
STATUTORY INSTRUMENTS

2011 No.

**ENVIRONMENTAL PROTECTION, ENGLAND AND
WALES**

The Controlled Waste (England and Wales) Regulations 2011

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	<i>6th April 2011</i>

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, in exercise of the powers conferred by sections 45(3), 75(7)(d) and (8) and 96(2)(b) of the Environmental Protection Act 1990(a), make the following Regulations.

Citation, extent and commencement

1.—(1) These Regulations may be cited as the Controlled Waste (England and Wales) Regulations 2011.

- (2) They extend to England and Wales.
- (3) They come into force on 6th April 2011.

Interpretation

2. In these Regulations—

“the Act” means the Environmental Protection Act 1990;

“Directive waste” means anything that—

- (a) is waste within the meaning of Article 3(1) of Directive 98/2008/EC of the European Parliament and of the Council on waste and repealing certain Directives(b), as read with Article 5(1); and
- (b) is not excluded from the scope of that Directive by Article 2(1), (2) or (3).

Household, industrial and commercial waste

3.—(1) Waste which is not Directive waste is not to be treated as household waste, industrial waste or commercial waste for the purposes of Part 2 of the Act.

- (2) The Schedule (household, industrial and commercial waste) has effect.

(a) 1990 c. 43. Functions of the Secretary of State under sections 45, 75 and 96, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 and Schedule 1 of S.I. 1999/672. Those functions were then transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(b) OJ No. L 312, 22.11.2008, p3.

Litter and refuse

4. Part 2 of the Act has effect as if references to controlled waste collected under section 45 include references to litter and refuse collected under sections 89(1)(a) and (c), 92(9) and 92C(3) of the Act(a).

Revocation

5. The Controlled Waste Regulations 1992(b) are revoked in England and Wales.

[Date] Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

Signed on behalf of the Welsh Ministers

[Date] Minister for Environment, Sustainability and Housing
One of the Welsh Ministers

SCHEDULE

Regulation 3(2)

Household, industrial and commercial waste

Interpretation

1. In this Schedule—

“camp site” means land on which tents are pitched for the purpose of human habitation and land the use of which is incidental to that purpose;

“charity shop” means a hereditament used wholly or mainly for the sale of goods donated to a charity where the proceeds of sale (after deduction of expenses) are applied for the purposes of a charity;

“clinical waste” means—

- (a) any of the following waste if it may prove hazardous to any person coming into contact with it unless rendered safe—
 - (i) waste consisting wholly or partly of human or animal tissue, blood or other bodily fluids or excretions;
 - (ii) drugs or other pharmaceutical products;
 - (iii) swabs or dressings;
 - (iv) syringes, needles or other sharp instruments; and
- (b) any other waste arising from the following activities which may cause infection to any person coming into contact with it—

(a) Section 92C was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 20(2).

(b) S.I. 1992/588, amended by S.I. 1994/1056, 1995/288, 2005/22, 2005/2900, 2006/937, 2007/3538.

- (i) medical, nursing, dental, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or research;
- (ii) collection of blood for transfusion;

“composite hereditament” has the same meaning as in section 64(9) of the Local Government Finance Act 1988(a);

“construction” includes improvement, repair or alteration;

“factory” has the meaning given by section 175 of the Factories Act 1961(b);

“general medical practitioner” means a person registered in the General Practitioner Register kept by the General Medical Council;

“gypsies’ and travellers” has the same meaning as in regulation 2 of the Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006(c);

“hazardous waste”—

- (a) in relation to England, has the meaning given in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005(d);
- (b) in relation to Wales, has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005(e);

“place of worship” means a hereditament exempt from local non-domestic rating by virtue of paragraph 11 of Schedule 5 to the Local Government Finance Act 1988;

“scientific research association” has the meaning given in section 469 of the Corporation Tax Act 2010(f);

“scrap metal” has the same meaning as in section 9(2) of the Scrap Metal Dealers Act

“septic tank sludge” has the same meaning as in regulation 2(1) of the Sludge (Use in Agriculture) Regulations 1989(h);

“waste oil” means any mineral or synthetic lubrication or industrial oil which is unfit for its original purpose.

Sources of household, industrial and commercial waste

2.—(1) This paragraph describes waste which is to be treated as household waste, industrial waste or commercial waste because of the place where it is produced.

(2) The first column of the table describes the places at which waste is produced.

(3) The waste must be treated for the purposes of Part 2 of the Act as the type of waste mentioned in the second column, subject to any exception in the third column.

(4) But in a case where paragraph 3 or 4(3) requires waste to be treated inconsistently with sub-paragraph (3), the requirements of those paragraphs take precedence.

Classification by place of production

<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
Private storage premises used wholly or mainly for the storage of articles of	Household waste	

(a) 1988 c. 41.

(b) 1961 c. 34. Section 175(2) was amended by S.I. 1983/978, regulation 3(1) and Schedule 1.

(c) S.I. 2006/3190.

(d) S.I. 2005/894, to which there are amendments not relevant to these Regulations.

(e) S.I. 2005/1806 (W. 138), to which there are amendments not relevant to these Regulations.

(f) 2010 c. 4.

(g) 1964 c. 69. Section 9(2) was amended by the Local Government Act 1972 (c. 70), section 272(1) and Schedule 30 and by the Statute Law (Repeals) Act 1993 (c. 50).

(h) S.I. 1989/1263, to which there are amendments not relevant to these instruments.

<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
domestic use		
Land belonging to or used wholly or mainly in connection with domestic property or a caravan where waste from that property or caravan is to be treated as household waste	Household waste	
A private garage	Household waste	Where the garage either has a floor area exceeding 25m ² or is not used wholly or mainly for the accommodation of a private motor vehicle, the waste is to be treated as commercial waste
A moored vessel used wholly for the purposes of living accommodation	Household waste	Where the vessel is used in the course of a business for the provision of self-catering accommodation, the waste is to be treated as commercial waste
A vehicle occupied for domestic purposes	Household waste	Where the vehicle is used in the course of a business for the provision of self-catering accommodation, the waste is to be treated as commercial waste
A place of worship	Household waste	
A residential hostel which provides accommodation only to persons with no other permanent address or who are unable to live at their permanent address	Household waste	
A penal institution	Household waste	
A charity shop selling donated goods originating from domestic property	Household waste	
A gypsies' and travellers' caravan or mobile home site	Household waste	
Premises occupied by a club, society or any association of persons in which activities are conducted for the benefit of the members	Commercial waste	
Premises used wholly or mainly for public meetings	Commercial waste	
Premises occupied by— (a) a court; (b) a government department; (c) a local authority; (d) a person appointed by or under any enactment to discharge public functions; (e) a body incorporated by Royal	Commercial waste	Waste classified as household waste or industrial waste because it is from a place— (a) otherwise described in this table (except for the final entry); or (b) described in section 75(5) or (7) of the Act (household waste or commercial waste)

<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
Charter		
A royal palace	Commercial waste	
Domestic property used in the course of a business for the provision of self-catering accommodation	Commercial waste	
A caravan— (a) used in the course of a business for the provision of self-catering accommodation, or (b) which is not allowed to be used for human habitation throughout the year by virtue of a licence or planning permission	Commercial waste	
A hotel	Commercial waste	
Any part of a composite hereditament used for the purposes of a trade or business	Commercial waste	
Premises occupied by a charity and wholly or mainly used for charitable purposes	Commercial waste	Where the waste is from a place of worship it is to be treated as household waste
A camp site or a tent pitched on land other than a camp site	Commercial waste	Where the waste is from domestic premises at a camp site, it is to be treated as household waste
A market or fair	Commercial waste	
The practice of a general medical practitioner	Commercial waste	
A workshop or similar premises which is not a factory only because— (a) those working there are not employees; or (b) the work carried on there is not carried on by way of trade or for purposes of gain	Industrial waste	The waste from such a place is to be treated as commercial waste where the principal activities are computer operations or the copying of documents by photographic or lithographic means
Waste from a laboratory	Industrial waste	
Waste from a scientific research association	Industrial waste	
Waste from premises used for the breeding, boarding or stabling of animals	Industrial waste	
Waste imported into England or Wales	Industrial waste	

<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
Directive waste from a place not otherwise described in this table or in section 75(5) or (7) of the Act ^(a) (household waste and commercial waste)	Industrial waste	

Nature of waste and activities producing waste

3.—(1) This paragraph describes waste which is to be treated as household waste, commercial waste or industrial waste because of its nature or the activity which produces it notwithstanding the place where it is produced.

(2) The first column of the table describes the nature of the waste or the activity which produces it.

(3) The waste must be treated for the purposes of Part 2 of the Act as the type of waste mentioned in the second column, subject to any exception in the third column.

(4) But in a case where paragraph 4(3) requires waste to be treated inconsistently with subparagraph (3), the requirements of that paragraph take precedence.

Classification by nature of waste or activity producing waste

<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
Waste arising from the discharge of duties under section 89(1)(a), (c) or (f) of the Act (duties to collect litter and refuse)	Household waste	
Waste arising from the discharge by a local authority of its duty under section 89(2) of the Act (duty to ensure highways and roads are kept clean)	Household waste	
Waste arising from the discharge of duties under sections 89(1)(d), 92(9), 92C(3) and 93 of the Act ^(b) (duties and powers in relation to the collection of litter and refuse)	Commercial waste	
Waste collected under section 22(3) of the Control of Pollution Act 1974 ^(c) (street cleaning)	Commercial waste	
Waste arising from the discharge of duties under section 89(1)(b) and (e) of the Act (duties to collect litter and refuse)	Industrial waste	
Waste arising from the discharge by the Secretary of State of the duty under section 89(2) of the Act (duty to ensure highways and roads are kept clean)	Industrial waste	
Hazardous waste arising from the following activities carried on at premises used for the purposes of a trade or business—	Industrial waste	

(a) Section 75(7) was amended by S.I. 2006/937.

(b) Section 92C was inserted by the Clean Neighbourhoods and Environment Act 2005, section 20(2).

(c) 1974 c. 40.

<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
<ul style="list-style-type: none"> (a) mixing or selling paints; (b) sign writing; (c) laundering or dry cleaning; (d) developing photographic film or making photographic prints; (e) selling petrol, diesel fuel, paraffin, kerosene, heating oil or similar substances; (f) selling pesticides, herbicides or fungicides 		
Waste oil, waste solvent or scrap metal	Industrial waste	<p>Waste oil, waste solvent or scrap metal produced at the following places is to be treated as household waste—</p> <ul style="list-style-type: none"> (a) a residential home; (b) domestic property, a caravan or land belonging to or used in connection with such a place; (c) a private garage which either has a floor area of 25m² or less or is used wholly or mainly for the accommodation of a private motor vehicle; (d) private storage premises used wholly or mainly for the storage of articles of domestic use; (e) a moored vessel used wholly for the purposes of living accommodation
Waste from construction or demolition works, including preparatory works	Industrial waste	The waste is to be treated as household waste for the purposes of section 34(2) and (2A) of the Act only (disapplication of section 34(1) and duty on the occupier of domestic property to transfer household waste only to an authorised person or for authorised transport purposes)
Septic tank sludge	Industrial waste	The waste is to be treated as household waste for the purposes of section 34(2) and (2A) of the Act only
Sewage	Industrial waste	
Clinical waste	Industrial waste	Clinical waste produced at domestic property, a residential home, a caravan or a moored vessel used wholly for the purposes of living

<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
		<p>accommodation is to be treated as household waste</p> <p>Clinical waste collected under section 22(3) of the Control of Pollution Act 1974 or section 89, 92(9), 92C(3) or 93 of the Act is to be treated as household waste or commercial waste in accordance with the other entries in this table</p>

Household waste for which collection and disposal charges may be made

4.—(1) The first column of the table in this paragraph describes waste which is household waste (by virtue of section 75(5) of the Act) or waste which is to be treated as household waste (by virtue of paragraphs 2 or 3).

(2) The second column indicates which household waste is prescribed for the purposes of section 45(3) of the Act (cases in respect of which a charge for collection may be made).

(3) The third column indicates which waste must be treated, on and after 1st April 2012, as commercial waste for the purposes of the following provisions of the Act—

- (a) section 45(4) to the extent that it concerns liability to pay a reasonable charge for disposal of commercial waste and the recovery of such a charge; and
- (b) section 52(9) (which entitles waste disposal authorities to reimbursement by waste collection authorities in relation to costs incurred in arranging the disposal of commercial and industrial waste).

<i>Description of household waste</i>	<i>Collection charge</i>	<i>Disposal charge</i>
Any article of waste which exceeds 25kg in weight	Yes	No
Any article of waste which does not fit, or cannot be fitted into— <ul style="list-style-type: none"> (a) a receptacle for household waste provided in accordance with section 46 of the Act; or (b) where no such receptacle is provided, a cylindrical container 750mm in diameter and 1m in length 	Yes	No
Garden waste	Yes	No
Clinical waste produced at a domestic property, a caravan or from a moored vessel used wholly for the purposes of living accommodation	Yes	No
Waste from a residential hostel which provides accommodation only to persons with no other permanent address or who are unable to live at their permanent address	Yes	No
Dead domestic pets	Yes	No
Waste oil or grease	Yes	No

<i>Description of household waste</i>	<i>Collection charge</i>	<i>Disposal charge</i>
Asbestos	Yes	No
Waste which may not be put into a receptacle provided under section 46 of the Act because of a notice served under that section	Yes	No
Waste from a charity shop selling donated goods originating from domestic property	Yes	Yes, but only to the extent that the waste originated from non-domestic property
Waste from premises occupied by a charity or business which collects waste from domestic property free of charge in order to prepare it for re-use	Yes	Yes, but only to the extent that the waste originated from non-domestic property
Litter and refuse collected under section 89(1)(f) of the Act	Yes	Yes
Waste from a residential home or land belonging to or wholly or mainly used in connection with a residential home	Yes	Yes
Waste from premises forming part of a university, school or other educational establishment	Yes	Yes
Waste from premises forming part of a hospital or nursing home	Yes	Yes
Waste from a penal institution	Yes	Yes

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations classify waste as household waste, commercial waste or industrial waste for the purposes of Part 2 of the Environmental Protection Act 1990 (“the Act”) and in consequence determine the meaning of “controlled waste” for the purposes of Part 2 of the Act (the definition of “controlled waste” is in section 75(4)).

They also prescribe the types of household waste for which a charge for collection may be made and provide that certain litter and refuse is to be treated under Part 2 in the same way as waste collected under section 45 of the Act.

Regulation 3 provides that only waste falling within the scope of Directive 98/2008/EC on waste (OJ No. L 312, 22.11.2008, p3) is to be classified as household, commercial or industrial waste. It also gives effect to the Schedule, which establishes the classification.

Paragraph 2 of the Schedule describes waste which is to be classified according to its place of production. It is subject to any inconsistent classification made by paragraphs 3 or 4.

Paragraph 3 of the Schedule describes waste which is to be classified according to its nature or the activity producing it. It is subject to any inconsistent classification made by paragraph 4.

Paragraph 4 of the Schedule prescribes household waste for which a collection charge may be made and specifies household waste which is to be treated as commercial waste only for the purposes of charging for disposal.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Waste Programme, Department for Environment, Food and Rural Affairs, Ergon House, Horseferry Road, London SW1P 2AL and will be published alongside the Explanatory Memorandum and the instrument on the OPSI website, www.opsi.gov.uk.