

GUERNSEY STATUTORY INSTRUMENT

2010 - No. 44

**The Waste Control and Disposal (Exemptions) Regulations,
2010**

Made

11th May, 2010

Coming into Operation

1st June, 2010

Laid before the States

, 2010

THE DIRECTOR OF ENVIRONMENTAL HEALTH AND POLLUTION REGULATION, in exercise of the powers conferred on her by section 3 of the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010^a and section 72 of the Environmental Pollution (Guernsey) Law, 2004^b and of all other powers enabling her in that behalf, hereby orders:-

Interpretation.

1. (1) In these Regulations, unless the context otherwise requires -

"agricultural land" means land used for the purposes of agriculture,

"agriculture" means dairy farming, livestock breeding and keeping, horticulture, fruit growing, seed growing, market gardening, the use of land as an orchard or for grazing, meadow or pasture land where, in each case, carried on as a trade or business,

^a Approved by resolution of the States on 28th April, 2010.

^b Order in Council No. XIII of 2004.

"air": see section 2(4)(a) of the Law,

"business day" has the meaning given by section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^c,

"charity" has the meaning given by section 12(1) of the Charities and Non-Profit Organisations (Registration) (Guernsey) Law, 2008,

"the Director" means the person appointed as Director of Environmental Health and Pollution Regulation under section 4 of the Law,

"enactment" includes an instrument,

"environment" :see section 2(4) of the Law,

"environmental pollution" : see section 2(2) of the Law,

"exempt operation" means an operation of a description set out in the Schedule,

"Guernsey" includes the Islands of Guernsey, Herm and Jethou, all other islands, islets and rocks around the coasts of those Islands, whether or not attached at low water, and all of the territorial waters adjacent thereto,

"instrument" means any order (including an order of the Royal Court), regulations, rules or other subsidiary legislative instrument,

"landfill" means a waste disposal site for the deposit of waste into or under land,

"the Law" means the Environmental Pollution (Guernsey) Law, 2004,

^c Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p.84; Vol. XXXIV, p.504; Vol. XXXV(1), p.367; and Orders in Council No. IX of 2001.

"licence" means a licence to carry on a prescribed operation granted under section 15 of the Law,

"medicinal product" has the meaning in section 133 of the Medicines (Bailiwick of Guernsey) Law, 2008^d,

"nuisance" has the meaning given by section 1(4) of the Loi relative à la Santé Publique^e,

"the Ordinance" means the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010,

"owner" in relation to premises, includes a usufruitier,

"person" includes any body or authority,

"place of special interest" means a **"site of special significance"** or a **"protected monument"** as defined in section 92 and Schedule 2 to the Land Planning and Development (Guernsey) Law, 2005^f,

"planning permission" means -

- (a) planning permission granted under the Land Planning and Development (Guernsey) Law, 2005, or

^d Order in Council No. V of 2009, as amended by Ordinance No. XXIV of 2009.

^e Ordres en Conseil, Vol. IX p. 386 as amended by Vol. XIX, p. 213, Vol XXIX p. 329 and Vol XXXIX, p. 64.

^f Order in Council No. XVI of 2005 as amended by Ordinances Nos. XXI, XXII, XXV, XXVII and XXVIII of 2007.

(b) permission granted under the Island Development (Guernsey) Law, 1966^g,

"pollution" : see section 2(3) of the Law,

"prescribed operation" see section 13(1) of the Law and section 1 of the Ordinance,

"prescription only medicine" means a medicinal product of a description or falling within a class specified in section 2 of the Prescription Only Medicines (Human) (Bailiwick of Guernsey) Ordinance, 2009^h,

"relevant fee" means any fee or charge payable under regulations made by the States Treasury and Resources Department under section 8 of the Law,

"register" means the register established and maintained by the Director under regulation 4,

"specially controlled waste" means any description of waste identified by Ordinance under section 37 of the Law as so dangerous or difficult to dispose of that special measures need to be taken in respect of itⁱ,

"waste" has the meaning in the Law except that it does not include –

(a) radioactive waste, and

^g Ordres en Conseil Vol. XX, p. 276; Vol. XXII, p. 573; Vol. XXIII, p. 231; Vol. XXVII, p. 355; Vol. XXXI, p. 61; Vol. XXXII, p. 33; repealed with savings by Order in Council No. XVI of 2005; see also Ordinance No. XXX of 2007.

^h Ordinance No. XXV of 2009.

ⁱ See section 26 of the Ordinance and regulation 2 of the Waste Control and Disposal (Specially Controlled Waste) Regulations, 2010.

- (b) any substance which is explosive within the meaning of the Explosives (Guernsey) Law, 1905^j,

and, unless the context otherwise requires, any other words or expressions shall have the same meaning as in the Ordinance.

(2) For the purposes of these Regulations, a container, lagoon, place or area is secure in relation to waste kept in it if all reasonable precautions are taken to ensure that the waste cannot escape from it and members of the public are unable to gain access to the waste, and any reference in these Regulations to "secure storage" means storage in a secure container, lagoon or place.

(3) The Interpretation (Guernsey) Law, 1948^k applies to the interpretation of these Regulations.

(4) Any reference in these Regulations to an enactment is a reference to such enactment as from time to time amended, re-enacted (with or without modification), extended or applied.

Exemption from requirement to hold a licence for operations regulated under FEPA.

2. (1) The following descriptions of operations are exempt from the requirement under the Law to hold a licence -

- (a) deposits of waste for which a licence is required under Part II of the Food and Environment Protection Act 1985^l as extended to the Bailiwick of Guernsey ("FEPA"), and

^j Ordres en Conseil Vol. III, p. 414 and Vol. XXXIV, p.586.

^k Ordres en Conseil Vol. XIII p. 355.

^l An Act of Parliament (1985 c.48); extended to the Bailiwick of Guernsey by the Food and Environment Protection Act 1985 (Guernsey) Order 1987 (U.K. S.I. 1987/665 as amended by UK S.I. 1997/1770.

- (b) operations which do not need a licence under Part II of FEPA by virtue of any order made under section 7 of FEPA^m.

Further exemptions from the requirement to hold a licence.

3. (1) Subject to the following provisions of these Regulations and to any conditions set out in the Schedule, the operations described in the Schedule are exempt from the requirement under the Law to hold a licence.

(2) In the case of an exempt operation set out in paragraph 1, 6, 7, 10, 11, 14, and 19 of the Schedule, the exemption from the requirement to hold a licence only applies if -

- (a) the exempt operation is carried on by or with the written consent of the owner of any part of the land where the operation is, or is to be, carried on, or
- (b) the person carrying on the operation has provided a written statement to the Director that he has made all reasonable enquiries to identify any such owner and obtain such written consent but such enquiries have failed to identify any such owner.

(3) Paragraph (1) does not apply to the carrying on of an exempt operation insofar as it involves specially controlled waste unless otherwise indicated in the Schedule.

(4) Paragraph (1) applies in relation to an exempt operation involving the disposal or recovery of waste by a person only if the type and quantity of waste submitted to the operation and the method of disposal or recovery are

^m See Guernsey S.I. 1992/11 and 1992/23.

consistent with the objectives of ensuring that waste is recovered and disposed of without -

- (a) causing pollution and in particular, without -
 - (i) endangering the health or well-being of man,
 - (ii) using processes or methods which could harm the environment or living organisms other than man which are supported by the environment and, in particular, without risk to water, air, land, plants and animals,
- (b) causing nuisance through noise or odours, or
- (c) adversely affecting the countryside or a place of special interest.

Registration in connection with exempt operations.

4. (1) The exemption in regulation 3(1) is subject to the condition that any person carrying on an exempt operation which involves the recovery or disposal of waste, must -

- (a) register with the Director, in writing -
 - (i) in the case of an exempt operation being carried on immediately before the commencement of these Regulations, within 3 months starting with the date that these Regulations come into force, or
 - (ii) in any other case, within 3 months starting with the date that operation was first carried on at

any time after these regulations came into force,
and

- (b) in so doing provide the Director, in writing, with the information set out in paragraph (3)(a) to (c).

(2) It shall be the duty of the Director to establish and maintain a register for the purposes of paragraph (1) of persons carrying on exempt operations involving the recovery or disposal of waste.

(3) Subject to paragraph (4) below, the register shall contain the following particulars in relation to each person referred to in paragraph (2) -

- (a) his name and address,
- (b) the operation which constitutes the exempt operation,
and
- (c) the place where the operation is carried on.

(4) The Director shall enter the particulars in paragraph (3) in the register in relation to a person when such person registers such details with the Director or if the Director otherwise becomes aware of those particulars.

(5) The Director shall provide facilities for -

- (a) making the information contained in entries in the register available for public inspection at such reasonable times during such business days as the Director may from time to time determine, and
- (b) enabling copies of that information to be taken or obtained upon payment of the relevant fee.

- (6) Registers under this regulation may be kept in any form.

Extent.

5. These Regulations shall have effect in Guernsey.

Citation.

6. These Regulations may be cited as the Waste Control and Disposal (Exemptions) Regulations, 2010.

Commencement.

7. These Regulations shall come into force on the 1st day of June 2010.

Dated this 11th day of May, 2010

V. Cameron

V. Cameron

Director of Environmental Health and Pollution Regulation

SCHEDULE

regulations 1(1) and 3(1)

DESCRIPTIONS OF OPERATIONS EXEMPT FROM THE REQUIREMENT TO HOLD A LICENCE

1. (1) The cleaning, washing or spraying of waste consisting of packaging or containers so that it can be reused.

(2) The storage of the waste described in subparagraph (1) in connection with the operations described in that subparagraph, provided that the waste stored does not, at any time, exceed 50 tonnes.

2. (1) Subject to subparagraphs (3), (5) and (6) -

(a) the spreading of any of the wastes listed in Table 1 on agricultural land, or

(b) the spreading of slurry (arising from the carrying on of agriculture on land) -

(i) on agricultural land, and

(ii) in accordance with a manure management plan (however named) for the farm in question, which has been approved by the States of Guernsey Commerce and Employment Department.

(2) Subject to subparagraphs (4), (5) and (6), the spreading of any of the wastes listed in Part 1 of Table 1 on land which is a forest, woodland, park, garden, verge, landscaped area, sports ground, recreation ground, churchyard,

cemetery or on land controlled by the States of Guernsey for the purposes of Guernsey Waterⁿ.

(3) The total quantity of all descriptions of waste set out in Table 1 spread on agricultural land shall not exceed 10 tonnes per hectare in any period of 12 months.

(4) The total quantity of any one description of waste set out in Table 1 spread on any land, other than that agricultural land, shall not exceed -

- (a) 10 tonnes per hectare, or
- (b) in the case of dredgings from inland waters, 100 tonnes per hectare,

in any period of 12 months.

TABLE 1

Part 1

Waste soil or compost.

Waste wood, bark or other plant matter.

Part 2

Waste lime.

Dredgings from any inland waters.

ⁿ Guernsey Water is a division of the States of Guernsey Public Services Department.

(5) The Director must be notified in writing of any proposal to spread wastes listed in Part 2 of Table 1 prior to any spreading taking place and such notification must include -

- (a) the name, address and telephone number of the person proposing to carry out the operation,
- (b) a description of the types and quantities of waste, and
- (c) particulars of where and when the waste is to be spread.

(6) Where, upon receipt of a notification under subparagraph (5), the Director is of the opinion that the spreading in question may give rise to environmental pollution, he may decide that such spreading shall not be exempt and notify the person who made the notification under subparagraph (5) accordingly.

3. (1) Subject to subparagraph (2), the storage of waste set out in Table 1, at the place where it is to be spread in reliance upon the exemption in paragraph 2, provided that such waste is not stored there for more than 3 months.

(2) The storage of waste in liquid form is only exempt under subparagraph (1) if it is stored in a secure container or lagoon and no more than 100 tonnes is stored in any one container or lagoon.

4. The storage and spreading of waste consisting of soil or rock, waste from the dredging of inland waters or arising from any construction or demolition work on any land in connection with its reclamation or improvement if -

- (a) by reason of industrial or other development the land is incapable of beneficial use without treatment,

- (b) the spreading is carried out in accordance with the terms and conditions of a planning permission for development relating to the reclamation or improvement of the land where such a permission is required, and
- (c) no more than 1,000 cubic metres per hectare of such waste is spread on the land,

except that this paragraph does not apply to the disposal of waste at a site designed or adapted for the final disposal of waste by landfill.

5. (1) The carrying out of any of the operations specified in column 2 of Table 2 in relation to waste specified in the corresponding row of column 1 of that Table, provided that -

- (a) the operation is carried on with a view to the recovery or reuse of the waste, and
- (b) the total quantity of any particular kind of waste dealt with in any period of 7 days does not exceed the limit specified in the corresponding row of column 3 of that Table in relation to that kind of waste.

(2) The storage of waste of the kind specified in column 1 of Table 2 which is to be submitted to any of the operations referred to in subparagraph (1) provided that -

- (a) the waste is stored at the place where the operations are to be carried out, and
- (b) the total of such waste stored at that place at any time, in relation to all such operations carried on at that place, does not exceed 1000 tonnes.

TABLE 2

<i>Kind of Waste</i>	<i>Operations</i>	<i>Limit (tonnes per week)</i>
Waste paper or Cardboard	Baling, sorting or shredding	20
Waste textiles	Baling, sorting or shredding	10
Waste plastic	Baling, sorting, shredding, densifying or washing	10
Waste glass	Sorting, crushing or washing	40
Waste steel cans, Aluminium cans or Aluminium foil	Sorting, crushing, pulverising, shredding, compacting or baling	40
Waste food or drink cartons	Sorting, crushing, pulverising, shredding, compacting or baling	10

6. (1) The storage and composting of biodegradable waste at the place where the waste is produced or the compost is to be used or at any other place occupied by the person producing or using the waste or compost provided that the total quantity of waste being stored or composted does not exceed -

- (a) 100 cubic metres in a case where such waste is used for cultivating mushrooms, or
- (b) 50 cubic metres where such waste is used for any other purpose.

(2) In this paragraph "**composting**" includes any biological transformation process that results in materials which may be spread on land for the benefit of agriculture or ecological improvement.

7. The manufacture of soil or soil substitutes from waste arising from demolition or construction or from waste which consists of aggregates provided that-

- (a) the manufacture is carried out at the place where the waste is produced or where the manufactured product is to be applied to land, and
- (b) the total amount manufactured at that place on any one day does not exceed 100 tonnes.

8. The manufacture of finished goods from waste metal, waste glass, waste ceramics, waste rubber, waste textiles, waste wood, waste paper or waste cardboard.

9. The beneficial use of waste provided that it is put to use without further treatment and that use does not involve its disposal.

10. (1) The storage in a secure place of waste of a kind described in column 1 of Table 3 if -

- (a) the total quantity of the waste stored does not exceed the quantity specified for that kind of waste in the corresponding row of column 2 of Table 3,
- (b) the waste is to be recovered or reused,
- (c) each kind of such waste is stored on the premises separately, and
- (d) no waste is stored for longer than 6 months.

TABLE 3

<i>Kind of Waste</i>	<i>Maximum Total Quantity</i>
Waste paper and cardboard	200 tonnes
Waste textiles	100 tonnes
Waste plastics	50 tonnes
Waste glass	100 tonnes
Waste steel cans, aluminium cans or aluminium foil	100 tonnes
Waste food or drink cartons	20 tonnes
Waste articles to be used for construction work in their existing state	100 tonnes
Solvents	5 cubic metres
Refrigerants and halons	1 tonne
Tyres	1,000 tyres

(2) In this paragraph "**refrigerants**" means dichlorodifluoromethane, chlorotrifluoromethane, dichlorotetrafluoroethane, chloropentafluoroethane, bromotrifluoromethane, chlorodifluoromethane, chlorotetrafluoroethane, trifluoromethane, difluoromethane, pentafluoroethane, tetrafluoroethane, chlorodifluoroethane, difluoroethane, trichlorofluoromethane, trichlorotrifluoroethane, dichlorotrifluoroethane, dichlorofluoroethane and mixtures containing any of those substances.

11. The storage on any premises of waste of a kind described in the first column of Table 3 in secure containers if -

- (a) the total storage capacity of all the containers of all kinds of waste on the premises does not exceed 400 cubic metres in total,
- (b) in the case of waste oil the total storage capacity of all the containers, containing such oil, on the premises does not exceed 3 cubic metres in total and provision is made to prevent oil escaping into the ground or a drain,
- (c) there are no more than 20 such containers in total on the premises,
- (d) each kind of such waste is kept separately, and
- (e) no such waste is stored for more than 12 months.

12. The storage on a site of waste which arises from demolition or construction work or tunnelling or other excavations or which consists of ash, slag, clinker, rock or road planings if -

- (a) the waste will be used for works to be carried on at the site,
- (b) in the case of waste not produced on the site, it is not stored at the site for more than 3 months before such work starts, and
- (c) no more than 1,000 tonnes of such waste is stored at the site.

13. The storage, laundering or other cleaning of waste textiles prior to their use or recovery.

14. The storage and chipping, shredding, cutting or pulverising of waste plant matter (including wood and bark), or sorting and baling of sawdust or wood shavings, on any premises if -

(a) such operations are carried on for recovery or reuse, and

(b) no more than 50 tonnes of any such waste is dealt with on the premises in any 7 day period.

15. The deposit of waste arising from dredging inland waters, or from clearing plant matter from inland waters, if -

(a) the waste is deposited along the bank of the waters where the dredging or clearing takes place, or

(b) the waste is deposited along the bank of any inland waters so as to result in benefit to agriculture or ecological improvement.

16. The recovery or disposal of waste at the place where it is produced, provided that this is an integral part of the process that produces it and the storage at that place of waste which is intended to be so recovered or disposed of.

17. The baling, compacting, crushing, shredding or pulverising of waste at the place where it was produced and the storage at that place of waste which is to be so baled, compacted, crushed, shredded or pulverised.

18. The storage of returned goods that are waste for a period not exceeding 6 months by their manufacturer, distributor or retailer.

19. The burning of waste consisting of waste wood or waste bark from plants or other plant matter on land in the open provided that -

- (a) the waste is burned on the land where it was grown, and
- (b) the total quantity of any such waste burned in any period of 24 hours does not exceed 1 tonne.

20. The burial of a dead domestic pet in the garden of a domestic property where the pet lived, provided that the remains are not hazardous to any person who may come in contact with it.

21. (1) The storage of samples of waste, including samples of waste which is specially controlled waste, which are being or are to be subjected to testing and analysis, at any place where they are to be tested or analysed, if the samples are taken -

- (a) by or on behalf of a person in the exercise of any statutory function,
- (b) by or on behalf of a holder of a licence in pursuance of the conditions of that licence,
- (c) by or on behalf of the owner of land from which the samples are taken,
- (d) by or on behalf of any person to whom the duty in section 36(1) of the Law applies in connection with his duties under that section, or
- (e) by or on behalf of a person for the purposes of research.

(2) The storage of samples of waste taken in any of the circumstances referred to in subparagraph (1) in connection with their use as evidence in any legal proceedings.

22. The secure storage at a pharmacy or at premises occupied by the Health and Social Services Department, pending their disposal there or elsewhere, of waste medicinal products (including those which are specially controlled waste by virtue of being a prescription only medicine) that have been returned to the Health and Social Services Department by an individual, such products having previously been held by such person, or a member of their household, for their own personal use, if -

- (a) the total quantity of such returned waste medicinal products at the pharmacy or hospital does not exceed 5 cubic metres at any one time, and
- (b) any such waste medicinal products are not stored there for longer than 6 months.

23. The temporary storage of waste, pending its collection, at the place where it was produced if -

- (a) the waste is stored on that site for no more than 3 months,
- (b) the volume of waste stored at any time on that site does not exceed 50 cubic metres, and
- (c) the waste is stored separately, from other materials on the site, in secured containers or secured areas.

24. (1) Subject to subparagraph (2), the transportation of waste and any collection, removal or handling of waste, which is carried out in connection with that transportation of waste, where carried out in any of the following circumstances-

- (a) by a charity in connection with its operations carried out for charitable purposes,
- (b) by a person who is transporting such waste within the same premises between different places in those premises,
- (c) by the States of Guernsey Public Services Department where such waste is sewage being transported in vehicles, or
- (d) by the States of Guernsey Health and Social Services Department where such waste is a medicinal product which is being transported from a retail pharmacy in connection with amnesties or other schemes (however named) initiated by the States of Guernsey Health and Social Services Department for the safe return of such medicinal products to that Department.

(2) An operation is not exempt under subparagraph (1)(a), (c) or (d) if it is being transported by a person by way of business for or on behalf of a person referred to in those subparagraphs.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for exemptions from the requirement to hold a licence under the Environmental Pollution (Guernsey) Law, 2004 (regulations 2 and 3 and the Schedule) for certain operations relating to waste. The exemptions in regulation 3, for the operations described in the Schedule, are subject to the conditions set out in regulation 3 and the Schedule.

Any person carrying on an exempt operation described in the Schedule which involves the recovery or disposal of waste must, as a condition of the exemption, register specified information with the Director of Environmental Health and Pollution Regulation (see regulation 4). Such registration must be made within 3 months of the date the operation is first carried on or, where an operation is being carried on at the date these regulations come into force, within 3 months of that coming into force date.