

Scottish Statutory Instrument 2004 No. 275

The Waste Management Licensing Amendment (Scotland) Regulations 2004

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SCOTTISH STATUTORY INSTRUMENTS

2004 No. 275

ENVIRONMENTAL PROTECTION

The Waste Management Licensing Amendment (Scotland)
Regulations 2004

Made

9th June 2004

*Laid before the Scottish
Parliament*

10th June 2004

*Coming into force in
accordance with regulation
1(2) and (3)*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^[1] and sections 29(10), 33(3) and 74(6) of the Environmental Protection Act 1990^[2] and all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1. - (1) These Regulations may be cited as the Waste Management Licensing Amendment (Scotland) Regulations 2004.

(2) Regulations 2, 4, 5, 9, 10, 12, 15, 16, 17, 21, 22 and 23 shall come into force on 12th July 2004.

(3) Except as specified in paragraph (2) above, these Regulations shall come into force on 12th January 2005.

(4) These Regulations extend to Scotland only.

Amendment of the Environment Act 1995

2. - (1) The Environment Act 1995^[3] is amended in accordance with this regulation.

(2) In section 56(1) (interpretation of Part I), in the definition of "environmental licence" in the application of Part I of that Act to SEPA, for paragraph (j) substitute-

" (j) registration in respect of an activity falling within paragraphs 7, 8(2), 9, 10, 12, 12A, 19, 45(1) or (2) or 46 of Schedule 3 to those Regulations, except where the waste which is the subject of the activity consists of agricultural waste within the meaning of those Regulations,".

Amendment of the Waste Management Licensing Regulations 1994

3. The Waste Management Licensing Regulations 1994^[4] are amended as set out in regulations 4 to 22 below.

4. In regulation 12 (mobile plant)-

(a) for paragraph (1)(d) substitute-

" (d) plant for the treatment of clinical waste;"

(b) at the end of sub paragraph (1)(e) insert-

" ;

(f) plant for the dewatering of muds, sludges, soils and dredgings;

(g) plant for the treatment by lime stabilisation of sludge;

(h) plant for the treatment of contaminated material, substances or products for the purpose of remedial action with respect to land or controlled waters"; and

(c) after paragraph (2) insert-

" (3) For the purposes of paragraph (1)(h), "controlled waters" has the meaning given by section 30A of the Control of Pollution Act 1974[5]".

5. In regulation 16 (exclusion of activities under other control regimes from waste management licensing)[6], in paragraph (1)(bb), for "of Part A" substitute "Part A".

6. In regulation 17(2) (exemptions from waste management licensing), for the list of paragraphs of Schedule 3 substitute-

" 4, 7, 8, 9, 11, 12, 12A, 13, 14, 15, 17, 18, 19, 25, 37, 40, 41, 45 or 46".

7. In regulation 18 (registration in connection with exempt activities)[7]-

(a) in paragraph (4C)(a), for "paragraphs 7, 9 or 19 of Schedule 3" substitute "paragraphs 7, 8, 9, 10, 12, 12A, 19 or 46 of Schedule 3";

(b) in paragraph (4C)(c) for "sub paragraph (d)" substitute "sub paragraphs (ca) and (d)";

(c) after paragraph (4C)(c) insert-

" (ca) In the case of a notice in relation to an exempt activity falling within paragraph 46 of Schedule 3, the relevant particulars shall be deemed to be entered in the register on the date which is requested in the notice, provided that-

(i) the notice was submitted to SEPA as soon as was practicable before the requested date; and

(ii) SEPA has not within the period prior to the requested date either entered the relevant particulars in the register or served a notice of refusal on the establishment or undertaking.";

(d) for paragraph (4D)(a) substitute-

" (4D)

(a) Subject to sub paragraphs (b) and (c), SEPA may remove from the register the particulars which have been entered in relation to an exempt activity where it is satisfied that-

(i) the establishment or undertaking to which the relevant

entry relates no longer exists or is no longer carrying out that activity;

(ii) the activity is no longer being carried out in compliance with the conditions or limitations of the relevant paragraph of Schedule 3 or with the relevant provisions of regulation 17(2) or (4); or

(iii) there has been a breach of any of the registration obligations in regulation 18A which apply in relation to an activity.";

(e) in paragraph (4D)(b), after "a date specified in the notice" insert "which shall be at least 28 days after the date on which the notice is served"; and

(f) for paragraph (6), substitute-

" (6) A person guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding-

(a) in the case of an exempt activity falling within paragraphs 7, 8, 9, 10, 12, 12A, 19 or 46 of Schedule 3, level 3 on the standard scale; and

(b) in any other case, level 2 on the standard scale."

8. In regulation 18A (registration obligations)[8]-

(a) in paragraph (1), for "paragraphs 7, 9 and 19 of Schedule 3" substitute "paragraphs 7, 8, 9, 10, 12, 12A, 19 and 46 of Schedule 3";

(b) in paragraph (2)(a), for 'At least' substitute-

" Except in the case of an exempt activity falling within paragraph 46 of Schedule 3, at least";

(c) for paragraph (2)(b) substitute-

" (b) Records shall be kept of the quantity, nature, origin, destination and method of recovery or disposal of all waste used in reliance upon an exempt activity falling within the following descriptions:-

(i) paragraphs 7, 8, 10 and 46;

(ii) paragraphs 9 and 19 where the volume of waste used exceeds 2,500 cubic metres;

(iii) paragraphs 12 and 12A where the volume of waste used exceeds 10 tonnes per annum;"

- (d) in paragraph (2)(c), after "and shall be", insert "submitted to or"; and
- (e) for paragraph (3) substitute-

" (3) A person who carries on an exempt activity-

- (i) in breach of the registration obligations;
- (ii) in breach of any of the conditions or limitations stipulated in the paragraph of Schedule 3 in respect of which the activity has been registered; or
- (iii) in breach of the requirements of regulation 17(2) or (4),

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale."

9. In Schedule 1A (certificates of technical competence)[\[9\]](#)-

- (a) in paragraph 1, in Table 1, in the column headed "Type of Facility", in the entry corresponding to column number 6, for "insert" substitute "inert"; and
- (b) in paragraph 2 (definitions)-
 - (i) in sub paragraph (c) of the definition of "inert waste", for "surface water of groundwater" substitute "surface water or groundwater", and
 - (ii) for "single waste stream site" substitute "single waste stream".

10. In paragraph 7 of Schedule 3 (treatment of land)[\[10\]](#)-

- (a) in Part I of Table 2-
 - (i) in the entry for 03 01 05, omit "and veneer" and insert at the end of that entry "****"; and
 - (ii) in the entry for 03 03 01, after "wood", insert "(including virgin pulp)";
- (b) in Part II of Table 2-
 - (i) in the entry for 02 01 99 after "livestock markets", insert ", animal faeces, urine and manure";
 - (ii) after the heading, "*wastes from pulp, paper and cardboard production and processing (03 03)*", insert-

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03 03 01	waste bark and wood (including virgin pulp);
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- (iii) omit the entry for 03 03 05;
- (iv) after the entry for 03 03 09 and before the heading, "*wastes from the leather and fur industry (04 01)*", insert-

03 03 11	sludges from on-site effluent treatment plants treating only virgin paper wastes which contain no inks***
03 03 99	de-inked paper sludge from paper recycling, paper crumble derived from virgin pulp which contains no inks***";

- (v) after the entry for 04 02 22 and before the heading, "*wastes from manufacture of cement, lime and plaster and articles and products made from them (10 13)*", insert-

"*wastes from power stations and other combustion plants (except wastes from waste management facilities, off site waste water treatment plants and the preparation of water intended for human consumption and water for industrial use) (10 01)*)-

10 01 99	gypsum***"; and
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- (vi) in the entry for 10 13 04, for "*wastes from calcination and hydration of lime*" substitute "gypsum***"; and

(c) in sub-paragraph (4), after paragraph (a), insert-

" (aa) the land to be treated by the waste does not exceed 50 hectares;".

11. For paragraph 8 of Schedule 3 (storage and spreading of sludge) substitute-

" **8.** - (1) Subject to sub paragraph (3), the storage in a secure container or lagoon (or, in the case of dewatered sludge, in a secure place) of sludge which is intended to be used-

- (a) in accordance with the 1989 Regulations; or
- (b) for land treatment in reliance upon the exemption conferred by sub paragraph (2).

(2) The treatment with sludge of land which is not agricultural land within the meaning of the 1989 Regulations if-

- (a) it results in ecological improvement, or in the case of the treatment of land used for non-food crops not grown in short term rotation with food crops, it enhances the growth of those crops; and
- (b) it does not cause the concentration in the soil of any of the elements listed in column 1 of the soil table set out in Schedule 2 to the 1989 Regulations to exceed the limit specified in the corresponding entry in column 2 of the table.

(3) Sub paragraph (1) applies only if the following conditions are satisfied:-

- (a) the sludge is stored at the place where it is to be used;
- (b) the sludge is stored at a distance of not less than-
 - (i) 10 metres from any inland or coastal waters;
 - (ii) 50 metres from any well, borehole or similar work sunk into underground strata for the purpose of any water supply other than a domestic water supply; and
 - (iii) 250 metres from any well, borehole or similar work sunk into underground strata for the purpose of a domestic water supply;
- (c) no sludge is stored to the extent that the volume stored exceeds ninety per cent of the available capacity of the container or lagoon where the storage takes place; and
- (d) no sludge is stored for a period of more than 6 months.

(4) For the purpose of this paragraph, enhancement of crop growth or ecological improvement shall be construed in accordance with Part 2 of Schedule 3A and any guidance issued under regulation 17(6) of these Regulations.

(5) In this paragraph-

- (a) "the 1989 Regulations" means the Sludge (Use in Agriculture) Regulations 1989^[1] and "used", in relation to sludge, has the meaning given by regulation 2(1) of the 1989 Regulations;
- (b) "sludge" has the meaning given by regulation 2(1) of the 1989 Regulations, and "used", in relation to sludge, has the meaning given by that regulation; and
- (c) "domestic water supply" means a supply of water-
 - (i) for such domestic purposes as consist in or include, cooking, drinking, food preparation or washing; or
 - (ii) for any of these domestic purposes to premises in which food is produced."

12. In paragraph 9(3) of Schedule 3 (reclamation or improvement of land)^[2]-

(a) in sub paragraph (a), omit "the use to which that land could be put would be improved by the use of the waste"; and

(b) after sub paragraph (a), insert-

" (aa) the waste is suitable for use for the purposes mentioned in sub-paragraph (a);"; and

(c) in Part I of Table 2A, in the entry for 10 01 01, for "bottom ash and slag (excluding oil fly ash and boiler dust)" substitute "pulverised fuel ash***".

13. For paragraph 10 of Schedule 3 (recovery operations at sewage treatment works) substitute-

" **10.** - (1) Subject to sub paragraph (4)-

(a) The treatment within the curtilage of a water treatment works of any of the wastes listed in Table 3A arising from those works if the total quantity of waste which is treated in any period of twelve months does not exceed 10,000 cubic metres; and

(b) the secure storage within the curtilage of a water treatment works of waste intended to be treated in reliance on the exemption conferred by paragraph (a).

(2) Subject to the following provisions of this paragraph-

(a) any recovery operation carried on within the curtilage of a sewage treatment works of any of the wastes listed in Table 3A;

(b) the secure storage within the curtilage of a sewage treatment works of waste intended to be submitted to the activity mentioned in sub paragraph (a).

TABLE 3A

<i>Codes*</i>	<i>Types of Waste</i>
<i>Waste from waste water treatment plants not otherwise specified (19 08)</i>	
19 08 01	Screenings
19 08 05	Sludges from treatment of urban waste water
<i>Wastes from the preparation of water intended for human consumption or water for industrial use (19 09)</i>	
19 09 02	Sludges from water clarification
19 09 03	Sludges from decarbonation

19 09 06	Solutions and sludges from regeneration of ion exchangers
<i>Other municipal wastes (20 03)</i>	
20 03 04	Septic tank sludge
20 03 99	Municipal waste not otherwise specified

*** Codes referred to in the European Waste Catalogue**

(3) The total quantity of waste brought to a sewage treatment works for the purposes of a recovery operation in reliance upon the exemption covered by sub paragraph (2) in any period of 12 months shall not exceed 100,000 cubic metres.

(4) The area where a treatment or recovery operation takes place shall have an impermeable pavement capable of containing any spillage of waste received and connected to a drainage system with impermeable components which does not leak and which will ensure that-

- (a) no liquid will run off the pavement otherwise than via that system; and**
- (b) except where they may be lawfully discharged, all liquids entering the system are collected in a sealed sump."**

14. - (1) For paragraph 12 of Schedule 3 (composting biodegradable waste), substitute-

" 12. - (1) Subject to the following provisions of this paragraph-

- (a) composting biodegradable waste of a type listed in Table 3B below, not being composting for the purpose of cultivating mushrooms;**
- (b) chipping, shredding, cutting, pulverising, screening or storing such waste for the purpose of composting at the place where the composting activity is, or is to be, carried out; and**
- (c) screening any such waste which has been composted.**

TABLE 3B

<i>Codes*</i>	<i>Types of Waste</i>
<i>Wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing (02 01)</i>	
02 01 03	Plant-tissue waste
02 01 06	Animal faeces, urine and manure (including spoiled straw)***
02 01	Wastes from forestry

07	
02 01 99	Straw, wood or paper - based bedding waste, slurry or dirty waste from stables, zoos, animal parks or livestock markets***
<i>Wastes from fruit, vegetables, cereals, edible oils, cocoa, coffee, tea and tobacco preparation and processing; conserve production; yeast and yeast extract production, molasses preparation and fermentation (02 03)</i>	
02 03 01	Sludges from washing, cleaning, peeling, centrifuging and separation
<i>Wastes from wood processing and the production of panels and furniture (03 01)</i>	
03 01 01	Waste bark and cork
03 01 05	Sawdust, shaving, cuttings, wood**
<i>Wastes from pulp, paper and cardboard production and processing (03 03)</i>	
03 03 01	Waste bark and wood
<i>Wastes from the textile industry (04 02)</i>	
04 02 10	Organic matter from natural products (e.g. grease, wax)
<i>Packaging (including separately collected municipal packaging waste) (15 01)</i>	
15 01 01	Paper and cardboard packaging
15 01 03	Wooden packaging
15 01 09	Textile packaging
<i>Wastes from aerobic treatment of solid wastes (19 05)</i>	
19 05 03	Off-specification compost consisting only of biodegradable waste***
<i>Separately collected fractions of municipal wastes (household waste and similar commercial, industrial and institutional wastes) (20 01)</i>	
20 01 01	Paper and cardboard
20 01 08	Meat excluded biodegradable kitchen and canteen waste***
20 01 10	Clothes
20 01	Textiles

11	
<i>Garden and park waste (including cemetery waste) (20 02)</i>	
20 02 01	Biodegradable waste
<i>Other municipal wastes (20 03)</i>	
20 03 02	Botanical waste from markets***

*** Codes referred to in the European Waste Catalogue.**

**** Wastes containing dangerous substances are not included.**

***** The wastes listed do not include all of the wastes specified in the European Waste Catalogue under the code referred to.**

(2) The total quantity of waste treated and stored under paragraph (1) at any time shall not exceed, in relation to the composting activities referred to in the first column of Table 3C, the quantity shown in the third column of that Table.

TABLE 3C

<i>Code and type of waste (as referred to in Table 3B)*</i>	<i>Composting activity</i>	<i>Maximum total quantity (including storage and treatment)</i>
<i>Plant-tissue waste 02 01 03</i> <i>Wastes from forestry 02 01 07</i> <i>Waste bark and cork 03 01 01</i> <i>Wood 17 02 01</i> <i>Biodegradable waste from gardens and park wastes (including cemetery waste) 20 02 01</i>	Open air windrow composting without containment*** and without any impermeable pavement or sealed drainage	400 Tonnes
<i>All above wastes namely 02 01 03, 02 01 07, 03 01 01, 17 02 01, 20 02 01 plus those listed below namely 15 01 01, 02 01 06, 15 01 09, 20 01 10, 20 01 11, 20 03 03 and any waste type referred to in Table 3B</i>	Open air windrow composting without containment*** on an impermeable pavement with sealed drainage	400 Tonnes
<i>Paper and cardboard packaging 15 01 01</i>		
<i>"Animal faeces urine and manure" (including spoiled straw, effluent</i>		

<i>collected separately and treated off site 02 01 06)</i>		
<i>Textile packaging 15 01 09</i>		
<i>Clothes 20 01 10</i>		
<i>Textiles 20 01 11</i>		
<i>Street-cleaning residues 20 03 03</i>		
<i>Any type of waste referred to in Table 3B</i>	Composting with containment*** of waste	400 Tonnes

*** Codes referred to in the European Waste Catalogue.**

**** Wastes containing dangerous substances are not included.**

***** Composting in a vessel, in a sealed building or by some other process equally effective to produce a wholly contained and controlled environment.**

(3) The secure storage of biodegradable waste which is to be composted in reliance upon the exemption conferred by sub paragraph (1) at a place other than the place where such composting is or is to be carried on where-

- (a) the waste is stored for a period not exceeding 48 hours and is to be taken directly from the storage site to that place;**
- (b) such storage is part of a scheme for the collection of waste from groups of premises; and**
- (c) the total quantity of waste so stored does not exceed 10 tonnes.**

(4) For the purposes of this paragraph and paragraph 12A-

- (a) "composting" means the autothermic and thermophilic biological decomposition and stabilisation of biodegradable waste under controlled aerobic conditions that result in a stable sanitised material that can be applied to land for the benefit of agriculture, horticulture or ecological improvement; and**
- (b) the reference to "treated" waste includes waste which is undergoing maturation."**

(2) after paragraph 12, insert-

" 12A. Composting any of the wastes listed in Table 3B for the purpose of cultivating mushrooms at the place where the waste is produced or where the compost is to be used, or at any other place occupied by the person producing the waste or using the compost, where the quantity of waste being composted at any one time does not exceed 2500 tonnes."

15. In paragraph 19 of Schedule 3 (storage of building waste)[13]-

(a)

(i) after sub paragraph (1)(a), omit "and"; and

(ii) at the end of sub paragraph (1)(b), insert-

" and

(c) no more than 50,000 tonnes of the waste is stored on site."

(b) in Table 4AA

(i) in the entry for 10 01 01, for "bottom ash and slag (excluding oil fly ash and boiler dust)" substitute "pulverised fuel ash ***";

(ii) after that entry, insert-

10 01 99	gypsum ***".
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(iii) for the heading "*waste from casting of non-ferrous pieces (10 09)*" substitute "*waste from casting of non ferrous pieces (10 10)*";

(iv) after the heading "*bituminous mixtures, coal tar and tanned products*" insert "*(17 03)*";

(v) under the heading "*soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)*", before the entry for 17 05 08, insert the following entry-

17 05 04	soil and stones**"; and
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(vi) in the heading relating to European Waste Catalogue Code 19 12, for "palletising" substitute "pelletising"; and

(c) in paragraph (5), for "paragraph (4)(c)" substitute "paragraph (4)(a)".

16. In paragraph 30 (burning waste on land in the open)-

(a) at the end of paragraph (1)(a) insert ", not being waste falling within paragraph 46"; and

(b) in paragraph (1)(b)-

(i) after "internal drainage board" insert "the British Waterways Board";

(ii) and after "recreation ground" insert ", bank of an inland waterway,".

17. In paragraph 45 (recovery of scrap metal), in Table 4B, in the entry relating to motor vehicles stored on a hardstanding which is not an impermeable pavement, for the entry in column 2 (maximum total quantity) for "100 vehicles" substitute "1000 vehicles"[14].

18. After paragraph 45 (recovery of scrap metal), insert-

" 46. - (1) Subject to sub paragraphs (3) and (4), the burning at a dock of waste consisting of-

(a) plant tissue waste, in pursuance of a notice given under regulation 22 of the Plant Health (Great Britain) Order 1993[15]; or

(b) wood of any kind used to wedge or support parts of cargo, including packing material, spacers and pallets, in pursuance of a notice given under regulation 21 of the Plant Health (Forestry) (Great Britain) Order 1993[16].

(2) Subject to sub paragraph (3), the storage at the dock where it was unloaded of waste intended to be burned under paragraph (1).

(3) The total quantity of waste stored or burned, in any period of 24 hours, shall not exceed 15 tonnes.

(4) The waste shall be burnt on a hard-standing, within a secure location at the dock where it was unloaded."

19. In Schedule 3A[17]-

(a) In Part 1 (Plans and documents required for registration)-

(i) in the first column (paragraph number of exempt activity in Schedule 3), in the first entry in that column, for "7, 9 and 19" substitute "7, 8, 9, 10, 12, 12A, 19 and 46";

(ii) in paragraph 1(d) of the entry corresponding to paragraph 7 of Schedule 3, for "on which the waste" substitute "which";

(iii) for paragraph 3 of the entry corresponding to paragraph 7 of Schedule 3 and Table 4C, substitute-

" 3. Wastes shall be analysed in relation to the following parameters-

(a) percentage dry solids content;

(b) pH;







(c) conductivity (mS);

(d) total content of major nutrients and readily plant available ammonium-nitrogen with the results to be expressed on a fresh weight

- basis;**
- (e) biochemical oxygen demand and chemical oxygen demand;**
- (f) where SEPA considers this to be appropriate, in relation to the types of waste whose codes are listed in the first column of Table 4C, the parameters ticked in the remaining columns of the Table; and**
- (g) such other parameters as SEPA considers appropriate.**

TABLE 4C

	<i>Parameter</i>					
<i>Codes referred to in European Waste Catalogue</i>	<i>Neutralising Value</i>	<i>Micro-biology</i>	<i>Oils & Fats</i>	<i>Potential toxic elements</i>	<i>Prescribed substances*</i>	<i>Carbon/Nitrogen ratio</i>
03 03 05						
02 01 99, 03 01 01, 03 01 05, 03 03 01 17 05 04, 20 02 02						
02 02 03						
02 03, 02 04, 02 05, 02 06, 02 07						
03 03 09, 10 13 04						
02 01 03, 02 04 01, 19 05 03, 20 02 01						

04 02 10,						
04 02 15,						
04 02 20,						
04 02 21,						
04 02 22						
04 01 07						
17 05 06,						
19 06 03,						
19 06 04,						
19 06 05,						
19 06 06						

***ie. Substances prescribed in Schedule 6 to the Environmental (Prescribed Processes and Substances) Regulations 1991^[18]."; and**

(iv) After Table 4C, insert the following entries at the appropriate places by the numbering of the corresponding entry in the first column of Part I-

<i>Paragraph Number of Exempt activity in Schedule 3</i>	<i>Plans and documents required</i>
8	" The notice shall include the following particulars- (a) the name, address and telephone number and, if applicable, the fax number and e-mail address of the establishment or undertaking that is to store or use the sludge and the establishment or undertaking supplying it; (b) the quantity of sludge to be stored or used and its origin; (c) how that sludge has been treated; (d) the location in which the sludge is to be stored or spread, including a description of any container or lagoon to be used; (e) the locations of any buildings, public rights of

	<p>way, abstraction points or surface waters above Ordnance Datum which are situated within 400 metres of the boundaries of that place;</p> <p>(f) where sludge is to be used for treatment of the land, the notice shall be accompanied by a certificate describing how the activity will result in ecological improvement or as the case may be, enhancement of the growth of crops, which shall be prepared by or based on advice from a person who, in the opinion of SEPA, has appropriate technical or professional expertise.</p>
10	<p>The notice shall include the following particulars-</p> <p>(a) the establishment or undertaking's name, address and telephone number and, if applicable, its fax number and e-mail address;</p> <p>(b) a description of the proposed activity;</p> <p>(c) a plan showing the location and specifications of any such impermeable pavements, drainage systems or hardstandings as are mentioned in paragraph 10.</p>
12 and 12A where the activities involve more than 10 tonnes of waste per year	<p>The notice shall include the following particulars-</p> <p>(a) the establishment or undertaking's name, address and telephone number and, if applicable, its fax number and e-mail address;</p> <p>(b) the plan accompanying the notice given to SEPA shall show locations of any buildings, public rights of way, abstraction points or surface waters above Ordnance Datum which are situated within 250 metres of the boundaries of that place;</p> <p>(c) the quantities and types of waste to be composted, identified by reference to the descriptions in the second column of Table 3B, and the expected duration of the composting;</p> <p>(d) where containment is to be provided as referred to in Table 3C, the method of containment.</p> <p>"; and</p>

(b) In Part 2 (assessment of benefit to agriculture or ecological improvement), in paragraph 1, for "paragraphs 7 and 9" substitute "paragraphs 7, 8 and 9".

20. In paragraph 13 (duty to carry out appropriate periodic inspections)[19] of Part

I of Schedule 4 (Waste Framework Directive etc.), for Table 6 substitute-

TABLE 6

<i>Paragraph Number of Exempt activity in Schedule 3</i>	<i>Inspections required</i>
7, 8(2)*	An inspection shall be carried out at the time of treatment or, where that is not possible, not later than 4 weeks thereafter.
9, 10, 12, 12A, 19	An initial inspection shall be carried out at the time when the exempt activity commences. Thereafter, periodic inspections shall be carried out at intervals not exceeding 12 months.

" *treatment activites only"

21. For Part III of Schedule 4 (waste disposal operations) substitute-

" PART III

WASTE DISPOSAL OPERATIONS

NB. This Part of this Schedule is intended to list disposal operations such as they occur in practice. In accordance with Article 4 of the Directive waste must be disposed of without endangering human health and without the use of processes or methods likely to harm the environment.

<i>*Operation Code</i>	<i>Description</i>
D1	Deposit into or onto land (e.g. landfill etc.).
D2	Land treatment (e.g. biodegradation of liquid or sludge discards in soils, etc.).
D3	Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.).
D4	Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons, etc.).
D5	Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.).
D6	Release into a water body except seas/oceans.
D7	Release into seas/oceans including sea-bed insertion.
D8	Biological treatment not listed elsewhere in this Part of this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations listed as D1 to D12 in this Part of this Schedule.

D9	Physico-chemical treatment not listed elsewhere in this Part of this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations listed as D1 to D12 in this Part of this Schedule (e.g. evaporation drying, calcination, etc.).
D10	Incineration on land.
D11	Incineration at sea.
D12	Permanent storage (emplacement of containers in a mine, etc.).
D13	Blending or mixing of waste prior to submission to any of the operations listed as D1 to D12 in this Part of this Schedule.
D14	Repackaging of waste prior to submission to any of the operations listed as D1 to D13 in this Part of this Schedule.
D15	Storage of waste pending any of the operations listed as D1 to D14 in this Part of this Schedule, but excluding temporary storage, pending collection, on the site where it is produced.

***The operations listed in this Part of this Schedule are listed in accordance with Annex IIA of the Directive."**

22. For Part IV of Schedule 4 (waste recovery operations) substitute-

" PART IV

WASTE RECOVERY OPERATIONS

NB. This part of this Schedule is intended to list recovery operations as they occur in practice. In accordance with Article 4 of the Directive waste must be recovered without endangering human health and without the use of processes or methods likely to harm the environment.

<i>*Operation Code</i>	<i>Description</i>
R1	Use principally as a fuel or other means to generate energy.
R2	Solvent reclamation/regeneration.
R3	Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes).
R4	Recycling/reclamation of metals and metal compounds.
R5	Recycling/reclamation of other inorganic materials.
R6	Regeneration of acids or bases.
R7	Recovery of components used for pollution abatement.

R8	Recovery of components from catalysts.
R9	Oil re-refining or other reuses of oil.
R10	Land treatment resulting in benefit to agriculture or ecological improvement.
R11	Use of wastes obtained from any of the operations listed as R1 to R10 in this Part of this Schedule.
R12	Exchange of wastes for submission to any of the operations listed as R1 to R11 in this Part of this Schedule.
R13	Storage of wastes pending any of the operations listed as R1 to R12 in this Part of this Schedule, excluding temporary storage, pending collection, on the site where it is produced.

***The operations listed in this Part of this Schedule are listed with Annex IIB of the Directive."**

Transitional and savings provisions

23. Any exempt activity carried on immediately before 12th January 2005 under paragraphs 8, 10 or 12 of Schedule 3 of the Waste Management Licensing Regulations 1994[20], may continue to be carried on-

(a) where the establishment or undertaking carrying on the activity applies to SEPA for a waste management licence or a permit under regulation 7 of the Pollution Prevention and Control (Scotland) Regulations 2000[21] in relation to the activity in question before 12th February 2005, until the date on which the licence or permit applied for is granted, or if the application is (or is deemed to be) rejected, until the date on which-

- (i) the period for appealing expires without an appeal having being made; or**
- (ii) any appeal is withdrawn or finally determined;**

(b) where the establishment or undertaking carrying on the activity gives notice to SEPA under regulation 18(4C) of the Waste Management Licensing Regulations 1994 in relation to the activity in question before 12th February 2005, until the date on which-

- (i) SEPA enters the relevant particulars in the register in relation to that activity or they are deemed to be so entered under the provisions of that regulation; or**
- (ii) SEPA serves a notice of refusal within the meaning of that regulation; or**

(c) in any other case, until 12th February 2005.

ROSS FINNIE

A member of the Scottish Executive

**St Andrew's House, Edinburgh
9th June 2004**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous changes to waste management legislation by amending the Environment Act 1995 (c.25) ("the 1995 Act") and the Waste Management Licensing Regulations 1994 ("the 1994 Regulations").

Regulation 2 further amends the definition of "environmental licence" in section 56(1) of the 1995 Act to extend the powers of SEPA, as the waste regulation authority under the 1994 Regulations, to charge by virtue of a scheme under section 41 of the 1995 Act for the registration of certain activities which are exempt from the requirement for a waste management licence under regulations 17, 18 and Schedule 3 of the 1994 Regulations.

Regulations 4 to 22 amend the 1994 Regulations.

Regulation 4 broadens the scope of mobile plant prescriptions in regulation 12 of the 1994 Regulations.

Regulation 5 corrects an error in regulation 16(1)(bb) of the 1994 Regulations as amended by regulation 15 of the Waste Incineration (Scotland) Regulations (S.S.I. 2003/170), such that "of Part A" now reads "Part A".

Regulations 6 to 8 amend regulations 17, 18 and 18A of, and Schedules 3 and 3A to, the 1994 Regulations, which relate to the requirement for registration of activities exempt from waste management licensing, as provided for in Article 11(2) of Directive 75/442/EEC on waste (O.J. No. L 194, 25.7.1975, p39) as amended by Directive 91/156/EEC (O.J. No. L 377, 31.12.1991, p.48).

Regulation 6 amends the list of paragraphs of Schedule 3 referred to in regulation 17(2) of the 1994 Regulations, which relate to the carrying out of the activities with the consent of the occupier of the land, to take account of the exempt activities set out in paragraphs 8, 12, 12A and 46 of that Schedule.

Regulation 7 amends regulation 18 of the 1994 Regulations to: (a) take account of the further activities which may be registered as exempt activities, namely activities falling within paragraphs 8, 10, 12, 12A and 46 of Schedule 3 to the 1994 Regulations; (b) specify in relation to paragraph 46 the circumstances in which relevant particulars may be deemed to be entered in the register; (c) make further provision in certain circumstances for the refusal and/or removal of registration for those activities; and (d) impose fines on summary conviction for failure to register any of the exempt activities falling within those paragraphs.

Regulation 8 amends regulation 18A of the 1994 Regulations which specifies the registration obligations incumbent on an establishment or undertaking which carries out activities. The registration obligations now extend to exempt activities falling within paragraphs 8, 10, 12, 12A and 46 of Schedule 3 to the 1994 Regulations and include obligations such as the keeping of appropriate records and the content of such

records. Provision is also made for a fine to be imposed for failure to comply with registration obligations or related requirements of the 1994 Regulations.

Regulation 9 corrects typographical errors in Schedule 1A to the 1994 Regulations. Schedule 1A sets out the detailed requirements for the certification of persons as technically competent to hold a waste management licence for the purposes of section 74(3)(b) of the Environmental Protection Act 1990 by the Waste Management Industry Training and Advisory Board (WAMITAB).

Regulations 10 to 16 amend paragraphs 7 to 10, 12, 19, 30 of Schedule 3 to the 1994 Regulations which respectively exempt from waste management licensing certain land treatment activities (paragraph 7), storage and spreading of sludge (paragraph 8), land reclamation or improvement activities (paragraph 9), recovery operations at sewage treatment works (paragraph 10), composting biodegradable waste (paragraph 12), building waste storage activities (paragraph 19) and burning waste on land in the open (paragraph 30).

Regulation 10 further amends paragraph 7 of Schedule 3 to the 1994 Regulations to modify the list of wastes which can fall within the exempt activities and to provide for a 50 hectare restriction on the area of land covered by any one exemption.

Regulation 11 replaces paragraph 8 of Schedule 3 to the 1994 Regulations to make provision for the storage and spreading of sludge on non-agricultural land if it results in ecological improvement or enhances the growth of certain crops.

Regulation 12 amends paragraph 9 of Schedule 3 to the 1994 Regulations to make minor modifications to the conditions under which the exemption applies.

Regulation 13 replaces paragraph 10 of Schedule 3 to the 1994 Regulations to increase the quantities of sewage sludge which may be treated at a sewage treatment works in reliance on the exemption and to specify the list of wastes which can be used or stored.

Regulation 14 replaces paragraph 12 of Schedule 3 to the 1994 Regulations to make detailed provision for the types and quantities (including storage and treatment) of waste which can be composted and the conditions which must be satisfied in reliance of an exemption under that paragraph. A new regulation 12A is also inserted in Schedule 3 to the 1994 Regulations which provides, subject to certain conditions, for the composting of the wastes for the purposes of cultivating mushrooms in certain specified areas (such as where the waste is produced or where the compost is to be used).

Regulation 15 amends paragraph 19 of Schedule 3 to the 1994 Regulations to impose a 50,000 tonne restriction on the storage on site of all of the wastes listed under the exemption and to further modify the list of wastes there.

Regulation 16 amends paragraph 30 of Schedule 3 to the 1994 Regulations to exclude waste falling within paragraph 46 of Schedule 3 to the 1994 Regulations from that exemption and to include the operational land of the British Waterways Board within the types of land on which such waste may be produced.

Regulation 17 corrects an error in Table 4B of paragraph 45 of Schedule 3 to the 1994 Regulations. The End-of-Life (Storage and Treatment) (Scotland) Regulations 2003 (S.S.I. 2003/593) ("the 2003 Regulations") amended certain provisions of Table 4B in paragraph 45 of Schedule 3 to the 1994 Regulations. As a result of a typographical error in Regulation 7(4)(e)(bb) of the 2003 Regulations, reference was made to "400 vehicles" rather than "100 vehicles". The correction has the effect of prescribing a maximum total quantity of 1,000 motor vehicles which may be stored, where

appropriate, on an impermeable pavement for the purposes of the entry in relation to motor vehicles in Table 4B of paragraph 45 of Schedule 3 to the 1994 Regulations.

Regulation 18 inserts a new paragraph 46 in Schedule 3 to the 1994 Regulations which sets out the conditions (such as the type, storage, quantity of waste) which must be met for the burning of dunnage in reliance of an exemption and the area in which such waste may be burnt.

Regulation 19 amends Schedule 3A of the 1994 Regulations to take account of the activities falling within paragraphs 7, 8, 9, 10, 12, 12A, 19 and 46 of Schedule 3 to the 1994 Regulations in relation to the plans and documents now required for registration. Regulation 18 also modifies the parameters by reference to which such waste shall be analysed.

Regulation 20 amends paragraph 13 of Part I of Schedule 4 to the 1994 Regulations to make provision for SEPA's periodic inspection of activities exempt under paragraphs 7, 8(2), 9, 10, 12, 12A and 19 of Schedule 3 to the 1994 Regulations.

Regulations 21 and 22 replace Parts III and IV of Schedule 4 to the 1994 Regulations to update the list of waste disposal and waste recovery operations respectively in light of Commission Decision 96/350/EC (O.J. No. L 135, 6.6.1996, page 32) which amends Annexes IIA and IIB of Directive 75/442/EEC on waste.

Regulation 23 is a transitional provision to allow continued reliance on an existing exemption under paragraphs 8, 10 or 12 of Schedule 3 to the 1994 Regulations, as replaced by these Regulations, for a period of 7 months from the coming into force of these Regulations.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the library of the Scottish Parliament and copies can be obtained from the SEPA Sponsorship and Waste Division, Scottish Executive Environment and Rural Affairs Department (SEERAD), Victoria Quay, Leith, EH6 6QQ.

Notes:

[1] 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).[back](#)

[2] 1990 c.43. The functions of the Secretary of State in so far as within devolved competence were transferred to Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).[back](#)

[3] 1995 c.25. Section 56 was amended by the Pollution Prevention and Control Act 1999 (c.24), Schedule 2, paragraph 17; by S.S.I. 2000/323, Schedule 10, paragraph 5(2) and by S.S.I. 2003/171, regulation 2(2).[back](#)

[4] S.I. 1994/1056; amended by S.I. 1994/1137, 1995/288, 1950, 1996/593, 634, 916, 972, 973, 1279, 1997/351, 2203, 1998/606, 2746, S.S.I. 2000/323, S.S.I. 2003/170 and S.S.I. 2003/171.[back](#)

[5] 1974 c.40; section 30A was inserted by the Water Act 1989 (c.15), Schedule 23, paragraph 4.[back](#)

[6] Regulation 16(1)(bb) was amended by S.S.I. 2003/170, Regulation 15.[back](#)

[7] Regulations 18(4C) and (4D) were inserted by regulation 7 of S.S.I. 2003/171.[back](#)

[8] Regulation 18A was inserted by regulation 8 of S.S.I. 2003/171.[back](#)

[9] Schedule 1A was inserted by regulation 9 of S.S.I. 2003/171.[back](#)

[10] A new paragraph 7 was inserted by S.S.I. 2003/171.[back](#)

[11] S.I. 1989/1263, amended by S.I. 1990/880.[back](#)

[12] A new paragraph 9 and Table 2A was inserted by regulation 10(b) of S.S.I. 2003/171.[back](#)

[13] A new paragraph 19 was inserted by regulation 10(c) of S.S.I. 2003/171.[back](#)

[14] Paragraph 45 was amended by regulation 7(4)(e)(i) of the End-of-Life Vehicles (Storage and Treatment) (Scotland) Regulations 2003 (S.S.I. 2003/593).[back](#)

[15] S.I. 1993./1320; amended by S.I. 1993/3213, 1995/1358 and 2929, 1996/25, 1165 and 3242, 1997/1145 and 2907, 1998/349 and 1121, S.S.I. 1999/22, S.S.I. 2001/249, S.S.I. 2002/164 and S.S.I. 2003/224.[back](#)

[16] S.I. 1993/1283.[back](#)

[17] Schedule 3A was inserted by regulation 11 of S.S.I. 2003/171.[back](#)

[18] S.I. 1999/472; amended by S.I. 1993/1749, 2405, 1995/3247, 1998/767 and S.S.I. 2000/323.[back](#)

[19] Table 6 was inserted by regulation 12 of S.S.I. 2003/171.[back](#)

[20] S.I. 1994/1056; amended by S.I. 1994/1137, 1995/288, 1950, 1996/593, 634, 916, 972, 973, 1279, 1997/351, 2203, 1998/606, 2746, S.S.I. 2000/323, S.S.I. 2003/170 and S.S.I. 2003/171.[back](#)

[21] S.S.I. 2000/323; amended by S.S.I. 2002/493 and 2003/146, 170 and 235.[back](#)

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