

S.I. No. 324/2011 — European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011.

TABLE OF CONTENTS

1. Citation and commencement
2. Purpose of Regulations
3. Scope
4. Interpretation generally
5. Designation of competent authority
6. Powers of the competent authority to implement the TFS Regulation and these Regulations
7. General provisions and duties on producers, notifiers, waste holders, carriers, consignees and other persons
8. Tracking System using waste transfer documents
9. Inspections
10. Record keeping
11. Monitoring
12. Service of notices
13. Powers of authorised person
14. Offences
15. Offences by bodies corporate
16. Legal proceedings
17. Prosecutions and penalties
18. Cost of Prosecutions
19. Amendments and revocations
20. Amendment of Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007)

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 1st July, 2011.*

I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purpose of giving effect to the provisions of Regulation (EC) No. 1013 of the European Parliament and of the Council of 14 June 2006 on shipments of waste¹ and further effect to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives², hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011.
- (2) These Regulations shall come into effect on 1 July 2011.

Purpose of Regulations

2. The purposes for which these Regulations are made are:
 - (a) giving effect to the provisions of article 33 of Regulation (EC) No. 1013 of the

European Parliament and of the Council of 14 June 2006 on shipments of waste¹ (in these Regulations referred to as the TFS Regulation) and

(b) to give further effect to article 19(2) of the Waste Directive 2 (in these Regulations referred to as the WFD), and

(c) to amend the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007) to give further effect to article 50 of the TFS Regulation.

Scope

3. (1) These Regulations apply to the shipment and transfer of hazardous waste exclusively within the State and set out the duties and responsibilities of waste producers, notifiers, carriers, waste holders and consignees in such matters.

(2) The following shall be excluded from the scope of these Regulations:

(a) gaseous effluents emitted into the atmosphere and carbon dioxide captured and transported for the purposes of geological storage and geologically stored in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009³ on the geological storage of carbon dioxide or excluded from the scope of that Directive pursuant to Article 2(2) of that Directive,

(b) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land,

(c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated,

(d) radioactive waste,

(e) decommissioned explosives,

(f) faecal matter, if not covered by subparagraph (2)(b), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such bio-mass through processes or methods which do not harm the environment or endanger human health.

(2) These Regulations shall not apply to the following to the extent that they are covered by other Community acts:

(a) waste waters;

(b) animal by-products, including processed products covered by Regulation (EC) No. 1069/2009⁴, except those which are destined for incineration, landfilling or use in a biogas or composting plant;

(c) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No. 1069/2009⁵;

(d) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries covered by Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006² on the management of waste from extractive industries.

Interpretation generally

4. (1) A word or expression that is used in these Regulations and is also used in the TFS Regulation has, unless the contrary intention appears, the meaning in these Regulations that it has in the TFS Regulation.

(2) In these Regulations—

(a) any reference to a Regulation or paragraph which is not otherwise identified, is a

reference to respectively a Regulation of these Regulations or to a paragraph of the provision in which the reference occurs;

(b)“Act” means the Waste Management Act 1996 ;

(c)“Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act, 1992 (No. 7 of 1992);

(d)“authorised person” means a person who is appointed in writing to be an authorised person for the purposes of these Regulations. An appointment of an authorised person for the purposes of these Regulations shall remain in force until such appointment is revoked by an order of the Manager of Dublin City Council;

(e)“broker” means any person arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste;

(f)“collection” means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility;

(g)“competent authority” means that body designated as such pursuant to Regulation 5;

(h)“consignee” means the person or undertaking or authorised facility to whom or to which the waste is shipped for recovery or disposal;

(i)“dealer” means any person which acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste;

(j)“disposal” means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy. Annex 1 of the WFD sets out a non-exhaustive list of disposal operations;

(k)“hazardous waste” means waste which displays one or more of the hazardous properties listed in Annex III of the WFD;

(l)“notifier” is as defined in the TFS Regulation;

(m)“professional basis” includes for financial reward;

(n)“prosecuting authority” means the Director of Public Prosecutions, the competent authority, the Agency or a local authority;

(o)“recovery” means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. Annex II of the WFD sets out a nonexhaustive list of recovery operations;

(p)“shipment” means the transport of hazardous waste destined for recovery or disposal which is planned or takes place exclusively within the State;

(q)“tracking system” and “waste transfer documents” are as referred to in Regulation 8;

(r)“transport” means the carriage of waste by road, rail, air, sea or inland waterways;

(s)“treatment” means recovery or disposal operations, including preparation prior to recovery or disposal;

(t)“waste” means any substance or object which the holder discards or intends or is required to discard;

(u)“waste holder” means the waste producer or the natural or legal person who is in possession of the waste;

(v)“waste management” means the collection, transport, recovery and disposal of waste, including the supervision of such operations and the after-care of disposal or recovery facilities, and including actions taken as a dealer or broker;

(w)“waste producer” means anyone whose activities produce waste (original waste producer) or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

(x)“Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008¹ on waste and repealing certain Directives.

Designation of competent authority

5. (1) Dublin City Council is designated the competent authority for the regulation of shipments of hazardous waste exclusively within the State in order to implement article 33 of the TFS Regulation and to give further effect to article 19(2) of the WFD in relation to the shipment or transfer of hazardous waste within the State and to ensure compliance with these Regulations.

(2) In accordance with article 33 of the TFS Regulation the competent authority shall establish an appropriate system for the control of shipments of hazardous waste taking account of the need for coherence with the Community system established for shipments of waste established by Titles II and VII of the TFS Regulation and the WFD and may for the purposes of the enforcement of these Regulations operate both within and outside its functional area.

(3) The competent authority may, for the purposes of paragraph 1, appoint an authorised person. An authorised person within the meaning of section 5 of the Act shall be an authorised person for the purpose of these Regulations.

Powers of the competent authority to implement the TFS Regulation and these Regulations

6. (1) In carrying out its functions under these Regulations, the competent authority shall have the power to do any of the following:

(a) direct that an identification document as prescribed by the competent authority, be used whenever hazardous waste is shipped or transferred within the State,

(b) direct that a prior written notification for consent be sent to and through it for any shipment of hazardous waste in accordance with the procedures set out in Chapter 1 of the TFS Regulation, where it considers it necessary to prevent illegal shipments occurring, and may attach conditions to any such consent issued to those ends,

(c) direct a person who undertakes the shipment of hazardous waste to effect and maintain a financial guarantee where it considers it necessary to prevent illegal shipments occurring,

(d) direct that an agreement or agreements be entered into with one or more appropriate persons by a person undertaking a hazardous waste shipment whereby the first-mentioned person or persons agree or agrees to recover or dispose of the waste,

(e) seize, take in charge, recover or dispose of a consignment of hazardous waste or a part thereof where it has reasonable grounds to suspect that any provision of these Regulations or the TFS Regulation has not been complied with as respects the consignment or a part thereof, as the case may be,

(f) request any local authority or the Agency to cooperate in enforcement activities or incident investigation for the purposes of these Regulations and the local authority so requested or the Agency shall endeavour to cooperate with such a request,

(g) direct the keeping of records by a specified person of the source of, and particulars concerning the transport, delivery and receipt of, hazardous waste and, as the case may

be, the recovery or disposal thereof, and the persons to whom such records shall be made available,

(h) direct the prevention and control of litter and nuisance from odours and any other environmental impacts that may arise from the transport of hazardous waste and generally with respect to the handling of hazardous waste whilst it is being moved,

(i) impose on a person undertaking the shipment of hazardous waste such charges as are necessary to defray any costs reasonably incurred by it in performing any function under these Regulations with respect to the waste, including enforcement requirements and charges for waste transfer documents,

(j) direct a person to give such security to it for the payment of any charge he or she may be liable to pay to it pursuant to these Regulations and if a charge is not paid within a period of time prescribed by the competent authority, which shall be not less than one month, the security shall be invoked,

(k) direct a person who undertakes the shipment of hazardous waste to give security of a specified nature to the competent authority or any other specified person in respect of costs which may be incurred by it in taking steps in relation to that waste in the event of a contravention by the first-mentioned person of any provision of these Regulations as respects that waste,

(l) prohibit any shipment of hazardous waste either generally or for such periods as may be specified for the purposes of these Regulations or to comply with recommendations or provisions of the hazardous waste management plan made under section 26 of the Act,

(m) carry out inspections on, in or at any structure, installation, facility, or development; board trains, ships, vehicles, containers water craft or aircraft for the purposes of these Regulations,

(n) direct any establishment or undertaking to provide particular information in relation to a shipment of hazardous waste, including, where required, the completion of a waste transfer document.

(o) serve a notice in writing on any person for any purpose relating to his or her functions under these Regulations.

(2) The powers and functions conferred on the competent authority pursuant to these Regulations may be performed on its behalf by any authorised person duly appointed in writing pursuant to Regulation 5(3).

(3) The competent authority may revoke or modify any prohibition made under this Regulation and notice of any such prohibition, or of any revocation or modification of such prohibition, shall be published in *An Iris Oifigiúil* and in one or more national daily newspapers not less than fourteen days before such prohibition, revocation or modification shall take effect.

General provisions and duties on producers, notifiers, waste holders, carriers consignees and other persons

7. (1) The waste producer, notifier, waste holder and other persons involved in a shipment of hazardous waste and its preparation for collection, re-use, recovery or disposal and which is subject to these Regulations shall take the measures necessary to ensure that its waste management is carried out without endangering human health or the environment and, in particular, without:

(a) risk to water, air, soil, plants or animals,

(b) causing a nuisance through noise or odours, or

(c) adversely affecting the countryside or places of special interest.

(2) Other than where permitted by the Agency, the waste producer, the notifier, waste holder, carrier, and any other person involved in a shipment of hazardous waste shall take the measures necessary to ensure that such waste is not mixed, either with other categories of hazardous waste or with other waste, substances or materials and such mixing shall include the dilution of hazardous substances.

(3) Whenever hazardous waste is transported or transferred within the State, it shall be accompanied by a waste transfer document as referred to in Regulation 8(2), (unless exempt under Regulation 8(5)), and where directed by the competent authority under Regulation 6. The waste transfer document shall be signed by the producer, carrier and consignee where indicated.

(4) A person shall not compile information which is false or misleading or furnish such information in any notice or other document, such as the waste transfer document, used for the purposes of these Regulations.

(5) A consignee in the State shall only accept a shipment of hazardous waste which is accompanied by a waste transfer document. Where a consignee refuses to receive a shipment because of the absence of a waste transfer document or for other reasons he or she shall as soon as possible furnish a report to the competent authority detailing the reasons why the shipment was not accepted.

(6) A person on whom a direction is served by the competent authority under Regulation 6 shall comply with the requirements of the direction, which shall be in writing, within such period, being a period of not less than three weeks, or as may be specified in the direction in cases of urgency.

(7) A direction served by the competent authority pursuant to Regulation 6 may state a sum to be paid to the competent authority towards the costs reasonably incurred by it in the performance of its functions under these Regulations, including the cost of enforcement, and may provide for a specified time period within which to make such payment which may not be less than three weeks from the issue of said direction and, where the person to whom the said direction is served fails to pay such sum, the competent authority may recover that sum as a simple contract debt in any court of competent jurisdiction.

(8) Where a notifier, producer or waste holder fails to comply with a direction, the competent authority may 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 waste is recovered or disposed of in an environmentally sound manner.

Tracking system using waste transfer documents

8. (1) The competent authority shall set up a tracking system in electronic format to give effect to the requirements of Regulation 5.

(2) Establishments or undertakings which produce, collect or transport hazardous waste on a professional basis, brokers, dealers and consignees shall comply with the requirements of the competent authority concerning the completion and use of waste transfer documents and the preservation of records in accordance with Regulation 10.

(3) The competent authority may charge for the use of waste transfer documents.

(4) Provided that the requirements of these Regulations are complied with, the competent authority may, where it considers it appropriate, use a general tracking system for shipments meeting the conditions of article 13 of the TFS Regulation and in order to obviate the unnecessary duplication of work by the persons referred to in paragraph 2 or the competent authority.

(5) Without prejudice to paragraph (2), a derogation shall apply to the use of waste transfer documents in respect of shipments of mixed waste produced by households.

(6) Notwithstanding paragraph (1), the competent authority may continue to accept consignment notes in paper form until 31 December 2011.

Inspections

9. (1) Establishments or undertakings which collect or transport hazardous waste on a professional basis, and brokers and dealers of hazardous waste, shall be subject to appropriate periodic inspections by the competent authority for the purposes of these Regulations. The competent authority may request any local authority to cooperate in enforcement activities for the purposes of these Regulations and the local authority so requested shall endeavour to cooperate with such a request. The Agency and the competent authority shall endeavour to cooperate in enforcement activities for the purposes of these Regulations.

(2) Inspections concerning collection and transport operations shall include the origin, nature, quantity and destination of the hazardous waste collected and transported.

Record keeping

10. (1) The establishments and undertakings which collect or transport hazardous waste on a professional basis, or act as dealers and brokers of hazardous waste, shall keep a chronological record of the quantity, nature and origin of the waste, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste, and of waste transfer documents and shall make that information available, on request, to the competent authority or the Agency or the local authority in whose functional area the waste is being stored, recovered or treated.

(2) The records shall be preserved for three years and documentary evidence that the collection or transport or waste management have been carried out shall be supplied at the request of the competent authority or the Agency or of a previous holder.

(3) A waste producer or waste holder shall take appropriate steps to obtain documentary evidence that any consignment of hazardous waste which is moved on his or her behalf by a carrier is received by the relevant consignee.

Monitoring

11. (1) Where it appears necessary so to do for any purpose of these Regulations, the competent authority may require any person who collects or transports hazardous waste to carry out or arrange to have carried out such monitoring in relation to the activity concerned as the competent authority may specify and to keep and to supply to the competent authority such records of the said monitoring as the competent authority may specify.

(2) A person who fails to comply with a requirement under this paragraph shall be guilty of an offence.

Service of notices

12. (1) Any notice required to be served or given by or under these Regulations shall be addressed to the person concerned and served or given in one of the following ways—

(a) by addressing it to the person by name and delivering it to him or her,

(b) by leaving it at the address at which the person ordinarily resides,

(c) by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides,

(d) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to him or her to, that address, or

(e) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and notice is required to be served on, or given to, him or her in respect of any premises, by delivering it to a person over the age of 16 years of age resident in or employed on the premises, or by affixing it in a conspicuous position on or near the premises.

(2) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice under these Regulations may be addressed to “the occupier”, “the owner” or “the person in charge”, as the case may be.

(3) For the purposes of this Regulation, a company registered under the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) A person shall not at any time during the period of 3 months after a notice is affixed under paragraph (1)(e) remove, damage or deface the notice without lawful authority.

(5) A person who contravenes paragraph (4) shall be guilty of an offence.

Powers of authorised person

13. (1) An authorised person may, for any purpose connected with these Regulations—

(a) at all reasonable times, or at any time if he or she has reasonable grounds for believing that there may be a risk of environmental pollution arising from the carrying on of an activity at the premises or that such pollution is occurring, enter any premises and bring thereon such other persons (including members of An Garda Síochána) or equipment as he or she may consider necessary for the purpose, and

(b) at any time halt (if necessary) and board any vehicle and have it taken, or require the driver of the vehicle to take it, to a place designated by the authorised person, and such a vehicle may be detained at that place by the authorised person, for such period as he or she may consider necessary for the purpose.

(2) Subject to paragraph (7), an authorised person shall not, other than with the consent of the occupier, enter into a private dwelling under this Regulation unless he or she has given to the occupier of the dwelling not less than 24 hours notice in writing of his or her intended entry.

(3) Every authorised person when exercising any power conferred on him or her by or under these Regulations, shall, if requested by any person affected, produce the certificate furnished to him or her under section 14(3) of the Act or under Regulation 5(3).

(4) Whenever an authorised person enters any premises or boards any vehicle, pursuant to this Regulation, the authorised person may therein, as appropriate—

(a) make such plans, take such photographs, record such information on data loggers, make such tape, electrical, video or other recordings and carry out such inspections,

(b) make such copies of documents and records (including records in electronic form) found therein and take such samples,

(c) carry out such surveys, take such levels, make such excavations and carry out such examinations of depth and nature of subsoil,

(d) require that the premises or vehicle or any part of the premises or anything in the premises or vehicle shall be left undisturbed for such period,

(e) require from an occupier of the premises or any occupant of the vehicle or any person employed on the premises or any other person on the premises, such information,

(f) require the production of and inspect such records and documents, (including

records held in electronic form) and take copies of or extracts from, or take away if considered necessary for the purposes of inspection or examination, any such records or documents,

as the authorised person, having regard to all the circumstances, considers necessary for the purposes of exercising any power conferred on him or her by or under these Regulations.

(5)(a) An authorised person who, having entered any premises or boarded any vehicle, pursuant to this Regulation, considers that waste thereon or therein is such, or is being handled or transported in such manner, as to constitute a risk of environmental pollution, may direct the holder of such waste to take such measures as are considered by that authorised person to be necessary to remove that risk, including, the disposal of the waste, in such manner and place and within such period as the authorised person may specify.

(b) If a waste holder fails to comply with a direction of an authorised person under this paragraph, the authorised person may do all things as are necessary to ensure that the direction is carried out and the costs incurred by him or her in doing any such thing shall be recoverable from the holder of the waste by him or her, or the person by whom he or she was appointed, as a simple contract debt in any court of competent jurisdiction.

(6) Any person who—

(a) refuses to allow an authorised person to enter any premises or board any vehicle or to take any person or equipment with him or her in the exercise of his or her powers under this Regulation,

(b) obstructs or impedes an authorised person in the exercise of any of his or her powers under this Regulation,

(c) gives either to an authorised person, a relevant local authority or the Agency, information which to his or her knowledge is false or misleading in a material respect, or

(d) fails or refuses to comply with any requirement of this Regulation or of an authorised person,

shall be guilty of an offence.

(7)(a) Where an authorised person in the exercise of his or her powers under this Regulation is prevented from entering any premises or if an authorised person has reason to believe that evidence related to a suspected offence under these Regulations may be present in any premises and that the evidence may be removed therefrom or destroyed, the authorised person or the person by whom he or she was appointed may apply to a judge of the District Court for a warrant under this paragraph authorising the entry by the authorised person into the premises.

(b) If on application being made to him or her under this paragraph, a judge of the District Court is satisfied, on the sworn information of the applicant, that the authorised person concerned has been prevented from entering a premises as aforesaid or that the authorised person has reasonable grounds for believing the other matters aforesaid, the judge may issue a warrant under his or her hand authorising that person, accompanied, if the judge deems it appropriate so to provide, by such number of members of An Garda Síochána as may be specified in the warrant, at any time or times within one month from the date of the issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, the premises concerned and exercise the powers referred to in paragraph (4) or (5).

(8) An authorised person may, in the exercise of any power conferred on him or her by these Regulations involving the bringing of any vehicle to any place, or where he or she

anticipates any obstruction in the exercise of any other power conferred on him or her by or under these Regulations, request a member of An Garda Síochána to assist him or her in the exercise of such a power and any member of An Garda Síochána of whom he or she makes such a request shall comply therewith.

Offences

14. (1) Any person who contravenes any provision of these Regulations shall be guilty of an offence.

(2) A person shall not move from the premises where it is being held, or accept, or facilitate by consent, connivance or neglect the movement or acceptance of, hazardous waste otherwise than in accordance with the requirements of these Regulations.

(3) Any person who fails to comply with a requirement, obligation or condition imposed by the competent authority by way of a direction or the service of a notice under the TFS Regulation or these Regulations shall be guilty of an offence.

Offences by bodies corporate

15. (1) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

Legal proceedings

16. Copies of all notifications, waste transfer documents, consents, certificates, photographs or contracts required by the TFS Regulation and these Regulations and purporting to be certified by an officer of the competent authority to be true copies without proof of signature of the person purporting so to certify shall be received in evidence in any legal proceedings, be admissible and shall, until the contrary is proved, be deemed to be a true copy of the entry and to be evidence of the terms of the entry and in particular that information contained in those documents shall be admissible in any criminal proceedings as evidence of any fact therein of which direct oral evidence would be admissible.

Prosecutions and penalties

17. (1) A prosecution for a summary offence under these Regulations may be taken by the competent authority or the Agency.

(2) A person guilty of an offence under these Regulations is liable—

(a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 3 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €500,000, or imprisonment for a term not exceeding 3 years, or both.

Cost of prosecutions

18. Where a person is convicted of an offence under these Regulations in proceedings brought by the prosecuting authority, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecuting authority, the costs and expenses, measured by the court, incurred by the prosecuting authority in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations

and analyses and in respect of the remuneration and other expenses of directors, employees, consultants and advisers, as the case may be.

Amendments and Revocations

19. (1) Parts V and VI of the Waste Management (Hazardous Waste) Regulations, 1998 (S.I. No. 163 of 1998) shall be revoked with effect from 1 July 2011.

(2) The Waste Management (Movement of Hazardous Waste) Regulations, 1998 (S.I. No. 147 of 1998) are revoked with effect from 31 December 2011.

Amendment to the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007)

20. The Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007) are hereby amended by the addition of the following after Regulation 12—

“Cost of prosecutions

13. (1) Where a person is convicted of an offence under these Regulations in proceedings brought by the prosecuting authority, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecuting authority, the costs and expenses, measured by the court, incurred by the prosecuting authority in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of directors, employees, consultants and advisers, as the case may be.

(2) In this Regulation “prosecuting authority” means the Director of Public Prosecutions, the competent authority, the Agency or a local authority.”



Given under my Official Seal,

20 June 2011.

PHIL HOGAN,

Minister for the Environment, Community and Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to streamline the administration of the legislation on the shipments of hazardous waste exclusively within Ireland so as to provide a better and more consistent level of implementation generally. In line with the external TFS system of control for shipments of waste from Ireland they provide for the designation of Dublin City Council as the sole competent authority responsible for the implementation of article 33 of the Waste Shipments Regulation (EC) No. 1013/2006 (the TFS Regulation) with effect from 1 July 2011. This will have the effect of linking both systems and facilitate better management controls on shipments of hazardous waste. In addition the internal tracking system will be an electronic system-as opposed to a paper based system which has applied up to the commencement of these Regulations.

In addition, the Regulations:

1. give further effect to article 19(2) of the Waste Framework Directive (Directive 2008/98/EC) of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives.(S.I. No. 419 of 2007)

2. amend the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007) to include a provision concerning the payment of prosecution costs to give further effect to article 50 of the TFS Regulation.

3. revoke provisions of the Waste Management (Hazardous Waste) Regulations, 1998 (S.I. No. 163 of 1998).

4. revoke the Waste Management (Movement of Hazardous Waste) Regulations, 1998 (S.I. No. 147 of 1998) but allow a transitional period until 31 December 2011 before this revocation takes effect-to facilitate the smoother running of the new electronic system and to allow companies who had forward purchased stocks of the old paper consignment note system (known as C1 forms) to use these stocks.

1 OJ No. L 190, 12.7.2006, p.1

2 OJ No. L312, 22.11.2008, p.3

3 OJ No. L140, 05.06.2009, p.114

4OJ No. L300, 14.11.2009, p.1

2 OJ No. L312, 22.11.2008, p.3

1OJ No. L 190, 12.7.2006, p.1

© Government of Ireland. Oireachtas Copyright Material is reproduced with the permission of the House of the Oireachtas