

**2005 No. 3026**

**ENVIRONMENTAL PROTECTION, ENGLAND AND WALES**

**The Environmental Protection Act 1990 (Amendment of Section 57) (England and Wales) Regulations 2005**

<i>Made</i> - - - -	<i>31st October 2005</i>
<i>Laid before Parliament</i>	<i>1st November 2005</i>
<i>Coming into force</i> - -	<i>22nd November 2005</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the prevention, reduction and elimination of pollution caused by waste, in exercise of the powers conferred on her by section 2(2) of that Act makes the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Environmental Protection Act 1990 (Amendment of Section 57) (England and Wales) Regulations 2005 and shall come into force on 22nd November 2005.

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

**Amendment of section 57 of the Environmental Protection Act 1990**

2.—(1) Section 57 of the Environmental Protection Act 1990(c)(powers of Secretary of State to require waste to be accepted, treated, disposed of or delivered) is amended as follows.

(2) In subsection (1), after “licence” insert “or waste permit”.

(3) In subsections (1) and (2), for “controlled waste” substitute “waste”.

(4) After subsection (7), insert—

“(7A) In subsection (1) “waste permit” means a permit under the Pollution Prevention and Control (England and Wales) Regulations 2000(d) which authorises the disposal or recovery of waste; and for this purpose “disposal or recovery” means an operation listed in

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(a) S.I. 1989/2393 and 1992/2870.

(b) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c.46) , Schedule 8 , paragraph 15(3). The functions conferred upon a 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) 1990 c. 43.

(d) S.I. 2000/1973 amended by S.I. 2001/503, 2002/275, 2002/1559, 2002/1702, 2002/2469, 2002/2688, 2002/2980, 2003/1699, 2003/3296, 2003/3311, 2004/107, 2004/1375, 2004/3276 and 2005/1448; there is other amending legislation but none of it is relevant.

Annex IIA or Annex IIB of Council Directive 75/442/EEC(a) on waste (as amended by Commission Decision 96/350/EEC).”.

(5) For subsection (8) substitute—

“(8) In this section—

“specified” means specified in a direction under this section; and

“waste” means anything which is waste as defined in Article 1 of, and Annex 1 to, Directive 75/442/EEC (as amended by Directive 91/156/EEC) including anything which is excluded from the scope of that Directive by Article 2(1)(b)(iii) of that Directive, but not including anything excluded by the remainder of that Article.”.

*Ben Bradshaw*

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

31st October 2005

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(a) OJ No L 194, 25.7.75, p 39, as amended by Council Directive 91/156/EEC, OJ No L 78, 26.3.1991, p 32, Council Directive 91/692/EEC, OJ No L 377, 31.12.1991, p 48, Commission Decision 96/350/EC, OJ No L 135, 6.6.1996, p 32 and Regulation (EC) No 1882/2003 of the European Parliament and of the Council OJ No L 284, 31.10.2003, p 1.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations are made under section 2(2) of the European Communities Act 1972 (1972 c.68). They amend section 57 of the Environmental Protection Act 1990 (1990 c.43) (the EPA 1990) to extend the scope of the direction making powers under that section from waste management licences to permits under the Pollution Prevention and Control Regulations 2000 which authorise the disposal or recovery of waste. The amendment to section 57 constitutes a further measure for the purposes of transposing the requirements of Article 4 of the Waste Framework Directive 75/442/EEC.

Section 57 of the EPA 1990 confers a power on the Secretary of State to direct the holder of any waste management licence to accept and keep, or accept and treat or dispose of, controlled waste at specified places on specified terms.

Regulation 2(2) extends the powers of direction under section 57(1) to permits under the Pollution Prevention and Control Regulations, and regulation 2(3) replaces the references to “controlled waste” by references to “waste”.

Regulations 2(4) and (5) insert definitions of “waste permit” and “waste” and define “disposal or recovery” for the purposes of that definition of waste. Waste is defined to include everything defined as waste in article 1 of the Waste Framework Directive, and also certain agricultural waste which is excluded from the scope of that Directive by its article 2(1)(b)(iii). In relation to that waste these Regulations constitute a further measure for ensuring compliance with the requirements relating to waste contained in Regulation 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption<sup>(a)</sup>.

These Regulations extend to England and Wales only. No regulatory impact assessment has been produced for this instrument, as it has no impact on the costs of business.

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(a) OJ No L 273, 10.10.2002, p.1.

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