

Statutory Instrument 2005 No. 2900

The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005

© Crown Copyright 2005

Statutory Instruments printed from this website are printed under the superintendence and authority of the Controller of HMSO being the Queen's Printer of Acts of Parliament.

The legislation contained on this web site is subject to Crown Copyright protection. It may be reproduced free of charge provided that it is reproduced accurately and that the source and copyright status of the material is made evident to users.

It should be noted that the right to reproduce the text of Statutory Instruments does not extend to the Queen's Printer imprints which should be removed from any copies of the Statutory Instrument which are issued or made available to the public. This includes reproduction of the Statutory Instrument on the Internet and on intranet sites. The Royal Arms may be reproduced only where they are an integral part of the original document.

The text of this Internet version of the Statutory Instrument which is published by the Queen's Printer of Acts of Parliament has been prepared to reflect the text as it was Made. A print version is also available and is published by The Stationery Office Limited as the **The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005**, ISBN 0110734955. The print version may be purchased by clicking [here](#). Braille copies of this Statutory Instrument can also be purchased at the same price as the print edition by contacting TSO Customer Services on 0870 600 5522 or e-mail: customer.services@tso.co.uk.

Further information about the publication of legislation on this website can be found by referring to the [Frequently Asked Questions](#).

To ensure fast access over slow connections, large documents have been segmented into "chunks". Where you see a "continue" button at the bottom of the page of text, this indicates that there is another chunk of text available.

STATUTORY INSTRUMENTS

2005 No. 2900

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005

<i>Made</i>	<i>17th October 2005</i>
<i>Laid before Parliament</i>	<i>18th October 2005</i>
<i>Coming into force</i>	<i>21st November 2005</i>

The Secretary of State, being designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste, in the exercise of the powers conferred upon her by that section, makes the following Regulations:

Citation, commencement, extent and interpretation

1. —(1) These Regulations may be cited as the Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005 and come into force on 21st November 2005.

(2) These Regulations extend to England and Wales only.

(3) In these Regulations "the 1990 Act" means the Environmental Protection Act 1990^[3].

Amendment of the Environmental Protection Act 1990

2. —(1) Section 34 (duty of care etc. as respects waste) of the 1990 Act is amended as follows.

(2) After subsection 2 insert—

" (2A) It shall be the duty of the occupier of any domestic property in England to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes."

(3) In subsection (3), for "purpose of subsection (1)(c)" substitute "purposes of subsections (1)(c) and (2A)".

(4) In subsection (3A), for "subsection (1)(c)" substitute "subsections (1)(c) and (2A)".

(5) In subsection (4), for "subsection (1)(c)" substitute "subsections (1)(c) and (2A)".

(6) In subsection (6), after "subsection (1)" insert "or (2A)".

Amendment of the Clean Neighbourhoods and Environment Act 2005

3. —(1) In section 46(1) of the Clean Neighbourhoods and Environment Act 2005^[4] (power to search and seize vehicles etc.), the new section 34B to be inserted in the 1990 Act is amended as follows.

(2) In subsections (2)(a) and (3)(a), for "an offence under section 33 or 34 above" substitute "a relevant offence".

(3) In subsection (11), after the definition of "enforcement authority" insert

" "relevant offence" means—

(a) an offence under section 33 above, or

(b) an offence under section 34 above consisting of a failure to comply with the duty imposed by subsection (1) of that section;"

Amendment of the Controlled Waste Regulations 1992

4. —(1) The Controlled Waste Regulations 1992^[5] are amended as follows.

(2) In regulation 2(2) (waste to be treated as household waste), after "domestic property)" insert "and section 34(2A) (duty of occupiers of domestic property in England when transferring household waste)".

(3) In regulation 5(2) (waste to be treated as industrial waste), for "section 34(2))" substitute "sections 34(2) and 34(2A))".

Amendment of the Waste Management Licensing Regulations 1994

5. In Schedule 3 to the Waste Management Licensing Regulations 1994^[6] (activities exempt from waste management licensing), in paragraph 38(e), for "section 34" substitute "section 34(1)".

Ben Bradshaw

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

17th October 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2(2) of the European Communities Act 1972. They implement, in relation to England, Article 8 of Council Directive 75/442/EEC on waste^[7] (the "Waste Framework Directive") as respects an occupier of domestic property in relation to the household waste produced on the property.

Regulation 1 (citation, commencement, extent and interpretation) provides that these Regulations extend only to England and Wales and that they come into force on 21st November 2005.

Regulation 2 amends section 34 of the Environmental Protection Act 1990 (the "1990 Act"). Regulation 2(2) inserts a new section 34(2A) into the 1990 Act so as to impose a duty on an occupier of domestic property as respects the household waste produced on the property. The duty imposed is to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes.

The amendments in regulations 2(3) to (6) are consequential on the amendment in regulation 2(2). In particular, the amendment in regulation 2(6) makes it a criminal offence for any person to fail to comply with the new duty imposed by the amendment in regulation 2(2). On summary conviction, the penalty for the offence will be a fine not exceeding the statutory maximum (at the date of these Regulations £5000) and, on conviction on indictment, a fine.

The amendments in regulations 3, 4 and 5 are also consequential on the

amendment in regulation 2(2). In particular, the amendments in regulation 3 ensure that section 34B of the 1990 Act (power to search and seize vehicles etc), which is not in force at the date of these Regulations, will not apply where an offence has been committed as a result of a failure to comply with the duty imposed by the amendment in regulation 2(2). Section 34B is to be inserted into the 1990 Act by section 46 of the Clean Neighbourhoods and Environment Act 2005 (in accordance with a commencement order under that Act).

A transposition note has been prepared, explaining the transposition into law by the Government of Article 8 of the Waste Framework Directive as respects an occupier of domestic property in England in relation to the household waste produced on the property.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business has also been prepared.

Copies of the transposition note and the regulatory impact assessment are available in the libraries of both Houses of Parliament, and from WM Licensing and Enforcement Unit, Department for Environment, Food and Rural Affairs, Zone 7/H11, Ashdown House, 123 Victoria Street, London SW1E 6DE.

Notes:

[1] S.I. 1992/2870.[back](#)

[2] 1972 c.68.[back](#)

[3] 1990 c.43.[back](#)

[4] 2005 c.16.[back](#)

[5] S.I. 1992/588, to which there are amendments not relevant to these Regulations.[back](#)

[6] S.I. 1994/1056; relevant amending instruments are S.I. 2005/894 and S.I. 2005/1806.[back](#)

[7] O.J. No. L194, 25.7.1975, p. 39 (as amended by Council Directives 91/156/EEC (O.J. No. L78, 26.3.1991, p. 32), 91/692/EEC (O.J. No. L377, 31.12.1991, p. 48 (as corrected by Corrigendum, O.J. No. L146, 13.6.2003, p. 52)), Commission Decision 96/350/EC (O.J. No. L135, 6.6.1996, p. 32) and Regulation (EC) No. 1882/2003 (O.J. No. L284, 31.10.2003, p. 1)).[back](#)

ISBN 0 11 073495 5

[Other UK SIs](#) | [Home](#) | [National Assembly for Wales Statutory Instruments](#) | [Scottish Statutory Instruments](#) | [Statutory Rules of Northern Ireland](#)