

Annex J: Legal framework for waste management

1. This annex identifies the current legal framework within which waste management operations take place. The annex is divided into three sections:

- European legislation;
- England's legislative framework; and
- the legal definition of waste.

Current European waste and waste-related legislation

2. The legislative framework for waste management is an area evolving in response to both the need for better management and more informed approaches to the processes and effects (both short term and longer term) of the various waste management options.

3. The following link gives access to the Europa website listing of the current Waste Management Directives and amendments which lead European waste policy – <http://europa.eu/scadplus/leg/en/s15002.htm>. The website details the areas of legislation shown below.

4. Legislative framework of EC waste management legislation:

- Framework Directive on waste disposal;
- Strategy on the prevention and recycling of waste;
- Implementation of legislation on waste – 1998–2000;
- Integrated pollution prevention and control: IPPC Directive;
- Waste management statistics;
- Competitiveness of the recycling industries;
- The landfill of waste;
- Waste incineration; and
- Supervision and control of transfrontier shipments of waste.

5. Hazardous Waste Legislation:

- Controlled management of hazardous waste; and
- Basel Convention on the control of transboundary movements of hazardous waste.

6. Legislation which applies to waste from consumer goods:

- Packaging and packaging waste;
- Disposal of polychlorinated biphenyls (PCBs) and polychlorinated triphenyls (PCTs);
- Disposal of spent batteries and accumulators;
- Disposal of waste oil;
- End-of-life vehicles;
- The re-using, recycling and recovering of motor vehicles;
- Environmental problems of PVC; and
- Waste electrical and electronic equipment.

7. Legislation for waste from specific activities:
 - Management of waste from the extractive industries;
 - Removal and disposal of disused offshore oil and gas installations;
 - Use of sewage sludge in agriculture;
 - Port infrastructure: facilities for ship-generated waste and cargo residues;
 - Titanium dioxide:
 - Disposal,
 - Surveillance and monitoring, and
 - Programmes for the reduction of pollution.
8. Radioactive waste and substances legislation:
 - Transfer of radioactive waste: supervision and control;
 - Shipments of radioactive substances;
 - Situation in 1999 and prospects for radioactive waste management; and
 - Management of spent nuclear fuel and radioactive waste.

Waste legislation in England

9. The following link gives access to the Environment Agency's NetRegs website which details the key waste legislation in place (both primary and secondary) in England which affects waste management – <http://www.netregs.gov.uk/netregs/legislation/287972/652894/658423/?version=1&lang=e> The legislation is listed below:

- Control of Pollution (Amendment) Act 1989
- Clean Neighbourhoods and Environment Act 2005
- Environment Act 1995
- Environmental Protection Act 1990
- Controlled Waste Regulations 1992, SI 588
- Controlled Waste (Amendment) Regulations 1993, SI 566
- Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991, SI 1624
- Controlled Waste (Registration of Carriers and Seizure of Vehicles) (Amendment) Regulations 1998, SI 605
- End-of-Life Vehicles Regulations 2003, SI 2635
- End-of-Life Vehicles (Producer Responsibility) Regulations 2005, SI 263
- Environmental Protection (Duty of Care) Regulations 1991, SI 2839
- Environmental Protection (Duty of Care) (England) (Amendment) Regulations 2003, SI 63
- EU Regulation on the Supervision and Control of Shipments of Waste 259/1993

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- EU Regulation laying down Health Rules concerning Animal By-Products not intended for Human Consumption 1774/2002
- Hazardous Waste (England and Wales) Regulations 2005, SI 894
- Landfill (England and Wales) Regulations 2002, SI 1559
- Landfill (England and Wales) (Amendment) Regulations 2004, SI 1375
- Landfill (England and Wales) (Amendment) Regulations 2005, SI 1640
- List of Wastes (England) (Amendment) Regulations 2005, SI 1673
- List of Wastes (England) Regulations 2005, SI 895
- Packaging (Essential Requirements) Regulations 2003, SI 1941
- Packaging (Essential Requirements) (Amendment) Regulations 2004, SI 1188
- Packaging (Essential Requirements) (Amendment) Regulations 2006, SI 1492
- The Producer Responsibility Obligations (Packaging Waste) Regulations 2005, SI 3468
- Transfrontier Shipment of Radioactive Waste Regulations 1993, SI 3031
- Transfrontier Shipment of Waste Regulations 1994, SI 1137
- Transfrontier Shipment of Waste (Amendment) Regulations 2005, SI 187
- Waste Electrical and Electronic Equipment Regulations 2006, SI 3289
- Waste Electrical and Electronic Equipment (Waste Management Licensing) (England and Wales) Regulations 2006, SI 3315
- Waste Incineration (England and Wales) Regulations 2002, SI 2980
- Waste Management (England and Wales) Regulations 2006, SI 937
- Waste Management Licences (Consultation and Compensation) Regulations 1999, SI 481
- Waste Management Licensing Regulations 1994, SI 1056
- Waste Management Licensing (Amendment) Regulations 1995, SI 288
- Waste Management Licensing (Amendment No. 2) Regulations 1995, SI 1950
- Waste Management Licensing (Amendment) Regulations 1996, SI 1279
- Waste Management Licensing (Amendment) Regulations 1997, SI 2203
- Waste Management Licensing (Amendment) Regulations 1998, SI 606
- Waste Management Licensing (Amendment) (England) Regulations 2002, SI 674
- Waste Management Licensing (Amendment) (England) Regulations 2003, SI 595
- Waste Management Licensing (England and Wales) (Amendment and Related Provisions) (No. 3) Regulations 2005, SI 1728
- Waste Management Regulations 1996, SI 634

10. A separate list of the legislation and regulation on pollution prevention and control (PPC) including international pollution control (IPC) is also available on the NetRegs website at the following link – http://www.netregs.gov.uk/netregs/legislation/287972/652894/658261/?lang=_e This site allows access to the detail of this legislation and regulation:¹

- Control of Pollution Act 1974
- Creosote (Prohibition on Use and Marketing) (No. 2) Regulations 2003, SI 1511
- Creosote (Prohibition on Use and Marketing) (No. 2) (Amendment) Regulations 2003, SI 2650
- Environment Act 1995
- Environmental Protection Act 1990
- Pollution Prevention and Control Act 1999
- Environmental Licences (Suspension and Revocation) Regulations 1996, SI 508
- Environmental Protection (Applications, Appeals and Registers) Regulations 1991, SI 507
- Environmental Protection (Applications, Appeals and Registers) (Amendment) Regulations 1996, SI 667
- Environmental Protection (Applications, Appeals and Registers) (Amendment No. 2) Regulations 1996, SI 979
- Environmental Protection (Authorisation of Processes) (Determination Periods) Order 1991, SI 513
- Environmental Protection (Authorisation of Processes) (Determination Periods) (Amendment) Order 1994, SI 2847
- Environmental Protection (Controls on Dangerous Substances) Regulations 2003, SI 3274
- Environmental Protection (Controls on Injurious Substances) Regulations 1992, SI 31
- Environmental Protection (Controls on Injurious Substances) Regulations 1993, SI 1
- Environmental Protection (Controls on Injurious Substances) (No. 2) Regulations 1993, SI 1643
- Environmental Protection (Controls on Injurious Substances) (Amendment) Regulations 2001, SI 3141
- Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 472
- Environmental Protection (Prescribed Processes and Substances) (Amendment) Regulations 1992, SI 614
- Environmental Protection (Prescribed Processes and Substances) (Amendment) Regulations 1993, SI 1749
- Environmental Protection (Prescribed Processes and Substances) (Amendment) (No. 2) Regulations 1993, SI 2405
- Environmental Protection (Prescribed Processes and Substances etc.) (Amendment) Regulations 1994, SI 1271
- Environmental Protection (Prescribed Processes and Substances Etc.) (Amendment) (No. 2) Regulations 1994, SI 1329

¹ The site does not provide access to the Control of Pollution Act 1974.

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- Environmental Protection (Prescribed Processes and Substances) (Amendment) Regulations 1995, SI 3247
- Environmental Protection (Prescribed Processes and Substances) (Amendment) (Hazardous Waste Incineration) Regulations 1998, SI 767
- Environmental Protection (Prescribed Processes and Substances Etc.) (Amendment) (Petrol Vapour Recovery) Regulations 1996, SI 2678
- EU Regulation allowing voluntary participation by organisations in a community eco-management and audit scheme (EMAS) 761/2001
- Pollution Prevention and Control (England and Wales) Regulations 2000, SI 1973
- Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2001, SI 503
- Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2002, SI 275
- Pollution Prevention and Control (England and Wales) (Amendment) (No. 2) Regulations 2002, SI 1702
- Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2003, SI 1699
- Pollution Prevention and Control (England and Wales) (Amendment) (No. 2) Regulations 2003, SI 3296
- Pollution Prevention and Control (England and Wales) (Amendment) and Connected Provisions Regulations 2004, SI 3276
- Pollution Prevention and Control (Unauthorised Part B Processes) (England and Wales) Regulations 2004, SI 434
- Pollution Prevention and Control (England and Wales) (Amendment) (England) Regulations 2006, SI 2311
- Pollution Prevention and Control (Public Participation) (England and Wales) Regulations 2005, SI 1448

Legal definition of waste

11. The definition of waste in force in England is the definition given in Article 1(a) of the Framework Directive on Waste, which states that '*waste shall mean any substance or object in the categories set out in Annex I which the holder discards or intends or is required to discard*'.

12. There are currently 16 categories in Annex I to the Directive, listed below:

- i. production or consumption residues not otherwise specified below
- ii. off-specification products
- iii. products whose date for appropriate use has expired
- iv. materials spilled, lost or having undergone other mishap, including any material, equipment, etc. contaminated as a result of that mishap

- v. materials contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packaging materials, containers, etc.)
- vi. unusable parts (e.g. reject batteries, exhausted catalysts, etc.)
- vii. substances that no longer perform satisfactorily (e.g. contaminated acids, contaminated solvents, exhausted tempering salts, etc.)
- viii. residues of industrial processes (e.g. slags, still bottoms, etc.)
- ix. residues from pollution abatement processes (e.g. scrubber sludges, baghouse dusts, spent filters, etc.)
- x. machining/finishing residues (e.g. lathe turnings, mill scales, etc.)
- xi. residues from raw materials extraction and processing (e.g. mining operations, oil field slops, etc.)
- xii. adulterated materials (e.g. oils contaminated with PCBs, etc.)
- xiii. any materials, substances or products whose use has been banned by law
- xiv. products for which the holder has no further use (e.g. agricultural, household, office, commercial and shop discards, etc.)
- xv. contaminated materials, substances or products resulting from remedial action with respect to land
- xvi. any materials, substances or products which are not contained in the above categories.

13. However, this list is not exhaustive in its definitions of what is and is not waste. Whether or not a substance is discarded as waste, and when waste ceases to be waste, are matters that must be determined on the facts of the case and the interpretation of the law is a matter for the Courts. It rests, in the first place, with the producer or holder of a substance to decide whether something is being discarded as waste and the Environment Agency is responsible, as the 'competent authority', for the enforcement of waste management controls in England.

14. The European Court of Justice (ECJ) has issued several judgements on the interpretation of the definition of waste and the meaning of 'discard'. ECJ judgements are binding on Member States and their competent authorities. The European Commission has published a dossier on key environmental judgements by the ECJ, available at the following link – http://ec.europa.eu/environment/law/cases_judgements.htm

15. Further advice about waste, and waste legislation, can also be found on Defra's website at the following link – <http://www.defra.gov.uk/environment/waste/index.htm>.