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STATUTORY INSTRUMENTS

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**2005 No. 894**

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

**PART 3**

APPLICATION OF PARTS 4 TO 11

**General application of Parts 4 to 11**

**12.**—(1) Subject to paragraphs (2) to (4), these Regulations apply to hazardous waste.

(2) Except as provided in regulations 13 (application to asbestos waste) and 14 (application to separately collected fractions), these Regulations do not apply to domestic waste<sup>(1)</sup>.

(3) Nothing in Part 6 of these Regulations (movement of hazardous waste) shall apply in relation to shipments of waste to which the provisions of Council Regulation 259/93/EEC<sup>(2)</sup>, other than Title III of that Regulation, apply.

(4) These Regulations apply to hazardous waste in England notwithstanding that the waste—

- (a) was produced on or removed from premises in Scotland, Wales, Northern Ireland or Gibraltar; or
- (b) is, or is to be, transported from premises in England to premises located in one of those places.

(5) For the avoidance of doubt, in their application to—

- (a) ships' waste, these Regulations apply to any ship;
- (b) the internal waters and the territorial sea of the United Kingdom adjacent to England, these Regulations apply, without prejudice to paragraph (3), to a consignment of waste transported in any ship,

in each case (whether the ship is a United Kingdom ship or otherwise and, if a United Kingdom ship, whether registered in England or otherwise).

**Asbestos waste**

**13.**—(1) These Regulations apply to asbestos waste which is domestic waste except in so far as they would, apart from this paragraph, impose obligations on a person to whom paragraph (2) applies.

(2) This paragraph applies to a person who is both the original producer of the domestic waste and either—

- (a) a person who resides at the domestic premises at which the asbestos waste arises; or
- (b) a person who is acting on behalf of such a person without reward.

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(1) Article 1(5) of the Hazardous Waste Directive made provision for specific rules to be made by the European Community taking into consideration the particular nature of domestic waste; no such rules have, at the date of making these Regulations, been adopted.  
(2) OJNo. L 30, 6.2.1993, p. 1.

(3) These Regulations operate in relation to asbestos waste not being domestic waste which is produced in the course of any of the activities of construction, modification, repair and maintenance (including structural works) or demolition of domestic premises or any part thereof, so as to treat any contractor engaged by a domestic occupier—

(a) as the producer; and

(b) where the contractor does not engage another person as consignor, as the consignor, of the asbestos waste to the exclusion of the occupier.

### **Separately collected domestic fractions**

**14.**—(1) This regulation applies to separately collected domestic fractions, that is to say, hazardous waste which is—

(a) domestic waste; and

(b) collected from the premises on which it is produced separately from the collection of other waste from those premises.

(2) For the purposes of paragraph (1), hazardous waste may be considered to be collected separately from the collection of other waste notwithstanding that it is collected at the same time or on the same vehicle or both, provided that the hazardous waste is not mixed with the other waste.

(3) Subject to paragraph (4), these Regulations apply to separately collected fractions.

(4) Nothing in these Regulations shall apply to separately collected fractions until such waste has been removed from the premises at which it was produced and taken to premises for collection, disposal or recovery.

(5) The establishment or undertaking which accepts such waste at those premises shall be treated as producer of the waste for the purposes of these Regulations.

### **Radioactive waste**

**15.**—(1) This regulation applies where radioactive waste within the meaning of section 2 of the Radioactive Substances Act 1993(3)—

(a) is exempt for the time being from the requirements of-

(i) section 13 (disposal of radioactive waste); or

(ii) section 14 (accumulation of radioactive waste),

of that Act by or pursuant to section 15 of that Act; and

(b) has one or more hazardous properties arising other than from its radioactive nature.

(2) Notwithstanding regulation 2(1)(b)(ii), radioactive waste to which this regulation applies is treated as waste for the purposes of these Regulations, and accordingly it is treated as hazardous waste and these Regulations apply to that waste.

### **Agricultural waste**

**16.**—(1) These Regulations do not apply to agricultural waste before 1st September 2006, but apply on and after that date to agricultural waste whenever it became waste.

(2) For the purpose of this regulation, “agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947(4).

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(3) 1993. c. 12.

(4) 1947 c. 48 (see section 109(3)).

### **Mines and quarries waste**

17. These Regulations do not apply to waste from a mine or quarry before 1st September 2006, but apply on and after that date to such waste whenever it became waste.