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STATUTORY INSTRUMENTS

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**2005 No. 894**

**The Hazardous Waste (England and Wales) Regulations 2005**

**PART 11**

**REPLACEMENT OF CONTROLS ON SPECIAL WASTE**

**Offences**

**71.** In each of sections 33(9) and 38(10) and (11) of the 1990 Act for “special waste” there shall be substituted “hazardous waste”.

**Lists of waste displaying hazardous properties**

**72.**—(1) In the cross heading before section 62 of the 1990 Act for “special waste” there shall be substituted “hazardous waste”.

(2) Section 62 of that Act (special provision with respect to certain dangerous or intractable waste) shall be omitted.

(3) Before section 63 of that Act (waste other than controlled waste) there shall be inserted—

**“Lists of waste displaying hazardous properties**

**62A.**—(1) The Secretary of State shall by regulations list any controlled waste in England which—

- (a) is not listed as a hazardous waste in the Hazardous Waste List; and
- (b) appears to him to display any of the properties listed in Annex III to Council Directive [91/689/EEC](#).

(2) The National Assembly for Wales shall by regulations list any controlled waste in Wales which—

- (a) is not listed as a hazardous waste in the Hazardous Waste List; and
- (b) appears to it to display any of the properties listed in Annex III to Council Directive [91/689/EEC](#).

(3) In this section the Hazardous Waste List means the list referred to in the first indent of Article 1(4) of Council Directive [91/689/EEC](#).

(4) Regulations under subsection (2) shall be made by statutory instrument but section 161(2) shall not apply to regulations under that subsection.”.

**Waste other than controlled waste**

**73.** In section 63 of the 1990 Act (waste other than controlled waste), subsections (2) and (3) shall be omitted.

### **Definition of Hazardous Waste**

74. In section 75 of the 1990 Act (meaning of “waste” and household, commercial and industrial waste and special waste)—

- (a) in the heading for “special waste” there shall be substituted “hazardous waste”;
- (b) after subsection (8) there shall be inserted—

“(8A) “Hazardous waste”—

- (a) in the application of this Part to England, means any waste which is a hazardous waste for the purposes of the Hazardous Waste (England and Wales) Regulations 2005;
- (b) in the application of this Part to Wales means—
  - (i) any waste listed as a hazardous waste in the Hazardous Waste List;
  - (ii) any waste listed in regulations made under section 62A(2) above;
  - (iii) any other waste which displays any of the properties listed in Annex III to Council Directive [91/689/EEC](#).

(8B) In subsection (8A) “Hazardous Waste List” means the list referred to in the first indent of Article 1(4) of Council Directive [91/689/EEC](#).”; and

- (c) subsection (9) shall be omitted.