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# Environmental Permitting

## Environmental Permitting Guidance The Waste Framework Directive

For the Environmental Permitting (England and Wales)  
Regulations 2007

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Version 2.0



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government



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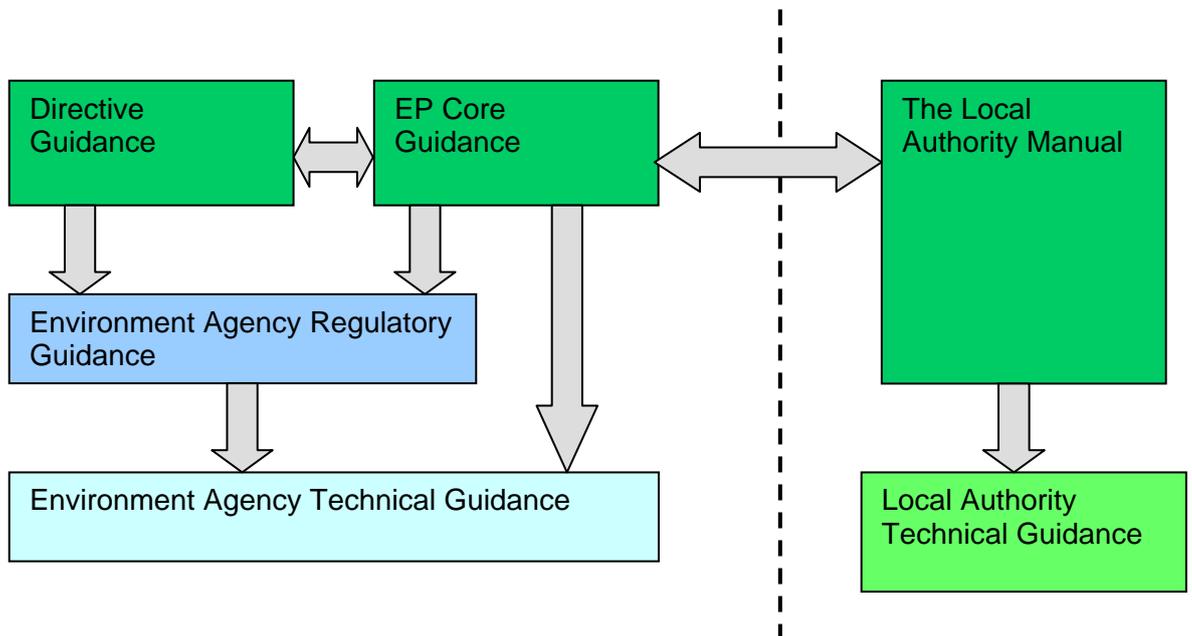
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# 1. Summary

## About this guidance

- 1.1. This guidance is aimed at helping readers understand the European Community (EC) Directive 2006/12/EC on waste (“the Directive”), insofar as it relates to permitting waste operations in England and Wales.
- 1.2. This guidance is intended to help those regulating and carrying out waste operations under the Regulations. It will also be of interest to others concerned with waste. The guidance sets out the views of the Secretary of State for Environment, Food and Rural Affairs (Defra) and the Welsh Assembly Government (WAG) on how the Waste Framework Directive should be applied and how particular terms should be interpreted. However, only the European Court of Justice or the national Courts can make a definitive interpretation of the legislation.
- 1.3. This guidance is part of a series of documents which accompany the Environmental Permitting (England and Wales) Regulations 2007 SI 2007 No. 3538 (“the Regulations”).

Figure 1. Illustration of guidance relationships.



- 1.4. The series consists of the Environmental Permitting Core Guidance<sup>1</sup>, which describes the general permitting and compliance requirements, and guidance on each of the European Directives implemented through the

<sup>1</sup> Available at [www.defra.gov.uk/environment/policy/permits/guidance.htm](http://www.defra.gov.uk/environment/policy/permits/guidance.htm)

regime<sup>2</sup>. Separate guidance is available for local authority regulation under the regime<sup>3</sup>. This is illustrated in Figure 1.

- 1.5. This guidance should be read in conjunction with the Environmental Permitting Core Guidance<sup>4</sup>. In addition, a number of waste operations are part of an IPPC Part A installation or are subject to the Landfill, Waste Incineration, End of Life Vehicles (ELV) or Waste Electronic and Electrical Equipment (WEEE) Directives. Where other Directives apply, then reference should be made to the relevant guidance. Regulatory and technical guidance is also published by the Environment Agency<sup>5</sup>.
- 1.6. A number of other European Directives are relevant to waste operations. Annex 1 to the Environmental Permitting Guidance outlines the connections with other legislation.
- 1.7. To ensure this guidance is current and up to date, from time to time this guidance will be updated. Where made, revisions can be found in the 'Revision of Guidance' section at the front of the document.
- 1.8. This guidance document is compliant with the Code of Practice on Guidance on Regulation<sup>6</sup>. If you feel this guidance breaches the code, or notice any inaccuracies within the guidance, please contact the EPP team at: [eppadministrator@defra.gsi.gov.uk](mailto:eppadministrator@defra.gsi.gov.uk)

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<sup>2</sup> *ibid.*

<sup>3</sup> Available at

[www.defra.gov.uk/environment/quality/pollution/ppc/localauth/pubs/guidance/notes/index.htm](http://www.defra.gov.uk/environment/quality/pollution/ppc/localauth/pubs/guidance/notes/index.htm)

<sup>4</sup> See footnote 1.

<sup>5</sup> Available at [www.environment-agency.gov.uk/epr](http://www.environment-agency.gov.uk/epr)

<sup>6</sup> See Environmental Permitting Guidance and Glossary Chapter 3:  
[www.defra.gov.uk/environment/policy/permits/guidance.htm](http://www.defra.gov.uk/environment/policy/permits/guidance.htm)

## 2. Introduction

### The Waste Framework Directive

- 2.1. The Directive requires member states to ensure that waste is recovered or disposed of without endangering human health and without using processes and methods which could harm the environment. To this end, it requires them to impose certain obligations on all those dealing with waste at various stages, including holders and professional collectors and transporters of waste. “Establishments or undertakings” which carry out waste disposal and recovery operations must obtain a permit or register a permit exemption; their operations must be inspected periodically and they must keep records of their activities in respect of waste. With a view to achieving self-sufficiency in waste disposal both at Community and national level, the Directive requires member states to take appropriate measures to establish an integrated and adequate network of disposal installations. It also promotes environmental protection by better use of resources, by way of promoting the recovery of waste over its disposal (the “waste hierarchy”). For these purposes, member states must also produce waste management plans.
- 2.2. The scope of this guidance is limited to the permitting and exemptions regime set out in the Regulations. However, it is important to recognise that there are a number of aspects of the Directive, as described above, which are not delivered through that system. The following paragraphs describe some of these aspects.
- 2.3. The Duty of Care regime<sup>7</sup> and the Carriers<sup>8</sup> and Brokers<sup>9</sup> regimes are also an important part of the Directive’s implementation. The Government is currently reviewing these regimes and revised guidance on them will be provided in conjunction with the conclusion of those reviews. In the meantime reference should be made to the existing guidance on these regimes<sup>10</sup>.
- 2.4. In addition, important aspects of the Directive are delivered through the system of waste management plans. National plans are produced by the Secretary of State or the Welsh Assembly Government. The current national plans are Planning Policy Statement 10 (PPS 10)<sup>11</sup>, TAN 21<sup>12</sup>, the Waste Strategy for England 2007 and “Wise about Waste: The

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<sup>7</sup> Section 34 of the Environmental Protection Act 1990 and the Environmental Protection (Duty of Care) Regulations S.I. 1991 No. 2839

<sup>8</sup> The Control of Pollution (Amendment) Act 1989; the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations S.I. 1991 No. 1624; and paragraph 12 of Schedule 4 to the Waste Management Licensing Regulations 1994 S.I. 1994 No. 1056.

<sup>9</sup> Regulation 20 of the Waste Management Licensing Regulations 1994 S.I. 1994 No. 1056.

<sup>10</sup> Available at [www.defra.gov.uk/environment/waste/controls/duty.htm](http://www.defra.gov.uk/environment/waste/controls/duty.htm)

<sup>11</sup> Planning Policy Statement 10: Planning for Sustainable Waste Management Published July 2005.

<sup>12</sup> Available at <http://new.wales.gov.uk/topics/planning/policy/tans/tan21?lang=en>

National Strategy for Wales”<sup>13</sup>. Regional and local plans are produced by planning authorities as part of the development plan system. The Directive requirements applying to the development plan system are set out in Schedule 20 of the Regulations. Guidance for planning authorities on these aspects is contained in PPS 10 and TAN 21.

- 2.5. Schedule 9 of the Regulations (reproduced in this document as Annex 1) sets out the relevant permitting requirements from the Waste Framework Directive which apply to the environmental permitting regulator.<sup>14</sup>
- 2.6. Schedule 20 of the Regulations (reproduced in this document as Annex 2) sets out those requirements as they apply to other pollution control authorities and to planning authorities. Schedule 20 also contains provisions which apply to planning authorities in the exercise of their development plan functions. This is beyond the scope of this guidance.
- 2.7. Chapter 3 of this guidance provides information on the operations to which the permitting requirements of the Waste Framework Directive apply. Chapter 4 sets out how the Regulations transpose the relevant parts of the Directive and describes the requirements of the Directive which will be delivered through environmental permits. Chapter 5 describes other relevant requirements.
- 2.8. A copy of the Waste Framework Directive is provided in Annex 3.
- 2.9. A separate glossary of terms is available<sup>15</sup>. The glossary briefly explains the meaning of many words, phrases and acronyms used in the Regulations and Directives.

### **Other pollution control regimes**

- 2.10. Environmental permitting is not the only regime responsible for delivering the permitting requirements of the Directive. The licensing of deposits of waste at sea is covered by the Food and Environmental Protection Act 1985 (FEPA) and the competent authority in this respect is the FEPA licensing authority<sup>16</sup>.
- 2.11. In some cases, the water discharge consenting regime under the Water Resources Act 1991 or the groundwater authorisation regime under the Groundwater Regulations 1998 implements the Directive permitting requirements. The competent authority for those regimes is the Environment Agency.
- 2.12. Where a waste operation is the subject of a FEPA licence or FEPA exemption<sup>17</sup>, water discharge consent or groundwater authorisation, an

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<sup>13</sup> Available at:

<http://wales.gov.uk/about/strategy/publications/environmentcountryside/2096132/?lang=en>

<sup>14</sup> The regulator is the Environment Agency except where the operation is carried out as part of a Part B or Part A(2) installation or mobile plant, in which case it is the relevant local authority (see regulation 32 of the Regulations and also chapter 3 of the Environmental Permitting Guidance).

<sup>15</sup> Available at [www.defra.gov.uk/environment/epp/guidance.htm](http://www.defra.gov.uk/environment/epp/guidance.htm)

<sup>16</sup> The Marine Fisheries Agency [www.mceu.gov.uk](http://www.mceu.gov.uk)

<sup>17</sup> See [www.mceu.gov.uk/MCEU\\_LOCAL/FEPA/FEPA-waste-disposal.htm](http://www.mceu.gov.uk/MCEU_LOCAL/FEPA/FEPA-waste-disposal.htm)

environmental permit is not required (regulation 8). Such operations are defined as “excluded waste operations” (regulation 4).

## **Planning and pollution control**

- 2.13.** Where a waste operation requires planning permission, an environmental permit (or a consent under another regime – see above) will be required in addition to that permission. In cases where both planning permission and an environmental permit or other pollution control consent are required, responsibility for securing the permitting objectives of the Directive will normally be shared between the planning authority and the environmental permitting or other pollution control regulator.
- 2.14.** Government guidance on the relationship between planning and pollution control is available in PPS 23<sup>18</sup>, PPS 10 and for Wales in the Technical Advice Note on waste (TAN 21). This confirms that the regimes are intended to be complementary and that in order to minimise overlap, planning authorities should aim not to duplicate controls available under pollution control legislation. In line with this policy, paragraph 6(1) of Schedule 20 of the Regulations provides that planning authorities are not required, in delivering their Waste Framework Directive obligations under the Regulations, to deal with any matter which the relevant pollution control authority has power to deal with.
- 2.15.** This does not in any way affect the powers of either the planning or pollution control authorities. The planning authority is only required to discharge its functions with respect to the Directive’s objectives where the pollution control authority does not have power to do so. How this may apply in practice is set out in chapter 4 of this guidance.
- 2.16.** A review of the interface between planning and pollution control regimes is currently underway<sup>19</sup> and the conclusions of the review may have implications for the position described above.

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<sup>18</sup> Planning Policy Statement 23: Planning and Pollution Control Published November 2004.

<sup>19</sup> See

<http://www.communities.gov.uk/publications/planningandbuilding/summaryresponsespollution>

## 3. Scope of the Directive

### Definition of waste and Directive waste

- 3.1. An environmental permit is normally required in order to carry out a waste disposal or recovery operation. An activity can only be described as a waste recovery or disposal operation where it involves waste. The definition of waste therefore determines, to a great extent, the need for an environmental permit. The definition of waste in the Waste Framework Directive is “any substance or object...which the holder discards or intends or is required to discard” (Article 1(a)).
- 3.2. The effect of Article 2 is to exclude specified categories of waste from the scope of the Directive.
- 3.3. What constitutes a waste is important to a number of regimes beyond Environmental Permitting. Because of this, the Government has published separate guidance on this subject. Reference should be made to the Guidance on the definition of waste<sup>20</sup>.
- 3.4. A number of Directives delivered through Environmental Permitting also depend on the definition of waste. These include the Landfill, Waste Incineration, ELV, WEEE and IPPC Directives.

### What is a waste disposal or recovery operation?

- 3.5. One of the key aims of the Directive is to promote the better use of resources by encouraging the use of waste for beneficial purposes. To this end, recovery operations which result in waste being used in place of primary resources are to be encouraged over disposal operations which are intended to simply get rid of the waste safely. It is necessary therefore to distinguish clearly between disposal and recovery operations. An environmental permit is normally required for both types of operations but the applicable requirements differ according to the type of operation.
- 3.6. Article 1(e) of the Directive states that “disposal” shall mean any of the operations listed in Annex IIA to the Directive.
- 3.7. Article 1(f) of the Directive states that “recovery” shall mean any of the operations listed in Annex IIB to the Directive.
- 3.8. The Court has explained however that the lists of disposal and recovery operations in Annex IIA and Annex IIB to the Directive are intended to provide illustrations of the way these operations are carried out in practice. They are not intended to be exhaustive<sup>21</sup>. An operation may be a disposal or recovery operation within the meaning of the Directive even if it is not listed in either Annex IIA or Annex IIB. The Directive will therefore apply to

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<sup>20</sup> Available at [www.defra.gov.uk/environment/waste/topics/index.htm#what](http://www.defra.gov.uk/environment/waste/topics/index.htm#what)

<sup>21</sup> [Abfall Service AG, paragraph 60]

existing methods of disposing or recovering waste which are not listed and also to any new methods of disposing or recovering waste.

- 3.9. The terms recovery and disposal are mutually exclusive – a given operation cannot be both a disposal and a recovery operation<sup>22</sup>.

### **The difference between a recovery and disposal operation**

- 3.10. The key feature of a recovery operation is that its principal objective is to ensure that the waste serves a useful purpose by replacing other substances which would have had to be used for that purpose (thereby conserving natural resources)<sup>23</sup>.
- 3.11. Disposal operations however are primarily aimed at getting rid of waste. Any benefit that results as a secondary consequence will not affect the nature of the operation.
- 3.12. Usually it is not difficult to distinguish between disposal and recovery. But sometimes it is not immediately clear. Use of waste for the purposes of construction in principle may be a recovery operation. However, it may be clear from the context that in reality the main aim is to dispose of the waste e.g. if the material used is not suitable for use or if excessive quantities are used. The Court has also suggested that the direction of payment can provide a useful indicator.

#### **Direction of payment**

- 3.13. The holder must always pay for the final disposal of waste. Where waste is being disposed of, the direction of payment is from the holder to the consignee. However, where waste is being recycled, the holder of the waste of is often paid by the recycler. In this example of a recovery activity, the direction of payment is from the consignee to the holder. This proposition is not absolute, it is not unusual for the holder to pay the consignee in order to make the recovery operation economically viable. However, the direction in which payment is made may provide some indication of whether the operation is disposal or recovery.

#### **Marginal benefit**

- 3.14. If the benefit derived from the operation is marginal, that would indicate that the operation should be regarded as disposal. So if only a small proportion of the material derived from a MRF is actually used for a beneficial purpose, then that might indicate the operation should be regarded as disposal. Care should be taken though - even if only a small proportion of very valuable material is derived from an operation, the operation may still be regarded as recovery.

#### **Excessive quantities**

- 3.15. If excessive quantities of waste are used, that would indicate that the real purpose is to get rid of the waste and not to fulfil a particular purpose. In such circumstances, the operation should be regarded as disposal.

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<sup>22</sup> [Abfall Service AG, paragraph 62]

<sup>23</sup> [Abfall Service AG, paragraph 69]

### **Suitability for use**

- 3.16.** In difficult cases, it is necessary to examine whether the waste is suitable for its intended purpose. This will depend both on the nature of the waste and the intended purpose. If the waste is not suitable, it is evidence that the real aim is to dispose of the waste and not to substitute primary material. For instance, material which is spread on land for agricultural benefit must have the properties which enable it to be used for that purpose. If not, it will indicate the real aim is merely to dispose of the waste.

### **Incineration**

- 3.17.** One particular application of the disposal and recovery distinction relates to incineration. It is necessary to distinguish between the use of waste principally as a fuel (recovery) and incineration of waste (disposal). Modern plants designed to incinerate waste will recover energy from the waste. The European Court of Justice has decided that, given the essential characteristic of a recovery operation is to replace primary materials, a plant which will only ever incinerate waste should be regarded as disposal (even if energy is recovered from the plant). Of course in other cases, a plant which only accepts waste may be regarded as a recovery (e.g. composting). Recovery may involve several stages so that a recovery operation may produce a waste which only actually replaces primary materials after further processing. But the key feature is that eventually resources are saved by replacement of natural resources.

## **Exempt waste operations - Article 11**

- 3.18.** The Waste Framework Directive provides for exemptions from the requirement for a permit for the carrying out of certain waste operations (Article 11). The Environmental Permitting Core Guidance provides general information on exempt waste operations in chapter 14.
- 3.19.** A review of exemptions for waste operations is currently underway<sup>24</sup>. Guidance on waste exemptions will be published in conjunction with the conclusion of the review.

### **Household waste from a domestic property**

- 3.20.** Householders are not "establishments or undertakings" and do not require permits for the carrying out of a waste operation involving only household waste or for managing waste within their own property (see regulation 8(3)(b)). However if a business does this for them, the business will need to be regulated e.g. a plumber producing hazardous waste will need to comply with the relevant requirements.
- 3.21.** Householders will however remain subject to criminal sanction if they dispose of waste in a way which is likely to cause harm to the environment or human health.

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<sup>24</sup> See [www.defra.gov.uk/environment/waste/controls/exemptions.htm](http://www.defra.gov.uk/environment/waste/controls/exemptions.htm)

## 4. Permitting Requirements

### Overview

- 4.1. This chapter describes the Directive's requirements that environmental permits for waste operations must deliver and how the Regulations apply these requirements.
- 4.2. The Regulations divide the requirements across two Schedules. Schedule 9 (see Annex 1) contains requirements applying to the environmental permitting regulator and Schedule 20 (see Annex 2) contains requirements applying to other pollution control authorities and to planning authorities.
- 4.3. The requirements applying to the environmental permitting regulator operate through its "relevant functions". This term is defined to include the grant and refusal of permits, setting conditions within those permits and securing compliance with those permits, see regulation 9 and chapters 5, 6 and 10 of the Environmental Permitting Core Guidance.
- 4.4. The requirements applying to other pollution control authorities and to planning authorities operate through their "specified functions". These are broadly equivalent to the relevant functions of the environmental permitting regulator. For example, they include the grant and refusal of planning permission, setting planning conditions and taking enforcement action, see paragraph 2 of Schedule 20. However, planning authorities are not required to deal with any matter that a pollution control authority or the environmental permitting regulator, has power to deal with, see paragraph 6(1) of Schedule 20. Government's policy to be taken into account by waste planning authorities is given in PPS 10 (paragraphs 8.8 – 8.12)<sup>25</sup>. Where that guidance refers to the Waste Management Licensing Regulations, readers should now look that the Environmental Permitting Regulations.
- 4.5. Environmental permits or pollution control consents, and planning consents (subject to the proviso described above), must contain conditions which ensure the objectives of Article 4 are met for all types of waste operation, and the objectives of Articles 5 and 7 are met in addition for waste disposal operations. If conditions cannot secure the objectives, then the permit should be refused.
- 4.6. In addition, environmental permits or other pollution control consents, must contain conditions which ensure that the record making provisions of Article 14 and the specific requirements of Article 9(1)(a) to (e) are met. The Article 14 requirements apply to all types of waste operation. The Article 9 requirements apply only to waste disposal operations.

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<http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/mineralsandwaste/wastemanagement/pps10/>

- 4.7. All the regulators are required to undertake periodic inspections of waste operations, see regulation 34 and paragraph 5 of Schedule 20. Guidance on this in relation to environmental permits is available at chapter 10 of the Environmental Permitting Core Guidance.

## Requirements for all waste operations

### Objectives - Article 4

- 4.8. The obligation provided by Article 4 of the Directive is 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:
- without risk to water, air, soil, plants or animals; or
  - without causing nuisance through noise or odours; or
  - without adversely affecting the countryside or places of special interest.
- 4.9. There have been a number of court cases on the interpretation of Article 4. The European Court of Justice indicated in the Lombardia<sup>26</sup> case that the Article 4 requirements should be viewed as objectives rather than absolute requirements.<sup>27</sup>
- 4.10. In the UK courts, the Court of Appeal held that the objectives must be kept in mind, but recognised that a decision might still be lawful where other material considerations meant that “the decisive contribution has not been the contribution to the achievement of the objective”<sup>28</sup>.
- 4.11. Only effects resulting from the operation of a waste disposal or recovery activity will be relevant. In this context, visual amenity issues arising from the building or structure itself do not arise because these are not concerned with the operation of the activity.
- 4.12. Planning and pollution control authorities should discharge their duties in relation to the relevant objectives in line with Government policy on their complementary roles, as set out in PPS 10 and for Wales in the Technical Advice Note on waste (TAN 21).

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<sup>26</sup> Comitato di Coordinamento per la Difesa della Cava v Regione Lombardia (Case – 236/92) [1994] ECR I-483. Other relevant cases include: *Ministere Public v. Traen* (joined cases 372 to 374/85) [1987] ECR 2141 and *Commission v. Italian Republic* [1999] ECR – I – 7773, 7824).

<sup>27</sup> See footnote [Lombardia]. The judgement states that Article 4 “indicates a programme to be followed and sets out the objectives which Member States must observe in their performance of the more specific obligations imposed on them by Articles 5-11 of the [unamended 1975] Directive concerning planning, supervision and monitoring of waste disposal operations.”

<sup>28</sup> Court of Appeal in *R v Daventry District Council, ex p Thornby Farms Ltd and R (on the application of Murray) v Derbyshire District Council* [2002] EWCA Civ 31, [2002] 3 WLR 875 para 44

## **Record keeping - Article 14**

- 4.13.** The Directive requires establishments and undertakings which carry out the disposal or recovery of waste to keep a record of the “quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method” (Article 14). This information should be made available, on request, to the regulator.
- 4.14.** Guidance on the record keeping requirements for exempt waste operations is contained in chapter 14 of the Environmental Permitting Core Guidance.
- 4.15.** The environmental permitting regulator or other pollution control authority should include appropriate record keeping conditions in any permit for the disposal or recovery of waste. This obligation applies only to environmental permits or other pollution control permits.

## **Requirements for waste disposal operations**

### **Objectives - Article 5**

- 4.16.** Article 5’s requirements are:
- that member states shall establish an integrated and adequate network of disposal installations; and
  - that the network must enable waste to be disposed of by the most appropriate methods in one of the nearest appropriate installations in order to ensure a high level of protection for the environment and human health;
- 4.17.** These requirements are concerned with the need for waste disposal facilities and their location. The obligation is fulfilled by means of waste management plans which are in turn implemented by individual permit decisions (see below). Relevant guidance for planning authorities on these issues is contained in PPS 10.

### **Waste management plans - Article 7**

- 4.18.** Article 7 requires that one or more waste management plans must be drawn up<sup>29</sup> in order to attain the objectives of Articles 3, 4 and 5. Articles 4 and 5 are described above. Article 3 requires member states to encourage (1) waste prevention or reduction and (2) (a) recovery by means of recycling, reuse or reclamation or (b) the use of waste as energy. Thus plans may, for example, favour certain technologies which are more resource efficient.
- 4.19.** For the purposes of the Regulations, Schedule 20, paragraph 1, defines waste management plans as those that have been made under the “plan making provisions”, which are listed. These will include the waste

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<sup>29</sup> See *Commune de Braine-le-Chateau and Michael Tilleut and others v. Wallonee* (joined cases C-53/02 and C 217/02) for a consideration of the required content of such plans.

strategies and planning policy statements produced by the Secretary of State (PPS 10) and the Welsh Assembly Government (TAN 21) and local development plans produced by planning authorities.

- 4.20.** The environmental permitting regulator and planning authorities are required to “implement, so far as material” any Article 7 plan. It will normally be for the planning system to ensure that a proposal for a particular type of facility in a particular place is consistent with waste policy. The planning authority will consider whether the proposed development will help implement planning strategy in their development plan and will for example, consider the locational aspects of the proposal. PPS 10 provides guidance on these matters. The environmental permitting regulator is resourced to decide whether the proposal is acceptable from a pollution control point of view (i.e. is there an environmental problem locating a facility on the proposed site and which pollution control measures should be used?).
- 4.21.** The cases of “Blewitt” and “Levy”<sup>30</sup>, illustrate that planning authorities and regulators are not bound rigidly by the contents of the waste management plans in relation to individual planning and permitting decisions, although of course they must pay due regard and give sufficient weight to the contents of plans and to their obligations under the Directive.

#### **Permit conditions for disposal operations - Article 9**

**4.22.** The environmental permitting regulator should ensure that all environmental permits for disposal operations cover:

- the types and quantities of waste;
- the technical requirements;
- the security precautions to be taken;
- the disposal site; and
- the treatment method.

**4.23.** This obligation only applies to environmental permits or other pollution control permits.

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<sup>30</sup> [ Derbyshire Waste Limited v. Blewett and another [2004] EWCA Civ 1508 and see also David Levy v Environment Agency [2002] EWHC 1663 (Admin).]

## 5. Other Requirements

### Prior planning permission

- 5.1. The environmental permitting regulator must not grant a permit for a relevant waste operation unless planning permission for the use of the site for this purpose, is in force, where it is required (paragraph 2 of Schedule 9).
- 5.2. A "relevant waste operation" is defined in paragraph 2 of Schedule 9. The definition is intended to capture (broadly) all those waste operations which were subject to licensing under the Waste Management Licensing regime of Part 2 of the Environmental Protection Act 1990 immediately before the PPC regime came into force on 1<sup>st</sup> August 2000. The definition does not therefore encompass incineration installations or certain other waste operations carried on as part of an installation.
- 5.3. Planning permission for a relevant waste operation will not be required unless it constitutes "development" in planning terms. Where development is involved the proposed operation may still benefit from "permitted development rights" within the meaning of the Town and Country Planning (General Permitted Development) Order 1995. This means that planning permission has been granted by virtue of the Order and is in force for the purposes of paragraph 2 of Schedule 9. Finally, if a certificate of lawful use or development or an established use certificate is in place, then this also means that planning permission is in force for the purposes of paragraph 2 of Schedule 9.

# Annex 1 – Schedule 9 to the Environmental Permitting Regulations

## SCHEDULE 9

## Regulation 35(c)

### Provision in relation to waste operations

#### Application

1. This Schedule applies in relation to every waste operation.

#### Grant of an environmental permit: requirement for prior planning permission

2.—(1) Following an application under regulation 13(1), the regulator must not grant an environmental permit in relation to a relevant waste operation if use of the site for carrying on that operation requires a planning permission and no such permission is in force.

(2) In this paragraph—

(a) “planning permission” means planning permission under the Town and Country Planning Act 1990(a) and includes—

- (i) a certificate under section 191 of that Act(b); and
- (ii) an established use certificate under section 192 of that Act, as originally enacted, which continues to have effect for the purposes of subsection (4) of that section;

(b) “relevant waste operation” means—

- (i) a waste operation that is carried on other than at an installation or mobile plant, or
- (ii) a specified waste management activity.

(3) In sub-paragraph (2)(b), “specified waste management activity” means one of the following activities—

- (a) the disposal of waste in a landfill falling within Section 5.2 of Part 2 of Schedule 1;
- (b) the disposal of waste falling within Section 5.3 of Part 2 of Schedule 1;
- (c) the recovery of waste falling within Part A(1)(c)(i), (ii), (v) or (vii) of Section 5.4 of Part 2 of Schedule 1.

(4) But “specified waste management activity” does not include any activity specified in sub-paragraph (3)(b) or (c) if that activity—

- (a) is carried on at the same installation as a Part A(1) activity not specified in sub-paragraph (3); and
- (b) is not the activity which constitutes the primary purpose for operating the installation.

#### Exercise of relevant functions: all waste operations

3. The regulator must exercise its relevant functions—

- (a) for the purposes of implementing Article 4 of the Waste Framework Directive; and
- (b) so as to ensure that the records referred to in Article 14 of the Waste Framework Directive are kept and made available to the regulator on request.

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a 1990 c. 8.

b Section 191 was substituted by the Planning and Compensation Act 1991 (c.34), section 10(1).

#### **Exercise of relevant functions: disposal of waste**

- 4.—(1) The regulator must exercise its relevant functions in relation to disposal of waste—
- (a) for the purposes of implementing Article 5 of the Waste Framework Directive, ignoring the words “in cooperation with other Member States where this is necessary or advisable”;
  - (b) for the purposes of implementing, so far as material, any waste management plan; and
  - (c) so as to ensure that the requirements in the second paragraph of Article 9(1) of the Waste Framework Directive are met.
- (2) In this paragraph, “waste management plan” has the meaning given in Schedule 20.

# Annex 2 – Schedule 20 to the Environmental Permitting Regulations

The following text is as written in Schedule 20 to the Environmental Permitting Regulations, however the footnote reference may vary a little.

Regulation 68(3)

## SCHEDULE 20

### Further provision relating to waste

#### Interpretation: general

**1.** In this Schedule—

“authority” means—

- (a) an appropriate authority,
- (b) the Agency,
- (c) a planning authority,
- (d) a person appointed under section 114(1)(a) of the 1995 Act(c);

“local planning authority” has the same meaning as in the Town and Country Planning Act 1990(d);

“planning authority” means—“mineral planning authority” has the same meaning as in section 1 of the Town and Country Planning Act 1990 (a);”.

- (a) a local planning authority,
- (b) a joint committee constituted under section 29 of the Planning and Compulsory Purchase Act 2004(e),
- (c) the person appointed under paragraph 1 of Schedule 6 to the Town and Country Planning Act 1990(f),
- (d) a government department in respect of its functions under the planning Acts, or
- (e) the Secretary of State in respect of his functions under the planning Acts;

“plan making provisions” means—

- (f) paragraph 5 of Schedule 4 to the 1994 Regulations,
- (g) Part 2 of the Town and Country Planning Act 1990(g),
- (h) section 44A of the 1990 Act(h),
- (i) in England, Parts 1 and 2 and Schedule 8 of the Planning and Compulsory Purchase Act 2004, and

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(c) Section 114 was amended by the Water Act 2003, c.37, sections 3(13), 8(7), 13(4) and 21(4), and by S.I. 2000/1973.

(d) 1990 c.8.

(e) 2004, c.5.

(f) Paragraph 1 was amended by the Planning and Compensation Act 1991 c.34, section 32.

(g) Part 2 is repealed by the Planning and Compulsory Purchase Act 2004, section 120 and Schedule 9, but is saved for certain purposes in England by S.I. 2004/2202 and in Wales by S.I. 2005/2847 (W.118).

(h) Section 44A was inserted by the Environment Act 1995, c.25, section 92(1).

- (j) in Wales—
  - (i) Part 6 of the Planning and Compulsory Purchase Act 2004,
  - (ii) article 3(3) of the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005(i);

“the planning Acts” means—

- (k) the Town and Country Planning Act 1990,
- (l) the Planning (Listed Buildings and Conservation Areas) Act 1990(j),
- (m) the Planning (Hazardous Substances) Act 1990(k),
- (n) the Planning (Consequential Provisions) Act 1990(l), and
- (o) the Planning and Compulsory Purchase Act 2004;

“planning permission” has the meaning given by section 336 of the Town and Country Planning Act 1990(m);

“pollution control authority” means an authority other than a planning authority;

“specified functions” has the meaning given in paragraph 2;

“waste management plan” means a plan or other expression of strategy or policy in relation to waste management made under the plan making provisions.

### **Interpretation: specified functions**

2.—(1) In this Schedule, “specified functions” means—

- (a) in the case of an appropriate authority, its functions—
  - (i) under Part II of the Food and Environment Protection Act 1985(n), and
  - (ii) in relation to the determination of appeals against decisions of the Environment Agency in the exercise of its specified functions;
- (b) in the case of the Environment Agency, its functions in relation to—
  - (i) consents under Chapter II of Part III of the Water Resources Act 1991(o) for a discharge of waste in liquid form other than waste waters,
  - (ii) authorisations under regulation 18 of the Groundwater Regulations 1998(p), and
  - (iii) notices under regulation 19 of the Groundwater Regulations 1998;
- (c) in the case of a person appointed under section 114(1)(a) of the 1995 Act, his functions in relation to the determination of appeals against decisions of the Environment Agency in the exercise of its specified functions;
- (d) in the case of a planning authority—
  - (i) determining an application for planning permission or an appeal made under section 78 of the Town and Country Planning Act 1990(q) relating to such a determination,
  - (ii) deciding whether to take action under section 141(2) or (3) or 177(1)(a) or (b) of the Town and Country Planning Act 1990(r), or under section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990,

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(i) S.I. 2005/2847.

(j) 1990 c.9.

(k) 1990 c.10.

(l) 1990 c.11.

(m) The definition of “planning permission” in section 336 was amended by the Planning and Compensation Act 1991, sections 32 and 84(6) and Schedules 7 and 19.

(n) 1985, c.48.

(o) 1991 c.57.

(p) S.I. 1998/2746.

(q) Section 78 was amended by the Planning and Compensation Act 1991 (c. 34), section 17(2) and the Planning and Compulsory Purchase Act 2004 (c. 5), sections 40(2)(e) and 43(2).

(r) Section 177 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and Schedule 7.

- (iii) deciding whether to direct under section 90(1), (2) or (2A) of the Town and Country Planning Act 1990(s) that planning permission must be deemed to be granted,
- (iv) deciding whether—
  - (aa) in making or confirming a discontinuance order, to include in the order any grant of planning permission, or
  - (bb) to confirm (with or without modifications) a discontinuance order insofar as it grants planning permission,
 and for the purposes of this sub-paragraph, “discontinuance order” means an order under section 102 of the Town and Country Planning Act 1990 (including an order made under that section by virtue of section 104 of that Act), or under paragraph 1 of Schedule 9 to that Act (including an order made under that paragraph by virtue of paragraph 11 of that Schedule)(t),
- (v) making a local development order under section 61A of the Town and Country Planning Act 1990(u), and
- (vi) discharging functions under Part II of the Town and Country Planning Act 1990, under parts 1 and 2 of and Schedule 8 to the Planning and Compulsory Purchase Act 2004 in relation to England or under part 6 of and Schedule 8 to the Planning and Compulsory Purchase Act 2004 in relation to Wales.

(2) But a function which must be discharged by statutory instrument is not a specified function.

#### **Exercise of specified functions: all waste operations**

- 3.—(1) Every authority must exercise its specified functions in relation to waste operations—
- (a) for the purposes of implementing Article 4 of the Waste Framework Directive; and
  - (b) when exercising a function under the plan making provisions, for the purposes of implementing Article 3(1) of the Waste Framework Directive.
- (2) Every authority, other than a planning authority, must exercise its specified functions in relation to waste operations so as to ensure that the records referred to in Article 14 of the Waste Framework Directive are kept and made available to the authority on request.

#### **Exercise of specified functions: disposal of waste**

- 4.—(1) Every authority must exercise its specified functions in relation to disposal of waste—
- (a) for the purposes of implementing Article 5 of the Waste Framework Directive, ignoring the words “in cooperation with other Member States where this is necessary or advisable”;
  - (b) for the purposes of implementing, so far as material, any waste management plan.
- (2) Every pollution control authority must exercise its specified functions in relation to disposal of waste so as to ensure that the requirements in the second paragraph of Article 9(1) of the Waste Framework Directive are met.

#### **Periodic inspections**

5. Every authority must make appropriate periodic inspections of every establishment or undertaking carrying on a waste operation in relation to which it is required to exercise its specified functions under paragraph 3 or 4.

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(s) Section 90(1) was amended by the Environment Act 1995, c.25, section 78 and Schedule 10; Section 90(2A) was inserted by the Transport and Works Act 1992, c.42, section 16(1).

(t) Section 102 was amended by the Planning and Compensation Act 1991 (c. 34), section 32 and Schedule 7; Section 102 and Paragraph 1 of Schedule 9 were amended by section 21 and Schedule 1 of that Act.

(u) Section 61A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), section 40(1).

### **Requirements applying to planning authorities**

**6.**—(1) Nothing in paragraph 3 or 4 requires a planning authority to deal with a matter which the relevant pollution control authority has power to deal with.

(2) A planning authority must not grant planning permission for a landfill unless it has taken the requirements of paragraph 1.1 of Annex 1 of the Landfill Directive into consideration.

(3) A mineral planning authority must not grant planning permission for a mining waste facility to which Article 7 of the Mining Waste Directive applies unless it is satisfied that-

- (a) The operator of that facility will need to make the requirements of Article 11(2)(a) of that Directive; and
- (b) The management of waste at that facility will not conflict directly or otherwise interfere with the implementation of the plan or plans referred to in Article 7(3)(b) of that Directive.

## **Annex 3 – Waste Framework Directive**

**DIRECTIVE 2006/12/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 5 April 2006****on waste****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

(1) Council Directive 75/442/EEC of 15 July 1975 on waste <sup>(3)</sup> has been significantly amended on several occasions <sup>(4)</sup>. In order to clarify matters, a codification of the provisions in question should be drawn up.

(2) The essential objective of all provisions relating to waste management should be the protection of human health and the environment against harmful effects caused by the collection, transport, treatment, storage and tipping of waste.

(3) Common terminology and a definition of waste are needed in order to improve the efficiency of waste management in the Community.

(4) Effective and consistent rules on waste disposal and recovery should be applied, subject to certain exceptions, to movable property which the holder discards or intends or is required to discard.

(5) The recovery of waste and the use of recovered materials as raw materials should be encouraged in order to conserve natural resources. It may be necessary to adopt specific rules for re-usable waste.

(6) In order to achieve a high level of environmental protection, Member States should, in addition to taking responsible action to ensure the disposal and recovery of waste, take measures to restrict the production of waste particularly by promoting clean technologies and products which can be recycled and re-used, taking into consideration existing or potential market opportunities for recovered waste.

(7) Moreover, discrepancies between Member States' legislation with regard to waste disposal and recovery may affect the quality of the environment and the smooth operation of the internal market.

(8) It is important for the Community as a whole to become self-sufficient in waste disposal and desirable for Member States individually to aim at such self-sufficiency.

(9) In order to achieve those objectives, waste management plans should be drawn up in the Member States.

(10) Movements of waste should be reduced and Member States may take the necessary measures to that end in their management plans.

(11) To ensure a high level of protection and effective control, it is necessary to provide for authorisation and inspection of undertakings which carry out waste disposal and recovery.

<sup>(1)</sup> OJ C 112, 30.4.2004, p. 46.

<sup>(2)</sup> Opinion of the European Parliament of 9 March 2004 (OJ C 102 E, 28.4.2004, p. 106) and Council Decision of 30 January 2006.

<sup>(3)</sup> OJ L 194, 25.7.1975, p. 39. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>(4)</sup> See Part A of Annex III.

- (12) Subject to certain conditions, and provided that they comply with environmental protection requirements, some establishments which process their waste themselves or carry out waste recovery may be exempted from permit requirements. Such establishments should be subject to registration.
- (13) In order that waste can be monitored from its production to its final disposal, other undertakings involved with waste, such as waste collectors, carriers and brokers should also be subject to authorisation or registration and appropriate inspection.
- (14) That proportion of the costs not covered by the proceeds of treating the waste must be defrayed in accordance with the 'polluter pays' principle.
- (15) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (16) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives listed in Part B of Annex III,

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

1. For the purposes of this Directive:

- (a) '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;
- (b) 'producer' shall mean anyone whose activities produce waste ('original producer') and/or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;
- (c) 'holder' shall mean the producer of the waste or the natural or legal person who is in possession of it;
- (d) 'management' shall mean the collection, transport, recovery and disposal of waste, including the supervision of such operations and after-care of disposal sites;

- (e) 'disposal' shall mean any of the operations provided for in Annex II A;
- (f) 'recovery' shall mean any of the operations provided for in Annex II B;
- (g) 'collection' shall mean the gathering, sorting and/or mixing of waste for the purpose of transport.

2. For the purposes of paragraph 1, point (a), the Commission, acting in accordance with the procedure referred to in Article 18(3), shall draw up a list of waste belonging to the categories listed in Annex I. This list shall be periodically reviewed and, if necessary, revised in accordance with the same procedure.

#### Article 2

1. The following shall be excluded from the scope of this Directive:

- (a) gaseous effluents emitted into the atmosphere;
- (b) where they are already covered by other legislation:
- (i) radioactive waste;
- (ii) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries;
- (iii) animal carcasses and the following agricultural waste: faecal matter and other natural, non-dangerous substances used in farming;
- (iv) waste waters, with the exception of waste in liquid form;
- (v) decommissioned explosives.

2. Specific rules for particular instances, or supplementing those of this Directive, on the management of particular categories of waste, may be laid down by means of individual Directives.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

*Article 3*

1. Member States shall take appropriate measures to encourage:

- (a) first, the prevention or reduction of waste production and its harmfulness, in particular by:
  - (i) the development of clean technologies more sparing in their use of natural resources;
  - (ii) the technical development and marketing of products designed so as to make no contribution or to make the smallest possible contribution, by the nature of their manufacture, use or disposal, to increasing the amount or harmfulness of waste and pollution hazards;
  - (iii) the development of appropriate techniques for the final disposal of dangerous substances contained in waste destined for recovery;
- (b) second:
  - (i) the recovery of waste by means of recycling, re-use or reclamation or any other process with a view to extracting secondary raw materials; or
  - (ii) the use of waste as a source of energy.

2. Except where Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations <sup>(1)</sup> applies, Member States shall inform the Commission of any measures they intend to take to achieve the aims set out in paragraph 1. The Commission shall inform the other Member States and the Committee referred to in Article 18(1) of such measures.

*Article 4*

1. Member States shall take the necessary measures 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 or soil, or to plants or animals;
- (b) without causing a nuisance through noise or odours;

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

2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

*Article 5*

1. Member States shall take appropriate measures, in cooperation with other Member States where this is necessary or advisable, to establish an integrated and adequate network of disposal installations, taking account of the best available technology not involving excessive costs. The network must enable the Community as a whole to become self-sufficient in waste disposal and the Member States to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste.

2. The network referred to in paragraph 1 must enable waste to be disposed of in one of the nearest appropriate installations, by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health.

*Article 6*

Member States shall establish or designate the competent authority or authorities to be responsible for implementing this Directive.

*Article 7*

1. In order to attain the objectives referred to in Articles 3, 4 and 5, the competent authority or authorities referred to in Article 6 shall be required to draw up as soon as possible one or more waste management plans. Such plans shall relate in particular to:

- (a) the type, quantity and origin of waste to be recovered or disposed of;
- (b) general technical requirements;
- (c) any special arrangements for particular wastes;
- (d) suitable disposal sites or installations.

<sup>(1)</sup> OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

2. The plans referred to in paragraph 1 may, for example, cover:

- (a) the natural or legal persons empowered to carry out waste management;
- (b) the estimated costs of the recovery and disposal operations;
- (c) appropriate measures to encourage rationalisation of the collection, sorting and treatment of waste.

3. Member States shall cooperate as appropriate with the other Member States and the Commission to draw up such plans. They shall notify Commission of them.

4. Member States may take the measures necessary to prevent movements of waste which do not comply with their waste management plans. They shall inform the Commission and the Member States of any such measures.

#### Article 8

Member States shall take the necessary measures to ensure that any holder of waste:

- (a) has it handled by a private or public waste collector or by an undertaking which carries out the operations listed in Annex II A or II B; or
- (b) recovers or disposes of it himself in accordance with the provisions of this Directive.

#### Article 9

1. For the purposes of implementing Articles 4, 5 and 7, any establishment or undertaking which carries out the operations specified in Annex II A shall obtain a permit from the competent authority referred to in Article 6.

Such permit shall cover:

- (a) the types and quantities of waste;
- (b) the technical requirements;
- (c) the safety precautions to be taken;
- (d) the disposal site;
- (e) the treatment method.

2. Permits may be granted for a specified period, they may be renewable, they may be subject to conditions and obligations, or, notably, if the intended method of disposal is unacceptable from the point of view of environmental protection, they may be refused.

#### Article 10

For the purposes of applying Article 4, any establishment or undertaking which carries out the operations referred to in Annex II B shall obtain a permit.

#### Article 11

1. Without prejudice to Council Directive 91/689/EEC of 12 December 1991 on hazardous waste <sup>(1)</sup>, the following may be exempted from the permit requirement laid down in Article 9 or Article 10:

- (a) establishments or undertakings carrying out their own waste disposal at the place of production; and
- (b) establishments or undertakings that carry out waste recovery.

2. The exemption referred to in paragraph 1 may apply only:

- (a) if the competent authorities have adopted general rules for each type of activity, laying down the types and quantities of waste and the conditions under which the activity in question may be exempted from the permit requirement; and
- (b) if the types or quantities of waste and methods of disposal or recovery are such that the conditions laid down in Article 4 are complied with.

3. The establishments or undertakings referred to in paragraph 1 shall be registered with the competent authorities.

4. Member States shall inform the Commission of the general rules adopted pursuant to paragraph 2, point (a).

<sup>(1)</sup> OJ L 377, 31.12.1991, p. 20. Directive as amended by Directive 94/31/EC (OJ L 168, 2.7.1994, p. 28).

*Article 12*

Establishments or undertakings which collect or transport waste on a professional basis or which arrange for the disposal or recovery of waste on behalf of others (dealers or brokers) shall, where they are not subject to authorisation, be registered with the competent authorities.

*Article 13*

Establishments or undertakings which carry out the operations referred to in Articles 9 to 12 shall be subject to appropriate periodic inspections by the competent authorities.

*Article 14*

1. All establishments or undertakings referred to in Articles 9 and 10 shall:

- (a) keep a record of the quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method in respect of the waste referred to in Annex I and the operations referred to in Annex II A or II B;
- (b) make this information available, on request, to the competent authorities referred to in Article 6.

2. Member States may also require producers to comply with the provisions of paragraph 1.

*Article 15*

In accordance with the 'polluter pays' principle, the cost of disposing of waste must be borne by:

- (a) the holder who has waste handled by a waste collector or by an undertaking as referred to in Article 9; and/or
- (b) the previous holders or the producer of the product from which the waste came.

*Article 16*

At intervals of three years Member States shall send information to the Commission on the implementation of this Directive, in the form of a sectoral report which shall also cover other pertinent Community Directives. The report shall be drawn up on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure referred to in Article 18(2). The questionnaire or outline shall be sent to the Member States six months before the start of the period covered by the report. The report shall be made to the Commission within nine months of the end of the three-year period covered by it.

The Commission shall publish a Community report on the implementation of the Directive within nine months of receiving the reports from the Member States.

*Article 17*

The amendments necessary for adapting the Annexes to scientific and technical progress shall be adopted in accordance with the procedure referred to in Article 18(3).

*Article 18*

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

4. The Committee shall adopt its rules of procedure.

*Article 19*

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 20*

Directive 75/442/EEC is hereby repealed, without prejudice to Member States' obligations relating to the time-limits for transposition into national law set out in Annex III, Part B.

References made to the repealed Directive shall be construed as being made to this Directive and should be read in accordance with the correlation table in Annex IV.

*Article 21*

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 22*

This Directive is addressed to the Member States.

Done at Strasbourg, 5 April 2006.

*For the European Parliament*

*The President*

J. BORRELL FONTELLES

*For the Council*

*The President*

H. WINKLER

## ANNEX I

**CATEGORIES OF WASTE**

- Q1 Production or consumption residues not otherwise specified below
  - Q2 Off-specification products
  - Q3 Products whose date for appropriate use has expired
  - Q4 Materials spilled, lost or having undergone other mishap, including any materials, equipment, etc., contaminated as a result of the mishap
  - Q5 Materials contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packing materials, containers, etc.)
  - Q6 Unusable parts (e.g. reject batteries, exhausted catalysts, etc.)
  - Q7 Substances which no longer perform satisfactorily (e.g. contaminated acids, contaminated solvents, exhausted tempering salts, etc.)
  - Q8 Residues of industrial processes (e.g. slags, still bottoms, etc.)
  - Q9 Residues from pollution abatement processes (e.g. scrubber sludges, baghouse dusts, spent filters, etc.)
  - Q10 Machining/finishing residues (e.g. lathe turnings, mill scales, etc.)
  - Q11 Residues from raw materials extraction and processing (e.g. mining residues, oil field slops, etc.)
  - Q12 Adulterated materials (e.g. oils contaminated with PCBs, etc.)
  - Q13 Any materials, substances or products the use of which has been banned by law
  - Q14 Products for which the holder has no further use (e.g. agricultural, household, office, commercial and shop discards, etc.)
  - Q15 Contaminated materials, substances or products resulting from remedial action with respect to land
  - Q16 Any materials, substances or products which are not contained in the abovementioned categories.
-

## ANNEX II A

**DISPOSAL OPERATIONS**

- NB:** This Annex is intended to list disposal operations such as they occur in practice. In accordance with Article 4, waste must be disposed of without endangering human health and without the use of processes or methods likely to harm the environment.
- D 1 Deposit into or on to land (e.g. landfill, etc.)
- D 2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)
- D 3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
- D 4 Surface impoundment (e.g. placement of liquid or sludgy discards into pits, ponds or lagoons, etc.)
- D 5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
- D 6 Release into a water body except seas/oceans
- D 7 Release into seas/oceans including sea-bed insertion
- D 8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 7 and D 9 to D 12
- D 9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 8 and D 10 to D 12 (e.g. evaporation, drying, calcination, etc.)
- D 10 Incineration on land
- D 11 Incineration at sea
- D 12 Permanent storage (e.g. emplacement of containers in a mine, etc.)
- D 13 Blending or mixing prior to submission to any of the operations numbered D 1 to D 12
- D 14 Repackaging prior to submission to any of the operations numbered D 1 to D 13
- D 15 Storage pending any of the operations numbered D 1 to D 14 (excluding temporary storage, pending collection, on the site where it is produced)
-

## ANNEX II B

**RECOVERY OPERATIONS**

- NB: This Annex is intended to list recovery operations as they occur in practice. In accordance with Article 4, waste must be recovered without endangering human health and without the use of processes or methods likely to harm the environment.
- R 1 Use principally as a fuel or other means to generate energy
- R 2 Solvent reclamation/regeneration
- R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)
- R 4 Recycling/reclamation of metals and metal compounds
- R 5 Recycling/reclamation of other inorganic materials
- R 6 Regeneration of acids or bases
- R 7 Recovery of components used for pollution abatement
- R 8 Recovery of components from catalysts
- R 9 Oil re-refining or other reuses of oil
- R 10 Land treatment resulting in benefit to agriculture or ecological improvement
- R 11 Use of wastes obtained from any of the operations numbered R 1 to R 10
- R 12 Exchange of wastes for submission to any of the operations numbered R 1 to R 11
- R 13 Storage of wastes pending any of the operations numbered R 1 to R 12 (excluding temporary storage, pending collection, on the site where it is produced)
-

## ANNEX III

## PART A

**REPEALED DIRECTIVE WITH ITS SUCCESSIVE AMENDMENTS**

(referred to in Article 20)

|   |  |
|---|--|
| Council Directive 75/442/EEC<br>(OJ L 194, 25.7.1975, p. 39)  |  |
| Council Directive 91/156/EEC<br>(OJ L 78, 26.3.1991, p. 32)   |  |
| Council Directive 91/692/EEC (OJ L 377, 31.12.1991,<br>p. 48)   | only as regards the reference to Directive 75/442/EEC in<br>Annex VI |
| Commission Decision 96/350/EC (OJ L 135, 6.6.1996,<br>p. 32)  |  |
| Regulation (EC) No 1882/2003 of the<br>European Parliament and of the Council (OJ<br>L 284, 31.10.2003, p. 1) | Annex III, point 1 only  |

## PART B

**LIST OF TIME-LIMITS FOR TRANSPOSITION INTO NATIONAL LAW**

(referred to in Article 20)

| Directive  | Time-limit for transposition |
|------------|------------------------------|
| 75/442/EEC | 17 July 1977                 |
| 91/156/EEC | 1 April 1993                 |
| 91/692/EEC | 1 January 1995               |

## ANNEX IV

## CORRELATION TABLE

| Directive 75/442/EEC                                  | This Directive                     |
|---|------------------------------------|
| Article 1, introductory words                         | Article 1(1) introductory words    |
| Article 1(a) first subparagraph                       | Article 1(1)(a)                    |
| Article 1(a) second subparagraph                      | Article 1(2)                       |
| Article 1(b) — (g)                                    | Article 1(1)(b) — (g)              |
| Article 2   | Article 2                          |
| Article 3(1) introductory words                       | Article 3(1) introductory words    |
| Article 3(1)(a) introductory words                    | Article 3(1)(a) introductory words |
| Article 3(1)(a) first indent                          | Article 3(1)(a)(i)                 |
| Article 3(1)(a) second indent                         | Article 3(1)(a)(ii)                |
| Article 3(1)(a) third indent                          | Article 3(1)(a)(iii)               |
| Article 3(1)(b), introductory words                   | Article 3(1)(b) introductory words |
| Article 3(1)(b) first indent                          | Article 3(1)(b)(i)                 |
| Article 3(1)(b) second indent                         | Article 3(1)(b)(ii)                |
| Article 3(2)  | Article 3(2)                       |
| Article 4, first paragraph, introductory words        | Article 4(1), introductory words   |
| Article 4, first paragraph, first indent              | Article 4(1)(a)                    |
| Article 4, first paragraph, second indent             | Article 4(1)(b)                    |
| Article 4, first paragraph, third indent              | Article 4(1)(c)                    |
| Article 4, second paragraph                           | Article 4(2)                       |
| Article 5   | Article 5                          |
| Article 6   | Article 6                          |
| Article 7(1), first subparagraph, introductory words  | Article 7(1), introductory words   |
| Article 7(1), first subparagraph, first indent        | Article 7(1)(a)                    |
| Article 7(1), first subparagraph, second indent       | Article 7(1)(b)                    |
| Article 7(1), first subparagraph, third indent        | Article 7(1)(c)                    |
| Article 7(1), first subparagraph, fourth indent       | Article 7(1)(d)                    |
| Article 7(1), second subparagraph, introductory words | Article 7(2), introductory words   |
| Article 7(1), second subparagraph, first indent       | Article 7(2)(a)                    |
| Article 7(1), second subparagraph, second indent      | Article 7(2)(b)                    |
| Article 7(1), second subparagraph, third indent       | Article 7(2)(c)                    |
| Article 7(2)  | Article 7(3)                       |
| Article 7(3)  | Article 7(4)                       |
| Article 8, introductory words                         | Article 8, introductory words      |

| Directive 75/442/EEC                                   | This Directive  |
|--|---|
| Article 8, first indent                                | Article 8(a)  |
| Article 8, second indent                               | Article 8(b)  |
| Article 9(1), first subparagraph                       | Article 9(1), first subparagraph                      |
| Article 9(1), second subparagraph, introductory words  | Article 9(1), second subparagraph, introductory words |
| Article 9(1), second subparagraph, first indent        | Article 9(1), second subparagraph, (a)                |
| Article 9(1), second subparagraph, second indent       | Article 9(1), second subparagraph, (b)                |
| Article 9(1), second subparagraph, third indent        | Article 9(1), second subparagraph, (c)                |
| Article 9(1), second subparagraph, fourth indent       | Article 9(1), second subparagraph, (d)                |
| Article 9(1), second subparagraph, fifth indent        | Article 9(1), second subparagraph, (e)                |
| Article 9(2)   | Article 9(2)  |
| Article 10   | Article 10  |
| Article 11(1), first subparagraph                      | Article 11(1)   |
| Article 11(1), second subparagraph, introductory words | Article 11(2), introductory words                     |
| Article 11(1), second subparagraph, first indent       | Article 11(2)(a)                                      |
| Article 11(1), second subparagraph, second indent      | Article 11(2)(b)                                      |
| Article 11(2)  | Article 11(3)   |
| Article 11(3)  | Article 11(4)   |
| Article 12   | Article 12  |
| Article 13   | Article 13  |
| Article 14, first paragraph, introductory words        | Article 14(1), introductory words                     |
| Article 14, first paragraph, first indent              | Article 14(1)(a)                                      |
| Article 14, first paragraph, second indent             | Article 14(1)(b)                                      |
| Article 14, second subparagraph                        | Article 14(2)   |
| Article 15, introductory words                         | Article 15, introductory words                        |
| Article 15, first indent                               | Article 15(a)   |
| Article 15, second indent                              | Article 15(b)   |
| Article 16, first paragraph                            | Article 16, first paragraph and Article 18(2)         |
| Article 16, second paragraph                           | —   |
| Article 16, third paragraph                            | Article 16, second paragraph                          |
| Article 17   | Article 17  |
| Article 18(1)  | Article 18(1)   |
| Article 18(2)  | Article 18(3)   |
| Article 18(3)  | Article 18(4)   |
| Article 19   | —   |

| Directive 75/442/EEC | This Directive |
|----------------------|----------------|
| Article 20           | Article 19     |
| —                    | Article 20     |
| —                    | Article 21     |
| Article 21           | Article 22     |
| Annex I              | Annex I        |
| Annex II A           | Annex II A     |
| Annex II B           | Annex II B     |
| —                    | Annex III      |
| —                    | Annex IV       |