

2009 No. 2861 (W.250)

**ENVIRONMENTAL
PROTECTION, WALES**

**The Hazardous Waste (Wales)
(Amendment) Regulations 2009**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Hazardous Waste (Wales) Regulations 2005 (S.I. 2005/1806) (W.138) (“the 2005 Regulations”), which implement Council Directive 91/689/EEC on hazardous waste (OJ No. L 377, 31.12.1991, p.20).

These Regulations apply in relation to Wales.

Regulation 3 amends the definition of “premises” in regulation 5(1) to clarify that the term includes land.

Regulation 5 replaces regulation 13 of the 2005 Regulations with a new regulation 13 to clarify that nothing in the 2005 Regulations imposes obligations on occupiers of domestic premises in relation to asbestos waste produced at those premises and that a contractor carrying out works relating to asbestos waste will be treated as the producer of that waste.

Regulation 6 replaces regulation 14 of the 2005 Regulations with a new regulation 14. This is to clarify that the occupier of domestic premises is exempt from obligations relating to separated domestic fractions of hazardous waste. The regulation also clarifies that the restrictions on the mixing of hazardous waste in Part 4 of the 2005 Regulations apply from the time that waste is either accepted for collection, disposal or recovery from domestic premises or accepted at a site for domestic waste when it is taken there by occupiers of domestic premises.

Regulation 7 inserts a new regulation 14A into the 2005 Regulations. This extends the application of a provision which had been included in regulation 30 of the 2005 Regulations relating to the production of hazardous waste at shop premises by customers to the whole of the 2005 Regulations.

Regulation 8 amends regulation 21(1) of the 2005 Regulations so that the requirement to notify premises will apply where hazardous waste is collected at any premises other than exempt premises.

Regulation 9 replaces regulation 23 of the 2005 Regulations with a new regulation 23 which extends the exemption from the requirement to notify premises at which hazardous waste is produced from specified types of premises to any premises which are a ship or to which the qualifying limitation applies, provided the hazardous waste is only removed by a registered or exempt waste carrier.

Regulation 10 amends regulation 26 of the 2005 Regulations to reduce the amount of information the Environment Agency is required to release about notified premises.

Regulation 11 replaces regulation 30 of the 2005 Regulations with a new regulation 30 which increases the qualifying limitation from 200kg to 500kg. The new regulation omits the reference to hazardous waste produced at shop premises by customers, as this will now apply to the whole of the 2005 Regulations.

Regulation 13 amends regulation 42 of the 2005 Regulations to correct the reference to the part of the form of multiple consignment note which is the consignee's certificate. The regulation also includes amendments to clarify references to the Environmental Permitting (England and Wales) Regulations 2007.

Regulation 14 amends regulation 48(3) of the 2005 Regulations to require that the record of hazardous waste includes, as applicable, details of the disposal method in respect of the waste in addition to the recovery method for the waste.

Regulation 15 corrects regulation 49(1) of the 2005 Regulations so that it will apply where a consignor of hazardous waste is different from the producer or the holder of hazardous waste.

An Impact Assessment of the effect that this instrument will have on the costs of compliance to businesses and the environmental benefits is available from the Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.

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**ENVIRONMENTAL
PROTECTION, WALES**

**The Hazardous Waste (Wales)
(Amendment) Regulations 2009**

Made 27 October 2009

Laid before the National Assembly for Wales
28 October 2009

Coming into force 18 November 2009

The Welsh Ministers are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste. In exercise of the powers conferred by section 2(2) of that Act, the Welsh Ministers make the following Regulations.

Title, commencement and application

1.—(1) The title of these Regulations is the Hazardous Waste (Wales) (Amendment) Regulations 2009 and they come into force on 18 November 2009.

(2) These Regulations apply in relation to Wales.

Amendment to the Hazardous Waste (Wales) Regulations 2005

2. The Hazardous Waste (Wales) Regulations 2005⁽³⁾ are amended as follows.

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- (1) S.I. 2005/850. By virtue of sections 59(1) and 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32) functions conferred on the National Assembly for Wales by this designation are exercisable by the Welsh Ministers.
- (2) 1972 c. 68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51).
- (3) S.I. 2005/1806 (W.138), amended by S.I. 2007/3538; there are other amending instruments but none are relevant.

Amendment of regulation 5 (general interpretation)

3. In regulation 5(1), for the definition of “premises” (“*mangre*”), substitute—

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

Amendment of regulation 12 (general application of Parts 4 to 10)

4. For regulation 12(2), substitute—

“(2) Except as provided in regulations 13 (asbestos waste) and 14 (separated domestic fractions), these Regulations do not apply to domestic waste.”.

Replacement of regulation 13 (asbestos waste)

5. For regulation 13, substitute—

“Asbestos waste

13.—(1) These Regulations apply to asbestos waste whether or not it is domestic waste.

(2) Nothing in these Regulations imposes obligations on an occupier of domestic premises in relation to asbestos waste produced on those premises.

(3) A contractor who is engaged to carry out any works at domestic premises which produce asbestos waste, or which relate to asbestos waste is to be treated as the producer of the asbestos waste and, where the contractor does not engage another person as consignor, as the consignor of the asbestos waste.”.

Replacement of regulation 14 (separately collected domestic fractions)

6. For regulation 14, substitute—

“Separated domestic fractions

14.—(1) This regulation applies to any separated domestic fraction, that is to say, hazardous waste which—

- (a) is domestic waste; and
- (b) has been separated from other domestic waste.

(2) Nothing in these Regulations imposes obligations on an occupier of domestic premises in relation to separated domestic fractions which have been produced at those premises.

(3) Part 4 of these Regulations applies to separated domestic fractions from the time at which the waste is accepted for collection, disposal or recovery—

- (a) from the domestic premises at which the waste was produced; or
- (b) at a site for the reception of domestic waste to which the separated domestic fractions are taken by an occupier of domestic premises.

(4) After separated domestic fractions have been removed from the premises at which the waste was produced and taken to other premises for collection, disposal or recovery, any establishment or undertaking which accepts the separated domestic fractions for collection, disposal or recovery must be treated from the time at which the waste is so accepted as the producer of the waste for the purposes of these Regulations.”.

Insertion of regulation 14A (hazardous waste produced at shop premises)

7. After regulation 14 insert—

“**14A.**—(1) Hazardous waste produced at shop premises by customers of the occupier shall be treated as being produced by the occupier for the purpose of these Regulations.

(2) For the purposes of this regulation, “shop premises” has the meaning given by section 1(3) of the Offices, Shops and Railway Premises Act 1963(1).”.

Amendment of regulation 21 (requirement to notify premises)

8. In regulation 21(1), after “produced at,” insert “collected at,”.

Replacement of regulation 23 (exemption from the requirement to notify)

9. For regulation 23, substitute—

“Exemption from the requirement to notify

23.—(1) Exempt premises need not be notified to the Agency pursuant to this Part.

(2) In these Regulations, premises are exempt premises if they comply with the condition in

(1) 1963 c. 41.

paragraph (3) and with either of the conditions in paragraph (4) or (5).

(3) The condition in this paragraph is that no hazardous waste is removed from the premises by any person other than—

- (a) a carrier registered under the Control of Pollution (Amendment) Act 1989(1); or
- (b) a carrier exempt from the requirement to register under that Act.

(4) The condition in this paragraph is that the premises are a ship.

(5) The condition in this paragraph is that the qualifying limitation applies.”.

Amendment of regulation 26 (common provisions on notifications)

10. For regulation 26(8), substitute—

“(8) The Agency must inform on request, a person who is the holder of hazardous waste or who carries on the business of consigning or collecting hazardous waste, whether any premises from which that person proposes to remove, cause to be removed or transport any hazardous waste are notified premises, and if so, the particulars held by the Agency concerning—

- (a) the address of the premises, including the postcode;
- (b) the premises code;
- (c) the name of the holder of the premises code; and
- (d) the date of expiry of the premises code, being the end of the period of notification.”.

Replacement of regulation 30 (the qualifying limitation)

11. For regulation 30, substitute—

“The qualifying limitation

30.—(1) The qualifying limitation for—

- (a) a mobile service is that the total aggregated quantity of hazardous waste produced at, collected at, or removed from any one set of related premises in the course of that service is less than 500kg in any period of twelve months; and

(1) 1989 c. 14.

(b) any exempt premises, is that the total aggregated quantity of hazardous waste produced at, collected at, or removed from the premises is less than 500kg in any period of twelve months.

(2) When calculating the aggregated quantity, any quantity of hazardous waste must not be counted against more than one of the activities in paragraph (1)(a) or (b).”.

Amendment of regulation 32 (general interpretation of Part 5)

12. In regulation 32—

- (a) omit the following definitions—
“the 1963 Act” (“*Deddf 1963*”),
“office premises” (“*mangre swyddfa*”),
“registered carrier” (“*cludwr cofrestredig*”),
“shop premises” (“*mangre siop*”), and
“waste electrical and electronic equipment” (“*cyfarpar gwastraff trydanol ac electronig*”);
and
- (b) after the definition of “period of notification”, insert—
““premises code” (“*cod mangre*”) has the meaning given by regulation 27(1);
“qualifying limitation” (“*terfynau cymwys*”) has the meaning given by regulation 30;”.

Amendment of regulation 42 (duty of consignee not accepting delivery)

13. In regulation 42—

- (a) in paragraph (3)(a), for “indicate on Part E”, substitute “indicate, in the part headed “consignee’s certificate””;
- (b) for paragraph (6)(a) substitute—
“(a) make arrangements as soon as reasonably practicable for the transfer of the rejected consignment or part to another specified consignee who holds a waste permit or carries on an exempt waste operation for the recovery or disposal of waste; and,”; and
- (c) after paragraph (7), insert—
“(8) In this regulation, “exempt waste operation” (“*gwaith gwastraff esempt*”) has the meaning given in regulation 5 of the Environmental Permitting (England and Wales) Regulations 2007(1).”.

(1) S.I. 2007/3538.

Amendment of regulation 48 (records of disposal or recovery by other means)

14. For regulation 48(3)(c), substitute—

“(c) the disposal or recovery method in respect of the waste by reference to the numbering and description applicable in accordance with Annex IIA or IIB of the Waste Directive; and”.

Amendment of regulation 49 (producers’, holders’ and consignors’ records)

15. In regulation 49(1), after the words “where different from the producer” insert “or holder”.

Jane Davidson

Minister for Environment, Sustainability and Housing,
one of the Welsh Ministers

27 October 2009