

WASTE MANAGEMENT (TRANSFRONTIER SHIPMENT OF WASTE) REGULATIONS 1998

In exercise of the powers conferred on the Minister for the Environment and Local Government by sections 7 of the Waste Management Act, 1996 (No. 10 of 1996), which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 428 of 1997), I, Dan Wallace, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:-

REG 1

1. (1) These Regulations may be cited as the Waste Management (Transfrontier Shipment of Waste) Regulations, 1998.
- (2) These Regulations shall come into operation on the 20th day of May, 1998.

REG 2

2. The purposes for which these Regulations are made include the purpose of giving effect to provisions of Council Regulation (EEC) No. 259/93 of 1 February, 1993 on the supervision and control of shipments of waste within, into and out of the European Community (1), as amended (in these Regulations referred to as "the Council Regulation").
- (1) O.J. No. L 30/1, 6 February, 1993.

REG 3

3. (1) Expressions used in these Regulations shall, save where the context otherwise requires, have the same meaning as in the Council Regulation.
- (2) In these Regulations, any reference to an article or sub-article which is not otherwise identified is a reference to, respectively, an article of these Regulations or to a sub-article of the provision in which the reference occurs.
- (3) In these Regulations, "shipment" in respect of waste means the consignment of such waste whether by air, land or water.

REG 4

4. (1) For the purposes of the application of the Council Regulation within the State -
 - (a) the "competent authority of destination" and "competent authority of transit" in respect of the import of waste into, or passage of waste in transit through, the State, shall be the Agency,
 - (b) the "competent authority of dispatch", in respect of the export of waste from the State, shall be the local authority in whose functional area the waste is held immediately prior to export,

(c) the Agency and a local authority shall have the powers, functions and duties assigned by the Council Regulation to a competent authority of dispatch, destination or transit, as the case may be, and shall perform such functions and duties and may exercise such powers.

REG 5

5. A person who is a notifier or consignee in relation to a shipment of waste shall comply with the requirements of the Council Regulation and these Regulations and with any requirements, obligations or conditions imposed in relation to such waste by a competent authority of dispatch or the competent authority of destination or transit under the Council Regulation or these Regulations.

REG 6

6. (1) A person shall not engage in, or facilitate by consent, connivance or neglect, illegal traffic in waste, within the meaning of article 26(1) of the Council Regulation.
- (2) A person shall not import, or attempt to import, or facilitate by consent, connivance or neglect the importation of, or an attempt to import, waste in contravention of a prohibition under article 9.
- (3) A person shall not furnish information which is false or misleading to a material extent in any notification or other document used for the purposes of the Council Regulation or these Regulations.

REG 7

7. (1) For the purposes of article 34(1) of the Council Regulation, or for the purpose of compliance by a competent authority of dispatch with the requirements of articles 25(1) or 26(2) of the Council Regulation, the said authority may give such direction in writing to the notifier of a shipment of waste, or to the producer or producers of the said waste, or both, as such authority considers reasonable and appropriate, and such notifier, producer or producers shall comply with any such directions.
- (2) For the purpose of compliance by the Agency, as competent authority of destination, with the requirements of article 26(3) of the Council Regulation, the Agency may give such direction in writing to the consignee of a shipment of waste as the Agency considers reasonable and appropriate, and such consignee shall comply with any such directions.
- (3) A direction under this article may require a person to return, or to arrange for the return, of all or part of a shipment of waste to its place of origin or to such other place as may be specified in the direction and to undertake, or arrange for, the recovery or disposal, as the case may be, of the waste such manner and at such facility as may be so specified.
- (4) Where a notifier or producer fails to comply with a direction

under sub-article (1), or where a consignee fails to comply with a direction under sub-article (2), the relevant competent authority shall itself take such steps, including the seizure or taking in charge, recovery or disposal of the waste in question, as it considers necessary to ensure that the said waste is recovered or disposed of in an environmentally sound manner.

(5) A competent authority of dispatch or the competent authority of destination or transit may require a notifier, producer or consignee, as the case may be, to defray any costs incurred by the competent authority for the purposes of this article and, without prejudice to article 8, may recover the costs incurred from the notifier, producer or consignee, as the case may be, as a simple contract debt in any court of competent jurisdiction.

REG 8

8. (1) A shipment of waste shall not enter or leave the State unless there is in force in relation to the shipment a certificate issued under this article.

(2) An application for a certificate in relation to a shipment of waste shall be made to the competent authority of dispatch or the competent authority of destination or transit in Ireland, as the case may be.

(3) A competent authority which receives an application under sub-article (2) shall issue the certificate requested if it is satisfied that there is in force in respect of the shipment, or will be in force at the time the shipment enters or leaves the State, as the case may be, a financial guarantee or other equivalent security satisfying the requirements of article 27 of the Council Regulation, and such certificate shall certify that the competent authority is so satisfied.

REG 9

9. (1) For the purposes of article 4(3) of the Council Regulation, the Agency may prohibit the import of any shipment of waste, or of a class or classes of waste, or of any shipment, class or classes of waste intended for any specified purpose, either generally or for such periods as may be specified.

(2) The Agency may prohibit the import of shipments of waste, or of a specified class or classes of waste, other than at a specified place or places within the State, and a person shall comply with any such prohibition.

(3) The Agency may revoke or modify any prohibition made under this article, or any prohibition so modified.

(4) Notice of any prohibition under this article, or of any revocation or modification of such prohibition, shall be published in the *Iris Oifigiuil* and in one or more national daily newspapers not less than fourteen days before such prohibition, revocation or modification shall take effect.

REG 10

10. (1) The Agency or a local authority may, by notice in writing, require a notifier or consignee of a shipment of waste, as the case may be, to defray or contribute towards any costs incurred by the Agency or local authority, as the case may be, in the performance of its functions under the Council Regulation and these Regulations in respect of the said shipment of waste, including the cost of any inspection or investigations carried out or caused to be carried out by the Agency or local authority, and the taking and analysis of any sample of waste.

(2) The amount of any payment required under sub-article (1) shall not exceed the reasonable costs incurred by the Agency or local authority, as the case may be, in the performance of its functions in respect of the relevant shipment of waste.

(3) A person on whom a notice is served under sub-article (1) shall comply with the requirements of the notice within such period, being a period of not less than three weeks, as may be specified in the notice, and in default of such payment, the amount concerned may be recovered by the Agency or local authority, as the case may be, as a simple contract debt in any court of competent jurisdiction.

REG 11

11. A local authority shall, not later than the 28th day of February in each year, furnish to the Agency information, of such nature and in such form as shall be specified by the Agency, in relation to shipments of waste in the preceding calendar year, in respect of which the said local authority was the competent authority of dispatch.

Dated this 12th day of May, 1998

DAN WALLACE

Minister of State at the Department of the Environment and Local Government

EXPLANATORY NOTE

These Regulations are for the purposes of giving effect to Council Regulation (EEC) No. 259/93 of 1 February, 1993 on the supervision and control of shipments of waste within, into and out of the European Community, as amended. While this Council Regulation is directly applicable in Member States of the European Union, it is necessary to provide for certain administrative details, in particular those relating to enforcement.

The Regulations inter alia provide for the designation of competent authorities for the purpose of controlling waste transshipments, powers of competent authorities, the imposition of certain requirements in relation to the shipment of waste into or out of the State, and the prohibition of waste imports by the Environmental Protection

Agency.

These Regulations will replace existing Regulations made under the European Communities Act, 1972, which will be revoked with effect from 20 May, 1998 by virtue of section 6 of the Waste Management Act, 1996.