
WELSH STATUTORY INSTRUMENTS

2005 No. 1806

The Hazardous Waste (Wales) Regulations 2005

PART 1

GENERAL

Title, commencement, and application

- 1.—(1) The title of these Regulations is the Hazardous Waste (Wales) Regulations 2005.
- (2) These Regulations come into force as follows—
- (i) Parts 1, 2, paragraph 1 of Part 1 of Schedule 12 and, for the purposes of that paragraph only, in Part 5, regulation 59(3) and Schedule 9 and regulation 74 on 6 July 2005; and
- (ii) the remainder, on 16 July 2005.
- (3) These regulations apply in relation to Wales.

The Waste Directive and the meaning of Waste

- 2.—(1) For the purposes of these Regulations—
- (a) “the Waste Directive” (“*y Gyfarwydddeb Wastraff*”) means Council Directive [75/442/EEC](#)(1) on waste as amended by—
- (i) Council Directives [91/156/EEC](#)(2) and [91/692/EEC](#)(3);
- (ii) Commission Decision [96/350/EC](#)(4); and
- (iii) Regulation (EC) No [1882/2003](#)(5); and
- (b) “waste” (“*gwastraff*”) means anything that—
- (i) is waste(6) for the purposes of the Waste Directive; and
- (ii) subject to regulation 15, is not excluded from the scope of that Directive by Article 2 of that Directive.
- (2) In these Regulations, a reference to the Waste Directive conditions is a reference to the conditions laid down in Article 4 of that Directive, that is to say, to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular—
- (a) without risk to water, air, soil and plants and animals;
- (b) without causing a nuisance through noise or odours; and

(1) OJNo. L 194, 25.7.1975, p.39.

(2) OJ No. L 78, 26.3.1991, p.32.

(3) OL No. L 377.31.12.1991, p.48 (as corrected by Corrigendum, OJ No. L 146, 13.6.2003, p.52).

(4) OJ. No. L 135, 6.6.1996, p.32.

(5) OJ No. L 284, 31.10.2003, p.1.

(6) Article 1(a) of the Waste Directive defines waste as any substance or object in the categories set out in Annex I (Categories of Waste) to that Directive which the holder discards or intends or is required to discard.

- (c) without adversely affecting the countryside or places of special interest.

The Hazardous Waste Directive

3.—(1) In these Regulations, “the Hazardous Waste Directive” means Council Directive [91/689/EEC](#)(7) on hazardous waste, as amended by Council Directive [94/31/EC](#)(8).

(2) A reference in these Regulations to—

- (a) Annex I, Annex II or Annex III is a reference to the annex to the Hazardous Waste Directive so numbered, as that annex is set out in these Regulations as follows—
- (i) Schedule 1, which sets out Annex I (Categories or generic types of hazardous waste listed according to their nature or the activity which generated them);
 - (ii) Schedule 2, which sets out Annex II (Constituents of the wastes in Annex I.B which render them hazardous when they have the properties described in Annex III); and
 - (iii) Schedule 3, which sets out Annex III (Properties of wastes which render them hazardous);
- (b) hazardous properties is a reference to the properties in Annex III as so set out.

The List of Wastes

4.—(1) In these Regulations—

“the List of Wastes Decision” (“*Penderfyniad y Rhestr Wastraffoedd*”) means Commission Decision [2000/532/EC](#)(9) of 3 May 2000 replacing Decision [94/3/EC](#) establishing a list of wastes pursuant to Article 1(a) of Council Directive [75/442/EEC](#) on waste and Council Decision [94/904/EC](#) establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive [91/689/EEC](#) on hazardous waste, as amended by amendments thereto which have effect from time to time in relation to Wales pursuant to the List of Wastes Regulations;

“the List of Wastes Regulations” (“*Rheoliadau'r Rhestr Wastraffoedd*”) means the List of Wastes (Wales) Regulations 2005(10); and

“the List of Wastes” (“*y Rhestr Wastraffoedd*”) means the list of wastes set out in the List of Wastes Decision as it is from time to time set out in the List of Wastes Regulations, being the list referred to in the first indent of Article 1(4) of the Hazardous Waste Directive drawn up on the basis of Annexes I and II, having one or more of the properties listed in Annex III, taking account of the origin and composition of the waste and, where necessary, limit values of concentration.

(2) A reference in these Regulations in relation to any waste to—

- (a) being “listed as a waste” and “listed as a hazardous waste” refers to that waste being listed as a waste, or as a hazardous waste, as the case may be, in the List of Wastes, provided, in the case of a waste to which a limit value of concentration applies, it is only to be considered to be listed as a hazardous waste where the relevant limit value of concentration is satisfied;
- (b) being “not listed as hazardous” refers to that waste being not listed as a hazardous waste in the List of Wastes, whether or not it is listed as a waste, and whether or not it is otherwise a hazardous waste pursuant to these Regulations;

and cognate expressions are to be construed accordingly.

(7) OJ No. L 377, 31.12.1991, p.20 (as corrected by Corrigendum to Directive [91/689/EC](#) (OJ No. L 23 30.1.1998 p.39).

(8) OJ No. L 168, 2.7.1994, p.28.

(9) OJ No. L 226, 6.9.2000, p.3.

(10) S.I.2005/1820 (W.148).

General Interpretation

5.—(1) In these Regulations—

- “the 1990 Act” (“*Deddf 1990*”) means the Environmental Protection Act 1990(**11**);
- “the 1995 Act” (“*Deddf 1995*”) means the Environment Act 1995(**12**);
- “the 1994 Regulations” (“*Rheoliadau 1994*”) means the Waste Management Licensing Regulations 1994(**13**);
- “the 1996 Regulations” (“*Rheoliadau 1996*”) means the Special Waste Regulations 1996(**14**);
- “the Agency” (“*yr Asiantaeth*”) means the Environment Agency;
- “asbestos waste” (“*gwastraff asbestos*”) means waste which contains or is contaminated by asbestos;
- “the Assembly” (“*y Cynulliad*”) means the National Assembly for Wales;
- “authorised person” (“*person awdurdodedig*”) has the meaning given by section 108(15) of the 1995 Act;
- “business day” (“*diwrnod busnes*”) means any day other than any—
- (a) Saturday or Sunday;
 - (b) Good Friday or Christmas Day;
 - (c) day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(**15**); or
 - (d) other public holiday;
- “carrier” (“*cludwr*”), in relation to a consignment of hazardous waste, means a person who takes one or more of the following actions, that is to say, collects the consignment from the premises at which it was produced or premises at which it is being held, delivers it to the consignee, or transports it in the course of its transfer from those premises to the consignee;
- “consignee” (“*traddodai*”), in relation to a consignment of hazardous waste, means the person to whom the waste is or is to be transferred for recovery or disposal;
- “consignment code” (“*cod traddodi*”) is to be construed in accordance with regulation 34(1);
- “consignment note” (“*nodyn traddodi*”), in relation to a consignment of hazardous waste, means the identification form which is required to accompany the hazardous waste when it is transferred pursuant to Article 5(3)(**16**) of the Hazardous Waste Directive;
- “consignor” (“*traddodwr*”), in relation to a consignment of hazardous waste, means the person who causes that waste to be removed from the premises at which it was produced or is being held;
- “emergency or grave danger” (“*argyfwng neu berygl difrifol*”) has the meaning given by regulation 61;
- “emergency services” (“*gwasanaethau brys*”) means those police, fire and ambulance services who are liable to be required to respond to an emergency;

(11) 1990 c. 43.

(12) 1995 c. 25.

(13) S.I. 1994/1056. Relevant amending instruments are S.I. 1994/1137; 1995/288, 1995/1950, 1996/634, 1996/972, 1996/1279, 1997/2203, 1998/606, 1998/2746, 2000/1973, 2001/503, 2002/674, 2002/1559 and 2005/883.

(14) SI 1996/972 as amended by S.I. 1996/2019, 1997/251, 2001/3148.

(15) 1971 c. 80.

(16) The consignment note is required by Article 5(3) to contain the details specified in Commission Decision 94/774/EC (OJ No. L 310, 3/12/1994 p.70; this decision is expected to be replaced in June 2005). The relevant requirements are contained in Schedule 4 to these Regulations.

“harbour area” (“*ardal harbwr*”) has the same meaning as in the Dangerous Substances in Harbour Areas Regulations 1987(17);

“hazardous waste” (“*gwastraff peryglus*”) is to be construed in accordance with regulation 6;

“mixing” (“*cymysgu*”) is to be construed in accordance with regulation 18;

“mobile service” (“*gwasanaeth symudol*”) means a service operated from premises which consists of any one or more of the following activities, that is to say, the construction, maintenance or repair of any other premises, or of any fixtures, fittings or equipment located on those other premises, being a service in the course of which the operator of the service produces hazardous waste at those other premises;

“multiple collection” (“*amlgasgliad*”) has the meaning given by regulation 38;

“multiple collection consignment note” (“*nodyn traddodi amlgasgliad*”) means the consignment note set out in Schedule 6 and required to be used in relation to multiple collections;

“non-hazardous waste” (“*gwastraff nad yw'n beryglus*”) has the meaning given by regulation 7;

“premises” (“*mangre*”) includes any ship and any other means of transport from which a mobile service is operated;

“quarter” (“*chwarter*”) means any period of three months ending on 31 March, 30 June, 30 September or 31 December;

“registered exemption” (“*esemptiad cofrestredig*”) means an activity set out in Schedule 3 to the 1994 Regulations which is registered with the appropriate registration authority in accordance with those Regulations;

“schedule of carriers” (“*atodlen y cludwyr*”) means the form of schedule set out in Schedule 5 and required to be completed where more than one carrier transports, or is to transport, the consignment;

“SEPA” (“*SEPA*”) means the Scottish Environment Protection Agency;

“ship” (“*llong*”) means a vessel of any type whatsoever including submersible craft, floating craft and any structure which is a fixed or floating platform;

“six digit code” (“*cod chwe digid*”) means the six digit code referable to a type of waste in accordance with the List of Wastes, and in relation to hazardous waste, includes the asterisk;

“SIC” (“*SIC*”) means the publication entitled “the UK Standard Industrial Classification of Economic Activities 2003” prepared by the Office of National Statistics and published by Her Majesty’s Stationery Office on 31 December 2002 and implemented on 1 January 2003(18);

“United Kingdom ship” (“*llong y Deyrnas Unedig*”) has the meaning given by section 1 of the Merchant Shipping Act 1995(19);

“waste management licence” (“*trwydded rheoli gwastraff*”) has the meaning given by section 35(1) of the 1990 Act;

“waste permit” (“*trwydded gwastraff*”) has the same meaning as in Schedule 4 to the 1994 Regulations.

(2) In these Regulations, the following expressions (being the expressions defined in Article 1(b) to (g) of the Waste Directive) have the same meanings as they have in that directive, that is to say—

“producer” (“*cynhyrhydd*”) means anyone whose activities produce waste (“original producer”) or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

(17) S.I. 1987/37, to which there are amendments not relevant to these Regulations.

(18) ISBN 0116216417.

(19) 1995 c. 21.

“holder” (“*deiliad*”) means the producer of the waste or the person who is in possession of it;

“management” (“*rheoli*”) means the collection, transport, recovery and disposal of waste, including the supervision of such operations and after-care of disposal sites;

“disposal” (“*gwaredu*”) means any of the operations provided for in Annex IIA of the Waste Directive;

“recovery” (“*adfer*”) means any of the operations provided for in Annex IIB of the Waste Directive⁽²⁰⁾;

“collection” (“*casglu*”) means the gathering, sorting or mixing of waste or any one or more of those operations, for the purpose of transport,

and expressions cognate to these expressions are to be construed accordingly.

(3) In these Regulations—

- (a) any document which is to be provided or given to any person (other than a fixed penalty notice under Part 10) may be provided or given to that person in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;
- (b) any requirement to make, keep or retain a record or to maintain a register may be satisfied in electronic form if the text is capable of being produced by that person in a visible and legible documentary form;
- (c) any requirement for a signature on a notification, consignment note, schedule of carriers or multiple collection consignment note, may be satisfied by an electronic signature incorporated into the document; and
- (d) “electronic signature” (“*llofnod electronig*”) means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

(20) The meaning of “disposal” and “recovery” has been interpreted by the European Court of Justice in C-6/00. The Court held (at paragraph 60 of the judgment) “...the intention of Annexes II A and II B to the Directive is to list the most common disposal and recovery operations and not precisely and exhaustively to specify all the disposal and recovery operations covered by the Directive.”.