2003 No. 171

ENVIRONMENTAL PROTECTION

The Waste Management Licensing Amendment (Scotland) Regulations 2003

Made	*10th March 2003*
Laid before the Scottish Parliament	*11th March 2003*
Coming into force	*1st April 2003*

The Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**a**) and section 74(6) of the Environmental Protection Act 1990(**b**) and of all other powers enabling them in that behalf, hereby make the following regulations.

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Waste Management Licensing Amendment (Scotland) Regulations 2003 and shall come into force on 1st April 2003.

(2) These Regulations extend to Scotland only.

Amendment of the Environment Act 1995

2.—(1) The Environment Act 1995(**c**) is amended as follows.

(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) there is substituted–

"(j) registration in respect of an activity falling within paragraph 7, 9, 19, 45(1) or (2) of Schedule 3 to those Regulations, except where the waste which is the subject of the activity consists wholly or mainly of agricultural waste within the meaning of those Regulations;".

(a) 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).

(b) 1990 c.43. The functions of the Secretary of State, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. Section 74(6) enables regulations to be made prescribing the qualifications and experience required of a person for the purposes of the management of an activity authorised by a waste management licence granted under section 35. The qualifications and experience so prescribed are treated by regulation 4(5)(b) of S.S.I. 2000/323 (which applies to Scotland and which amended regulation 1 of S.I. 1994/1056) as the qualifications and experience required of a person for the purposes of technical competence to manage a waste management activity authorised by a permit under Part II of S.S.I 2000/323 (which implements Council Directive 96/61/EC of 24th September 1996 concerning integrated pollution prevention and control (O.J. No. L 257, 10.10.96, p.26)). The extension of S.S.I.2000/323 to landfills by regulation 8 of S.S.I.2003/185 (which apply to Scotland and which implement Council Directive 99/31/EC on the landfill of waste (O.J. No. L 182, 16.7.99, p.1)) has the effect that the qualifications and experience prescribed pursuant to section 74(6) apply to persons managing a landfill pursuant to a landfill permit.

(c) 1995 c.25. Section 56 was amended by the Pollution Prevention and Control Act 1999 (c.24), Schedule 2, paragraph 17 and by S.S.I. 2000/323, Schedule 10, paragraph 5(2).

Amendment of the Waste Management Licensing Regulations 1994

3. The Waste Management Licensing Regulations 1994(**a**) are amended as set out in regulations 4 to 12 below.

4. In regulation 1(3) (interpretation), the following definitions are inserted at the appropriate places–

"agriculture" has the same meaning as it has for the purposes of the Agriculture (Scotland) Act 1948(**b**);

"agricultural waste" means waste from premises used for agriculture;

"European Waste Catalogue" means the list of wastes pursuant to Article 1(a) of the Directive and Article 1(4) of Directive 91/689/EEC on hazardous waste set out in Commission Decision 2000/532/EC(**c**);

"landfill" has the same meaning as it has for the purposes of the Landfill (Scotland) Regulations 2003 (**d**);

"the register" means the register of exempt activities maintained by SEPA for the purpose of regulation 18 of these Regulations.".

5. For regulation 4(**e**) there is substituted–

"Technical competence

4.—(1) Subject to paragraphs (2) and (3) below and without prejudice to the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002(**f**), Schedule 1A has effect to prescribe for the purposes of section 74(3)(b) of the 1990 Act (management of activities to be in the hands of a technically competent person) the qualifications required of a person if that person is to be considered technically competent in relation to a facility of a type listed in Table 1 of that Schedule.

(2) Paragraph (1) does not apply in relation to a facility which is used exclusively for the purpose of–

(a) carrying on business as a metal dealer;

(b) dismantling motor vehicles; or

(c) the burial of dead domestic pets.

(3) Where–

(a) a person was technically competent for the purposes of section 74(3)(b) of the 1990 Act in relation to a facility immediately prior to 1st April 2003 (whether or not the management of the facility was in the hands of that person at that time); and

(b) that person is required to obtain a new certificate in order to remain technically competent in relation to that facility as a result of the Waste Management Licensing Amendment (Scotland) Regulations 2003(**g**);

then, until 1st April 2005, that person shall be treated as technically competent in relation to that facility for the purposes of section 74(3)(b) of the 1990 Act.".

6. In regulation 17 (exemptions from waste management licensing), after paragraph (5) insert–

"(6) It shall be the duty of SEPA to have regard to any guidance issued to it by the Scottish Ministers with respect to the discharge of its functions in relation to an exempt activity.".

7. In regulation 18 (registration in connection with exempt activities)–

(a) in paragraph (4), for "(4A) and (4B)" substitute "(4A) to (4D)";

(a) S.I.1994/1056, amended by S.I. 1994/1137, 1995/288, 1950, 1996/593, 634, 672, 916, 972, 973, 1279, 1997/351, 2203, 1998/606, 2746 and S.S.I. 2000/323.

(b) 1948 c. 45; "agriculture" is defined in section 86(3).

(c) O.J. L.226, 6.9.2000, p.3, as amended by Commission Decisions 2001/118/EC (O.J. L 47, 16.2.2001, p.1), 2001/119/EC (O.J. L 47, 16.2.2001, p.32) and 2001/573 (O.J. L 203, 28.7.2001, p.18).

(d) S.S.I. 2003/insert no. ; "landfill" is defined in regulations 3 and 4 of those Regulations.

(e) Regulation 4 was amended by S.I. 1996/634, 916 and 1997/2203.

(f) S.I. 2002/2934 implementing Council Directive 92/51/EEC on a second general system for the recognition of professional education and training. Regulation 9 and Part 1 of Schedule 2 (Professions regulated by law or public authority) of those Regulations designates the Waste Management Industry Training and Advisory Board as the authority for certified technically competent persons.

(g) S.S.I. 2003/171 .

(b) after paragraph (4B) insert–

"(4C) (a) Paragraph (4) above does not apply in the case of an exempt activity falling within paragraphs 7, 9 or 19 of Schedule 3 and the provisions of this paragraph shall instead apply to such an activity.

(b) An establishment or undertaking which intends to carry out an exempt activity to which this paragraph applies shall provide to SEPA a written notice given on a form provided for the purpose by SEPA ("the notice") together with,

(i) a plan and the documents specified in Part 1 of Schedule 3A and such other information as SEPA reasonably requires, and

(ii) payment of the charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995.

(c) Subject to sub-paragraph (d), unless SEPA has within the period of 21 days from the date on which it received the notice, either–

(i) entered the relevant particulars in the register in relation to the establishment or undertaking which submitted the notice, or

(ii) served on it a notice of refusal stating that registration is refused and giving reasons for that decision,

those particulars shall be deemed to be entered in the register at the end of that 21 day period.

(d) Particulars entered or deemed to be entered into the register under this paragraph shall be deemed to be removed from the register on the expiry of 12 months from the date on which they were entered or deemed to be entered ("the removal date"), unless the establishment or undertaking has no later than 21 days before the removal date provided to SEPA–

(i) a notice containing a request that registration of an exempt activity registered under this paragraph be renewed ("the renewal notice") and either confirmation that the particulars submitted in the notice and the plan and documentation which accompanied it remain accurate or a revision of such of the particulars of the notice and plan and documentation as are no longer accurate, and

(ii) the renewal notice is accompanied by payment of the charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995.

(4D) (a) Subject to sub-paragraphs (b) and (c), SEPA may in the case of an exempt activity falling within paragaphs 7, 9 and 19 of Schedule 3, remove from the register the relevant entry for that activity where–

(i) the establishment or undertaking to which the relevant entry relates is no longer carrying out that activity;

(ii) the activity is being carried out in breach of any of the conditions or limitations in those paragraphs of Schedule 3 or of any of the registration obligations in regulation 18A which apply in relation to it;

(iii) the activity is being carried out in breach of regulation 17(2) of these Regulations; or

(iv) the activity is being carried out in breach of regulation 17(4) of these Regulations.

(b) Before removing the relevant entry from the register, SEPA shall serve on the establishment or undertaking to which the relevant entry relates a notice ("notice of removal") stating that the registration is cancelled on a date specified in the notice and giving reasons for the cancellation.

(c) A notice of removal served in accordance with sub-paragraph (b) can be withdrawn by SEPA at any time and the relevant entry reinstated in the register with or without amendment of the particulars relating to that entry.";

(c) in paragraph (6)(a) for "paragraph 45(1) or (2)" substitute "paragraph 7, 9, 19, 45(1) or 45(2)"; and

(d) delete paragraph (7).

8. After regulation 18 insert–

"Registration obligations

18A.—(1) The obligations described in paragraph (2) ("the registration obligations") shall apply to establishments or undertakings whose particulars are entered into the register in relation to an exempt activity falling within paragraphs 7, 9 and 19 of Schedule 3, to the extent specified in paragraph (2).

(2) (a) At least 21 days written notice of the date on which the exempt activity is first to be carried on shall be given to SEPA unless this information was provided in the notice or renewal notice given under regulation 18;

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

(i) paragraph 7; and

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

(c) Records kept under sub-paragraph (b) of this regulation shall be kept for a period of at least 2 years and shall be made available to SEPA on request.

(3) A person who carries on an exempt activity in breach of the registration obligations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.".

9. After Schedule 1 (information and evidence required in relation to an application for the surrender of a site licence), insert–

Regulation 4

"SCHEDULE 1A

Certificates of Technical Competence

1. The qualifications required of a person if that person is to be regarded as technically competent for the purposes of section 74(3)(b) of the 1990 Act to manage a facility of a description listed in Table 1 are that that person must hold one of the certificates awarded by the Waste Management Industry Training and Advisory Board ("WAMITAB")(**a**) the codes of which are specified in relation to that description of facility in that Table; and the certificates to which the codes refer are set out in Table 1A.

Table 1

Number	*Type of Facility*	*Certificate Code*
1	Landfill site for hazardous waste	A, D, or G
2	Landfill site for hazardous waste – single waste stream	A, D, G or H
3	Landfill site for non-hazardous waste	A, B, D, E, G or I
4	Landfill site for non-hazardous waste – single waste stream	A, B, D, E, G, H, I or J
5	Landfill site for inert waste with a total capacity of greater than 50,000 cubic metres	A, B, C, D, E, F, G, I or K
6	Landfill site for insert waste with a total capacity of greater than 50,000 cubic metres – single waste stream	A, B, C, D, E, F, G, H, I, J, K or L
7	Closed landfill site for hazardous waste	A, D, G or M
8	Closed landfill site for hazardous waste – single waste stream	A, D, G, H or M
9	Closed landfill site for non-hazardous waste	A, B, D, E, G, I or M
10	Closed landfill site for non-hazardous waste – single waste stream	A, B, D, E, G, H, I, J or M
11	Closed landfill site for inert waste with a total capacity of greater than 50,000 cubic metres	A, B, C, D, E, F, G, I, K or M

(a) WAMITAB is a private law body which was set up in 1989 by the waste management industry.

Number	*Type of Facility*	*Certificate Code*
12	Closed landfill site for inert waste with a total capacity of greater than 50,000 cubic metres – single waste stream	A, B, C, D, E, F, G, H, I, J, K, L or M
13	Treatment plant where hazardous waste is subjected to a chemical or physical process	N, P or S
14	Treatment plant where hazardous clinical waste is subject to a physical or chemical process	N, P, S or Ss
15	Treatment plant where hazardous waste is subjected to a chemical or physical process for the treatment of contaminated land	N, P, S or T
16	Treatment plant where non-hazardous waste is subjected to a chemical or physical process	N, P, Q, S or U
17	Treatment plant where non-hazardous waste is subjected to a composting process	N, P, Q, S, U or W
18	Treatment plant where non-hazardous waste is subjected to a chemical or physical process for the treatment of contaminated land	N, P, Q, S, T, U or V
19	Treatment plant where non-hazardous clinical waste is subjected to a chemical or physical process	N, P, S, Ss or X
20	Treatment plant where inert waste is subjected to a chemical or physical process	N, O, P, Q, R, S, U or Y
21	Transfer station for hazardous waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, or II
22	Transfer station for hazardous clinical waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, II or JJ
23	Transfer station for non-hazardous waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, EE, II or KK
24	Transfer station for non-hazardous clinical waste where the capacity of the facility is greater than 5 cubic metres	Z, DD, II, JJ or LL
25	Transfer station for inert waste where the capacity is greater than 50 cubic metres	Z, AA, DD, EE, FF, II, KK or MM
26	Civic amenity site where the amount of waste accepted is 5000 tonnes per annum or less	Z, BB, DD, EE, GG, II, KK or NN
27	Civic amenity site where the amount of waste accepted is greater than 5000 tonnes per annum	Z, DD, EE, II or KK
28	Site where waste is burned in an incinerator designed to incinerate waste at a rate of more than 50 kilograms per hour but less than 1 tonne per hour	CC, HH or OO

Notes to Table 1:

The following certificates ceased to be awarded on 9th October 1997: A, B, C, N, O, Z, AA, BB, and CC.

The following certificates will cease to be awarded on 31st March 2003: D, E, F, P, Q, R, DD, EE, FF, GG and HH.

Table 1A

Code	*Relevant Certificate of Technical Competence*
A	Managing Landfill Operations: Special Waste (Level IV)
B	Managing Landfill Operations: Biodegradable Waste (Level IV)
C	Landfill Operations: Inert Waste (Level III)
D	Managing Landfill Operations: Special Waste (Level 4)
E	Managing Landfill Operations: Biodegradable Waste (Level 4)
F	Landfill Operations: Inert Waste (Level 3)
G	Level 4 in Waste Management Operations – Managing Landfill Hazardous Waste

Code	*Relevant Certificate of Technical Competence*
H	Level 4 in Waste Management Operations – Managing Landfill Hazardous Waste (Single Waste Stream)
I	Level 4 in Waste Management Operations – Managing Landfill Non-Hazardous Waste
J	Level 4 in Waste Management Operations – Managing Landfill Non-Hazardous Waste (Single Waste Stream)
K	Level 3 in Waste Management Operations – Inert Waste (Landfill)
L	Level 3 in Waste Management Operations – Inert Waste (Single Waste Stream)
M	Level 3 in Waste Management Operations – Closed Landfill
N	Managing Treatment Operations: Special Waste (Level IV)
O	Treatment Operations: Inert Waste (Level III)
P	Managing Treatment Operations: Clinical or Special Waste (Level 4)
Q	Managing Treatment Operations: Biodegradable Waste (Level 4)
R	Treatment Operations: Inert Waste (Level 3)
S	Level 4 in Waste Management Operations – Managing Treatment Hazardous Waste
Ss	Level 4 in Waste Management Operations – Managing Treatment Hazardous Waste (Clinical)
T	Level 4 in Waste Management Operations – Managing Treatment Hazardous Waste (Remediation of Contaminated Land)
U	Level 4 in Waste Management Operations – Managing Treatment Non-Hazardous Waste
V	Level 4 in Waste Management Operations – Managing Treatment Non-Hazardous Waste (Remediation of Contaminated Land)
W	Level 4 in Waste Management Operations – Managing Treatment Non-Hazardous Waste (Composting)
X	Level 4 in Waste Management Operations – Managing Treatment Non-Hazardous Waste (Clinical)
Y	Level 3 in Waste Management Operations – Inert Waste (Treatment)
Z	Managing Transfer Operations: Special Waste (Level IV)
AA	Transfer Operations: Inert Waste (Level III)
BB	Civic Amenity Site Operations (Level III)
CC	Managing Incineration Operations: Special Waste (Level IV)
DD	Managing Transfer Operations: Clinical or Special Waste (Level 4)
EE	Managing Transfer Operations: Biodegradable Waste (Level 4)
FF	Transfer Operations: Inert Waste (Level 3)
GG	Civic Amenity Site Operations: (Level 3)
HH	Managing Incinerator Operations: Special Waste (Level 4)
II	Level 4 in Waste Management Operations: Managing Transfer Hazardous Waste
JJ	Level 4 in Waste Management Operations: Managing Transfer Hazardous Waste (Clinical)
KK	Level 4 in Waste Management Operations: Managing Transfer Non-Hazardous Waste
LL	Level 4 in Waste Management Operations: Managing Transfer Non-Hazardous Waste (Clinical)
MM	Level 3 in Waste Management Operations: Inert Waste (Transfer)
NN	Level 3 in Waste Management Operations: Civic Amenity Site
OO	Level 4 in Waste Management Operations: Managing Incineration

2. In Table 1 above–

"civic amenity site" means a place provided under section 1 of the Refuse Disposal (Amenity) Act 1978(a) or by virtue of section 51(1)(b) of the 1990 Act;

"clinical waste" means–

(a) any waste which consists wholly or partly of human or animal tissue, blood or other body fluids, excretions, drugs or other pharmaceutical products, swabs or

(a) 1978 c.3.

dressings, or syringes, needles or other sharp instruments, being waste which unless rendered safe may prove hazardous to any person coming into contact with it; and

(b) any waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or research, or the collection of blood for transfusion, being waste which may cause infection to any person coming into contact with it;

"closed landfill" means a landfill or a part thereof–

(a) which ceased to accept waste before 16th July 2001; or

(b) in relation to which SEPA has, pursuant to regulation 17(4)(b)(iii) of the Landfill (Scotland) Regulations 2003(a), notified the operator by notice in writing served on the operator that it approves the closure,

and in relation to a landfill site where sub-paragraph (a) or (b) applies to only part of the site, means that part of the site only;

"hazardous waste" means any waste as defined by Article 1(4) of Council Directive 91/689/EEC(**b**) on hazardous waste;

"inert waste" means waste which–

(a) does not undergo any significant physical, chemical or biological transformations;

(b) does not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health; and

(c) its total leachability and pollutant content and the ecotoxicity of its leachate are insignificant and, in particular, do not endanger the quality of any surface water of groundwater;

"landfill site" means a waste disposal site for the deposit of waste onto or into land, including–

(a) any site which is used for more than a year for the temporary storage of waste, and

(b) any internal waste disposal site, that is to say a site where a producer of waste is carrying out its own waste disposal at the place of production,

but excluding–

(i) any facility where waste is unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere;

(ii) any site where waste is stored as a general rule for a period of less than three years prior to recovery or treatment; or

(iii) any site where waste is stored prior to disposal for a period of less than one year ;

"non-hazardous waste" means waste which is not hazardous waste;

"single waste stream site" means a waste disposal site where the producer of all of the waste disposed of at that site is also the holder of the waste management licence or a permit granted under regulation 7 of the 2000 Regulations for that site; and

"transfer station" means a facility where waste is unloaded in order to permit its preparation for further transport for treatment, keeping or disposal elsewhere.".

10. In Schedule 3 (activities exempt from waste management licensing)–

(a) for paragraph 7 (spreading on land) there is substituted–

"**7.**—(1) The treatment with any of the wastes listed in Table 2 of land used for agriculture where such treatment results in benefit to agriculture or ecological improvement.

(2) The treatment with any of the wastes listed in Part I of Table 2 of–

(a) operational land of a railway, light railway or the British Waterways Board; or

---

(a) S.S.I. 2003/208.

(b) O.J. No. L 377, 31.12.1991, p.20, as amended by Council Directive 94/31/EC (O.J. No. L 168, 2.7.1994, p.28).

(b) land which is a forest, woodland, park, garden, verge, landscaped area, sports ground, recreation ground, churchyard or cemetery;

where the land in question is not used for agriculture and such treatment results in ecological improvement.

TABLE 2

*Codes**	*Types of waste*
PART I	
wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing (02 01)	
02 01 03	plant-tissue waste
wastes from sugar processing (02 04)	
02 04 01	soil from cleaning and washing beet
wastes from wood processing and the production of panels and furniture (03 01)	
03 01 01	waste bark and cork
03 01 05	sawdust shavings, cuttings, wood, particle board and veneer **
wastes from pulp, paper and cardboard production and processing (03 03)	
03 03 01	waste bark and wood
soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)	
17 05 04	soil and stones**
wastes from aerobic treatment of solid wastes (19 05)	
19 05 03	off-specification compost consisting only of biodegradable waste***
garden and park wastes (including cemetery waste) (20 02)	
20 02 01	biodegradable waste
20 02 02	soil and stones
PART II	
wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing (02 01)	
02 01 99	straw, wood or paper-based bedding waste, slurry or dirty water from stables, zoos, animal parks or livestock markets***
wastes from the preparation and processing of meat, fish and other foods of animal origin (02 02)	
02 02 03	materials unsuitable for consumption or processing consisting of blood and gut contents from abattoirs or poultry preparation plants***
02 03	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- all wastes under this category
02 04	wastes from sugar processing- all wastes under this category
02 05	wastes from production of dairy products***
02 06	wastes from the baking and confectionery industry -all wastes under this category
02 07	wastes from the production of alcoholic and non-alcoholic beverages (except coffee, tea and cocoa)- all wastes under this category
wastes from pulp, paper and cardboard production and processing (03 03)	
03 03 05	de-inked paper sludge from paper recycling
03 03 09	lime mud waste
wastes from the leather and fur industry (04 01)	
04 01 07	sludges, in particular from on-site effluent treatment free of chromium
wastes from the textile industry (04 02)	
04 02 10	organic matter from natural products (for example grease, wax)
04 02 15	wastes from finishing other than those containing organic solvents
04 02 20	sludges from on-site effluent treatment **
04 02 21	wastes from unprocessed textile fibres
04 02 22	wastes from processed textile fibres
wastes from manufacture of cement, lime and plaster and articles and products made from them (10 13)	
10 13 04	wastes from calcination and hydration of lime
soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)	

*Codes**	*Types of waste*
17 05 06	dredging spoil **
wastes from anaerobic treatment of waste (19 06)	
19 06 03	liquor from anaerobic treatment of municipal waste
19 06 04	digestate from anaerobic treatment of municipal waste
19 06 05	liquor from anaerobic treatment of animal and vegetable waste
19 06 06	digestate from anaerobic treatment of animal and vegetable waste

* 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.

(3) The secure storage, at the place where it is to be used, of not more than 1250 tonnes of waste intended to be used in reliance upon the exemption conferred by sub-paragraph (1) or (2), provided that–

(a) the waste 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; or

(iii) 250 metres from any well, borehole or similar work sunk into underground strata for the purpose of a domestic water supply; and

(b) no waste 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.

(4) Sub-paragraphs (1) and (2) apply only if–

(a) no more than 250 tonnes or, in the case of dredgings from inland waters, 5,000 tonnes of waste per hectare are used on the land in any period of twelve months;

(b) the waste to be used has not been mixed with any material which does not itself provide benefit to agriculture or ecological improvement; and

(c) in the case of blood and gut contents (within category 02 02 03 of the European Waste Catalogue, as listed in Part II of Table 2 above), the waste is treated in accordance with the Animal By-Products Order 1999(**a**) and Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption(**b**).

(5) For the purpose of this paragraph and paragraph 9, benefit to agriculture 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.

(6) In this paragraph–

(a) "coastal water" has the same meaning as in section 30A of the Control of Pollution Act 1974(**c**); and

(b) "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.".

(b) for paragraph 9 (reclamation or improvement of land) there is substituted–

"**9.**—(1) Subject to the following provisions of this paragraph–

(a) the treatment of land with any of the wastes listed in Part I of Table 2A;

(a) S.I. 1999/646; amended by S.S.I 2001/171 and 2002/255.

(b) O.J. L.273, 10.10.2002, p.1; Regulation (EC) No. 1774/2002 inter alia lays down rules for the treatment of animal blood and the application of gut content to land.

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

(b) the treatment of land with any of the wastes listed in Part II of the Table where such treatment results in benefit to agriculture or ecological improvement;

(c) the secure storage, at the place where it is to be used and for a period not exceeding six months, of waste intended to be used in reliance upon the exemption conferred by sub-paragraph (a) or (b).

TABLE 2A

*Codes **	*Types of waste*
PART I	
wastes from physical and chemical processing of non-metalliferous minerals (01 04)	
01 04 08	waste gravel and crushed rocks**
01 04 09	waste sand and clays
wastes from sugar processing (02 04)	
02 04 01	soil from cleaning and washing beet
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 01	bottom ash and slag (excluding oil fly ash and boiler dust)
wastes from manufacture of ceramic goods, bricks, tiles and construction products (10 12)	
10 12 08	waste ceramics, bricks, tiles and construction products (after thermal processing)
wastes from manufacture of cement, lime and plaster and articles and products made from them (10 13)	
10 13 14	waste concrete and concrete sludge
concrete, bricks, tiles and ceramics (17 01)	
17 01 01	concrete
17 01 02	bricks
17 01 03	tiles and ceramics
17 01 07	mixtures of concrete, bricks, tiles and ceramics**
soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)	
17 05 08	track ballast**
wastes from the mechanical treatment of waste (for example. sorting, crushing, compacting, pelletising) not otherwise specified (19 12)	
19 12 09	minerals (for example sand, stones)
wastes from soil and groundwater remediation (19 13)	
19 13 02	solid waste from soil remediation**
garden and park wastes (including cemetery waste) (20 02)	
20 02 02	soil and stones
PART II	
wastes from pulp, paper and cardboard production and processing (03 03)	
03 03 05	de-inked sludges from paper recyling
03 03 07	de-inked paper pulp from paper recycling***
03 03 09	lime mud waste
soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)	
17 05 04	soil and stones**
17 05 06	dredging spoil**
wastes from aerobic treatment of solid wastes (19 05)	
19 05 03	off-specification compost consisting only of biodegradable waste***
wastes from waste water treatment plants not otherwise specified (19 08)	
19 08 05	sludges from treatment of urban waste water

*Codes **	*Types of waste*
wastes from soil and groundwater remediation (19 13)	
19 13 04	sludges from soil remediation**

* 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) Paragraph (1) does not apply to the use of waste at a site designed or adapted for the final disposal of waste by landfill at any time when such disposal is the subject of a waste management licence or a permit granted under regulation 7 of the 2000 Regulations.

(3) Paragraph (1) applies only where–

(a) the waste is used for the purpose of reclamation, restoration or improvement of land which has been subject to industrial or other man made development and the use to which that land could be put would be improved by the use of the waste;

(b) the waste is used in accordance with the requisite planning permission (if any);

(c) the waste is used to a depth not exceeding the lesser of 2 metres or the final cross sections shown on the plan submitted under regulation 18(4C) of these Regulations; and

(d) the waste used does not exceed 20,000 cubic metres per hectare.".

(c) for paragraph 19 (storage of building waste) there is substituted–

"**19.**—(1) Subject to the following provisions of this paragraph, the storage on a site of any of the wastes listed in Table 4AA, if–

(a) the waste in question is suitable for use for the purposes of relevant work which will be carried on at the site; and

(b) in the case of waste which is not produced on the site, it is not stored there for longer than 6 months.

TABLE 4AA

*Codes **	*Type of waste*
wastes from physical and chemical processing of non-metalliferous minerals (01 04)	
01 04 08	waste gravel and crushed rocks**
01 04 09	waste sand and clays
wastes from sugar processing (02 04)	
02 04 01	soil from cleaning and washing beet
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 01	bottom ash and slag (excluding oil fly ash and boiler dust)
wastes from the iron and steel industry (10 02)	
10 02 02	unprocessed slag
wastes from casting of ferrous pieces (10 09)	
10 09 03	furnace slag
wastes from casting of non-ferrous pieces (10 09)	
10 10 03	furnace slag
wastes from manufacture of ceramic goods, bricks, tiles and construction products (10 12)	
10 12 08	waste ceramics, bricks, tiles and construction products (after thermal processing)
wastes from manufacture of cement, lime and plaster and articles and products made from them (10 13)	

Codes *	*Type of waste*
10 13 14	waste concrete and concrete sludge
concrete, bricks, tiles and ceramics (17 01)	
17 01 01	concrete
17 01 02	bricks
17 01 03	tiles and ceramics
17 01 07	mixtures of concrete, bricks, tiles and ceramics**
bituminous mixtures, coal tar and tarred products	
17 03 02	road base and road planings** ***
soil (including excavated soil from contaminated sites), stones and dredging spoil (17 05)	
17 05 08	track ballast**
wastes from incineration or pyrolysis of waste (19 01)	
19 01 12	bottom ash and slag**
wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, palletising) not otherwise specified (19 12)	
19 12 09	minerals (for example sand, stones)
wastes from soil and groundwater remediation (19 13)	
19 13 02	solid waste from soil remediation**
garden and park wastes (including cemetery waste) (20 02)	
20 02 02	soil and stones

* 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 use of waste of a kind mentioned in paragraph (1) above for the purposes of relevant work if–

(a) the waste is suitable for use for those purposes;

(b) the waste is so used in accordance with the requisite planning permission (if any); and

(c) the waste is used to a depth not exceeding the dimensions of the final cross sections shown on the plan submitted under regulation 18(4C) of these Regulations.

(3) The storage on a site of waste consisting of road planings and roadbase (within category 17 03 02 of the European Waste Catalogue, as listed in Table 4AA above), which are to be used for the purposes of relevant work carried on elsewhere if–

(a) no more than 50,000 tonnes of such waste are stored at the site; and

(b) the waste is stored there for no longer than 6 months.

(4) In this paragraph, "relevant work" means the use of waste–

(a) for the construction, maintenance or improvement of–

(i) a building, road, railway, airport, dock or other transport facility;

(ii) recreational facilities; or

(iii) drainage; or

(b) for engineering works relating to or adjacent to controlled waters within the meaning of the Control of Pollution Act 1974(**a**);

but does not include work involving land reclamation.

(5) In paragraph (4)(c) above, the reference to "drainage" is a reference to drainage works within the meaning of the Land Drainage (Scotland) Act 1958(**b**).".

(a) 1974 c.40; Section 30A, which was inserted by the Water Act 1989(c.15), Schedule 23, paragraph 4, defines "controlled waters".

(b) 1958 c.24; "drainage works" is defined in section 18.

11. After Schedule 3 insert–

Regulation 18(4C)

"SCHEDULE 3A

PART 1

PLANS AND DOCUMENTS REQUIRED FOR REGISTRATION

Paragraph Number of Exempt activity in Schedule 3	*Plans and documents required*
7, 9 and 19	A plan of each place at which the exempt activity is to be carried on showing– (a) the boundaries of that place; and (b) the locations within that place at which the exempt activity is to be carried on.
7	1. The notice shall include the following particulars– (a) the establishment or undertaking's name, address and telephone number, and, if applicable, its fax number and email address; (b) a description of the waste to be used, its physical form and the process from which it arose; (c) a description of where and how the waste will be stored pending the use; (d) a description of the land on which the waste is to be treated with the waste, including its location as identified by reference to a map and a six figure Ordnance Survey grid reference, and its area, the area available for the treatment, the soil, crops grown or to be grown in the soil and all wastes used to treat the land in the previous six months; (e) the method and intended date of treatment, the quantities of waste to be used and the rate of application; (f) details of the benefit to agriculture or ecological improvement to be expected from the treatment, including any analysis of the waste or the soil, and management plans; (g) the location of any controlled waters within 15 metres of the land on which the waste is to be used; and (h) the intended start and completion date of the storage or treatment. 2. The notice shall be accompanied by the following documents– (a) an analysis of the wastes to be used and the soil which is to be treated with them; (b) an assessment of the risk of pollution caused by the use; (c) a certificate describing how the treatment will result in benefit to agriculture or ecological improvement, which shall be prepared by or based on advice from a person who, in the opinion of SEPA, has appropriate technical or professional expertise.

Paragraph Number of Exempt activity in Schedule 3	*Plans and documents required*
	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; and (f) 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.

Table 4C

Codes	*Parameter*					
	Neutralising value	Micro-biology	Oils and fats	Potential toxic elements	Prescribed substances *	Carbon/ nitrogen ratio
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	✓			✓	✓	
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				✓	✓	

* substances prescribed in Schedule 6 to the Environmental Protection (Prescribed Process and Substances) Regulations 1991(**a**).

Paragraph Number of Exempt activity in Schedule 3	*Plans and documents required*
9	1. The notice shall include the following particulars– (a) the establishment or undertaking's name, address and telephone number and, if applicable, its fax number and email address;

(a) S.I. 1991/472; amended by S.I. 1993/1749, 2405, 1995/3247, 1998/767 and S.S.I. 2000/323.

Paragraph Number of Exempt activity in Schedule 3	*Plans and documents required*
	(b) where less than 2,500 cubic metres of waste are to be used, a description of the treatment, the type and quantity of waste to be used and the location of the treatment; (c) where 2,500 or more cubic metres of waste are to be used– (i) the total quantity of waste to be used; (ii) the type of waste to be used, identified by reference to the descriptions in the second column of Table 2A;
	(iii) the location of the land where the waste is to be used or stored, identified by reference to a map and a six figure Ordnance Survey grid reference, including the name, address, telephone number and, if applicable, the fax number and email address of the landowner; (iv) a plan of the use with cross-sections showing the proposed levels of the land affected by the treatment; (v) the intended start and completion date of the use or storage.
	2. Where any of the wastes listed in Part II of Table 2A is to be used, the notice shall be accompanied by a certificate describing how the activity will result in benefit to agriculture or ecological improvement, which shall be prepared by or based on advice from a person who, in the opinion of SEPA, has appropriate technical or professional expertise.
19	The notice shall include the following particulars– (a) the establishment or undertaking's name, address and telephone number, and, if applicable, its fax number and email address; (b) where less than 2,500 cubic metres of waste are to be stored or used, a description of the use, the type and quantity of waste to be stored or used and the location of the use; (c) where more than 2,500 cubic metres of waste are to be used for relevant work– (i) the total quantity of waste to be stored or used; (ii) the type of waste to be stored or used, identified by reference to the descriptions in the second column of Table 4AA; (iii) the location of the land where the waste is to be stored or used, identified by reference to a map and a six figure Ordnance Survey grid reference, including the name, address, telephone number and, if applicable, the fax number and email address of the landowner; (iv) a plan of the use, with cross-sections showing the proposed final levels of the land affected by the use; and (v) the intended start and completion date of the storage or use.

PART 2

ASSESSMENT OF BENEFIT TO AGRICULTURE OR ECOLOGICAL IMPROVEMENT

1. In assessing benefit to agriculture or ecological improvement for the purposes of paragraphs 7 and 9 of Schedule 3 to these Regulations, regard shall be had to the following paragraphs of this Part of Schedule 3A.

2. In assessing benefit to agriculture, regard shall be had to whether the use of the waste on the land will result in an improvement of the soil for the purpose of growing crops or grazing, and the following criteria shall apply for the purposes of such assessment–

(a) the addition of nitrogen, phosphorus and other plant nutrients in the waste material should take account of the soil nutrient status and other sources of nutrient supply and be matched to the needs of the planned crop rotation;

(b) the addition of total nitrogen attributable to the use of the waste on the land in any 12 month period must not exceed 250 kilograms per hectare, except in the case of the following wastes as listed in the European Waste Catalogue–

(i) soil from cleaning and washing beet (02 04 01);

(ii) soil (including excavated soil from contaminated sites), stones and dredging spoil consisting of soil and stones other than those containing dangerous substances (17 05 04);

(iii) dredging spoil other than those containing dangerous substances (17 05 06); and

(iv) garden and park wastes (including cemtery wastes) consisting of soil and stones (20 02 02);

(c) the addition of organic matter which improves the capacity of the soil to hold water, or its porosity, stability, tilth and workability and is a benefit;

(d) the addition of materials containing lime should take account of the neutralising value of the material, the pH of the soil and the target soil pH for the crop rotation;

(e) the spreading of watery wastes may be a benefit where the moisture of the soil is insufficient to support the growth of crops at the time of application, or where they contain nutrients which are applied at an appropriate rate;

(f) the spreading of waste soil may be a benefit where it is done in order to level uneven land and thereby facilitate the use of the land for agriculture, but not where it is done solely in order to raise the level of the land.

3. In assessing ecological improvement, regard shall be had to the extent to which wildlife habitats which might otherwise deteriorate are maintained or supported. The creation of a new habitat, or the restoration of an old habitat, is regarded as an improvement.".

12. In paragraph 13 (duty to carry out appropriate periodic inspections) of Schedule 4 (Waste Framework Directive etc.)–

(a) after sub-paragraph (4) there is inserted–

"(4A) In the case of an exempt activity referred to in the first column of Table 6 below, the duty under paragraph (1) shall be discharged by carrying out inspections at the times referred to in the second column of that table in respect of any place where the relevant exempt activity is carried on.

TABLE 6

Paragraph Number of Exempt activity in Schedule 3	*Inspections required*
7	An inspection shall be carried out at the time of treatment or, where that is not possible, not later than 4 weeks thereafter.
9, 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.

",

(b) in sub-paragraph (5), after "sub-paragraph (3)(b)" insert "or sub-paragraph (4A)".

Transitional and savings provisions

13. Any exemption in respect of an activity carried on immediately before 1st April 2003 in reliance upon paragraphs 7,9 or 19 of Schedule 3 of the Waste Management Licensing Regulations1994, shall cease to have effect–

(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 2000 Regulations in relation to the activity in question before 1st October 2003, on 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 been 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 1st October 2003, on 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, on 1st October 2003.

ROSS FINNIE
A member of the Scottish Executive

St Andrew's House,
Edinburgh
10th March 2003

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 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 12 amend the 1994 Regulations, with regulation 4 making some consequential amendments to the interpretation provisions in regulation 1(3) of the 1994 Regulations.

Regulation 5 replaces regulation 4 of the 1994 Regulations, which makes provision for the qualifications to be required before a person will be regarded as a fit and proper person to manage activities authorised by a waste management licence, as required by Section 74 of the Environmental Protection Act 1990, which also applies to permits granted under the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323) ((including permits granted for the purpose of Council Directive 1999/31/EC on the landfill of waste (O.J. L No. 182, 16.7.1999, p.1.). Qualifications are granted by the Waste Management Industry Training and Advisory Board (WAMITAB). This amendment together with that in regulation 9 gives recognition to changes in the system of WAMITAB certificates with effect from 1st April 2003. A new Schedule 1A to those Regulations is introduced, setting out the facilities for the management of which WAMITAB certificates are required and the appropriate range of certificates for each type of facility.

Regulations 6 to 8 and 10 to 12 amend regulations 17 and 18 of, and Schedule 3 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 regulation 17 of the 1994 Regulations, to enable the Scottish Ministers to issue guidance to SEPA in relation to the registration of exempt activities and for SEPA to have regard to this.

Regulation 7 amends regulation 18 of the 1994 Regulations to (a) specify the information required before SEPA can register an exempt activity falling within paragraphs 7, 9 and 19 of Schedule 3, as supplemented by Schedule 3A; (b) make provision for the annual renewal of notifications of those exempt activities; and (c) make provision in certain circumstances for the refusal and/or removal of registration for those activities.

Regulation 8 inserts a new regulation 18A into the 1994 Regulations, to specify the registration obligations incumbent on an establishment or undertaking which carries out those activities, in reliance of a registered exemption, such as the prior notification of when an activity is to be carried out, and the keeping of appropriate records for a period of at least 2 years.

Regulation 10 replaces paragraphs 7, 9 and 19 of Schedule 3 to the 1994 Regulations, which respectively exempt from waste management licensing certain land treatment activities (paragraph 7), land reclamation or improvement activities (paragraph 9) and building waste storage activities (paragraph 19). For each activity, detailed provision is made specifying the types of waste which can be used or stored or the conditions which must be satisfied in reliance of an exemption. Further provision is also contained in Schedule 3A to the 1994 Regulations, as inserted by Regulation 11 of these Regulations.

Regulation 12 amends paragraph 13 of Schedule 4 to the 1994 Regulations, to make provision for SEPA inspections of activities exempt under paragraphs 7, 9 and 19 of Schedule 3.

Regulation 13 is a transitional provision, to allow continued reliance on an existing exemption under those paragraphs of Schedule 3, for a period of 6 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 Unit, Scottish Executive Environment and Rural Affairs Department (SEERAD), Victoria Quay, Leith, EH6 6QQ.

S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2003 No. 171

ENVIRONMENTAL PROTECTION

The Waste Management Licensing Amendment (Scotland) Regulations 2003

£3.50

© Crown Copyright 2003

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
200 04/03 19593

ISBN 0-11-062301-0

9 780110 623016