced.

(3) Subject to sub-paragraphs (4) and (5)—

- (a) any recovery operation carried on within the curtilage of a sewage treatment works (other than the recovery of sewage, sludge or septic tank sludge as an integral part of the operation of those works) in relation to any of the kinds of wastes from the sources listed in Table 2AB; and
- (b) the secure storage within the curtilage of a sewage treatment works of such waste intended to be recovered in reliance upon the exemption conferred by sub-paragraph (a).

Table 2AB

Source of Waste	Kind of Waste
Wastes from other sewage treatment works	Screenings Sludges from treatment of urban waste water
Other municipal wastes	Septic tank sludge Cesspool waste and other sewage sludge Waste from sewage cleaning
Wastes from the preparation of water intended for human consumption or for industrial use	Sludges from water clarification Sludges from decarbonation Solutions and sludges from regeneration of ion exchangers

(4) The total quantity of waste brought to a sewage treatment works in any period of 12 months shall not exceed 100,000 cubic metres.

(5) The activity shall be carried out on an area with an impermeable pavement capable of containing any spillage of waste received and connected to a drainage system with impermeable components which does not leak and which will ensure that—

- (a) no liquid will run off the pavement otherwise than via the system; and
- (b) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump.

(6) In this paragraph, “sludge” (in relation to sewage) and “septic tank sludge” have the same meanings as in regulation 2(1) of the Sludge (Use in Agriculture) Regulations 1989.”.

14. In paragraph 13(3) of Schedule 3 for “paragraph 7 or 9” substitute “paragraph 7A or 9A”.

15. In paragraph 15(3) of Schedule 3 for “paragraph 7, 8, 9, 19 or 25” substitute “paragraph 7A, 8A, 8B, 9A, 19A or 25”.

Storage and use of building waste

16. For paragraph 19 of Schedule 3 substitute—

“19A.—(1) The storage on a site of any of the kinds of wastes from the corresponding source listed in Table 4AB, if—

- (a) the waste in question is suitable for use for the purposes of relevant work which will be carried on at the site;
- (b) no more than 50,000 tonnes of such waste are stored at the site; and
- (b) in the case of waste which is not produced on the site, it is not stored there for longer than six months.

Table 4AB

Source of Waste	Kind of Waste
Wastes from physical and chemical processing of non-metalliferous minerals	Waste gravel and crushed rocks other than those containing dangerous substances Waste sand and clays
Wastes from sugar processing	Soil from cleaning and washing beet
Wastes from power stations and other combustion plants (except wastes from waste management facilities, off-site waste water treatment plants and the preparation of water intended for human consumption and waste for industrial use)	Bottom ash, slag and boiler dust (excluding oil fly ash and boiler dust) Pulverised fuel ash Gypsum
Wastes from the iron and steel industry	Unprocessed slag
Wastes from the casting of ferrous and non ferrous pieces	Furnace slag
Wastes from the manufacture of ceramic goods, bricks, tiles and construction pieces	Waste ceramics, bricks, tiles and construction products (after thermal processing)
Wastes from the manufacture of cement, lime and plaster and articles and products made from them	Waste concrete and concrete sludge
Concrete, bricks, tiles and ceramics	Concrete Bricks Tiles and ceramics Mixtures of concrete, bricks, tiles and ceramics
Wastes from incineration and pyrolysis of waste	Bottom ash and slag
Wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified	Minerals (for example sand, stones)
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Track ballast, soil and stones other than those containing dangerous substances Dredging spoil (unless it contains dangerous substances)*
Garden and park waste (including cemetery waste)	Soil and stones
Bituminous mixtures, coal tar and tarred products	Road base and road planings

* For the purposes of paragraphs (1) and (2), dredging spoil is only suitable for use in drainage works.

(2) The use of any kind of waste from the corresponding source listed in Table 4AB for the purposes of relevant work if—

- (a) the waste is suitable for use for those purposes;
- (b) the work is carried out in accordance with any requirement in or under the Town and Country Planning Act 1990; and
- (c) the waste is used to a depth that does not exceed the dimensions of the final cross sections shown on any plan submitted under regulation 18AA of these Regulations.

(3) The storage on a site of waste consisting of road planings and roadbase which are to be used for the purposes of relevant work carried on elsewhere if—

- (a) no more than 50,000 tonnes of such waste are stored at the site; and
- (b) the waste is stored there for no longer than six months.

(4) In this paragraph, “relevant work” means work for the construction, maintenance or improvement of—

- (a) a building, highway, railway, airport, dock or other transport facility;
- (b) recreational facilities; or
- (c) drainage

but does not include work involving land reclamation.

(5) In this paragraph “drainage” means drainage carried out for the purposes of the Land Drainage Act 1991, the Water Resources Act 1991 or the Environment Act 1995.”.

17. In paragraph 25(5) of Schedule 3—

- (a) in paragraph (b) for “7(1) or (2)” substitute 7A(1) or (2)”; and
- (b) in paragraph (c) for “paragraph 9(1)” substitute “paragraph 9A(1)”.

Burning of waste at docks

18. After paragraph 45 (recovery of scrap metal) insert—

“**46A.**—(1) Subject to sub-paragraphs (3) and (4), the burning at a dock of waste consisting of—

- (a) plant tissue waste, pursuant to a notice given under regulation 22 of the Plant Health (Great Britain) Order 1993(a);
- (b) wood of any kind used to wedge or support parts of cargo, including packing material, spacers and pallets, pursuant to a notice given under regulation 21 of the Plant Health (Forestry) (Great Britain) Order 1993(b).

(2) The storage at the dock where it was unloaded of waste intended to be burned under sub-paragraph (1).

(3) The total quantity of waste stored or burned, in any period of 24 hours, shall not exceed 15 tonnes.

(4) The waste shall be burnt on a hard-standing, within a secure location at the dock where it was unloaded.”.

Transitional provisions

19.—(1) This regulation applies to the carrying on of any exempt activity falling within paragraph 7, 8, 9, 10, or 19 of Schedule 3 to the Waste Management Licensing Regulations 1994

(a) S.I. 1993/1320; relevant amendments are contained in S.I. 1995/1358.
(b) S.I. 1993/1283; relevant amendments are contained in S.I. 1994/3094.

(as they had effect before the amendment date) which was being carried on immediately before the amendment date (“a transitional exempt activity”).

(2) A person who was carrying on a transitional exempt activity at any place immediately before the amendment date will be treated as if the Waste Management Licensing Regulations 1994 (as they had effect before the amendment date) continue to apply in relation to the carrying on of that activity at that place until the prescribed date.

(3) The prescribed date is—

- (a) where an application for a waste management licence is duly made in relation to the activity before 1st October 2005, the date on which the application is granted or if the application is (or is deemed to be) rejected, the date on which the period for appealing against that rejection expires without an appeal being made or any appeal is withdrawn or finally determined;
- (b) where a notification is provided in relation to that activity in accordance with regulation 18AA(1) of the Waste Management Licensing Regulations 1994 before 1st October 2005, the date on which the appropriate registration authority enters the relevant particulars in the register or, if it refuses to do so, the date on which it notifies the exempt person of their decision; or
- (c) in any other case, 1st October 2005.

20. If—

- (a) immediately before the amendment date, a person is the holder of a waste management licence, and
- (b) on the amendment date an activity authorised by the licence becomes an exempt activity within the meaning of the Waste Management Licensing Regulations 1994,

the licence shall (so far as it applies to that activity) be treated as revoked under section 38 of the Environmental Protection Act 1990 on the amendment date.

Transitional charges

21.—(1) Subject to paragraph (2), the requirements to pay the charges set out in Table 1 shall apply to any notification made pursuant to regulation 18AA of the Waste Management Licensing Regulations 1994.

(2) Paragraph (1) shall cease to apply in relation to an activity once a charge is prescribed in relation to that activity by a charging scheme made under section 41 of the Environment Act 1995.

Table 1

Relevant paragraph of Schedule 3 to the 1994 Regulations	Charge required under regulation 18AA(1)(d) (£)	Charge required under regulation 18AA(5)(d) (£)
Paragraphs 7A,8A, 9A and 19A	546	412
Paragraph 10A	385	321
Paragraph 46A	417	353

29th June 2005

Ben Bradshaw
Parliamentary Under-Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke (before coming into force) and remake with amendments the Waste Management Licensing (England and Wales) (Amendment and Related Provisions) (No.2) Regulations 2005 (S.I. 2005/1528) (which in turn revoke S.I. 2005/883).

These Regulations amend the Waste Management Licensing Regulations 1994 (S.I. 1994/1056, as amended) (“the 1994 Regulations”). These Regulations extend to England and Wales, but regulation 6 applies only to England.

Regulation 6 amends regulations 10 and 12 of the 1994 Regulations. Regulation 10 is amended so that each waste regulation authority must enter details of any risk appraisal undertaken for a site to which a waste management licence relates in the public register which the authority maintains under section 64(1) of the Environmental Protection Act 1990 (“the 1990 Act”). The amendment to regulation 12 varies the descriptions of plant that are to be treated as being mobile plant for the purposes of Part 2 of the 1990 Act.

The remainder of the Regulations concern activities which are exempt from the requirement for a waste management licence under the 1990 Act. Amendments are made to the conditions which apply to various exempt activities listed in Schedule 3 to the 1994 Regulations by regulations 10 to 17. A new exempt activity is inserted by regulation 18.

More detailed notification requirements set out in regulation 9 apply to the exempt activities defined as notifiable exempt activities (see regulation 5). Regulation 3 enables the registration authority to charge for administering these notifications.

Some changes are made which affect all exempt activities. By regulation 7 the Secretary of State is given the power to issue statutory guidance to registration authorities. Regulation 8 also clarifies the ability of the registration authorities to remove entries from the register in relation to activities which are not exempt, and increases the penalty for failure to register to level 2 on the standard scale (currently £500). Failure to register in relation to notifiable exempt activities will be subject to level 3 fines (currently £1,000).

Transitional provisions are included at regulations 19 to 21. These include the imposition of fees in the period before a charging scheme is put in place.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the library of both Houses of Parliament and copies can be obtained from WM Licensing and Enforcement Unit, Department for Environment, Food and Rural Affairs, Zone 7/H11, Ashdown House, 123 Victoria Street, London SW1E 6DE.

This Statutory Instrument supersedes S.I. 2005/1528 published on 21st June 2005 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2005 No. 1728

**ENVIRONMENTAL PROTECTION, ENGLAND AND
WALES**

**The Waste Management Licensing (England and
Wales)(Amendment and Related Provisions)(No. 3) Regulations
2005**

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