

Principal statutes and statutory instruments

<p>Environmental Protection Act 1990, s.62</p>	<p>Empowers the SoS to make regulations governing any controlled waste that is or may be so dangerous or difficult to treat, keep or dispose of that special provision is required for dealing with it. Such wastes are referred to as <i>hazardous wastes</i> and are regulated under the Hazardous Waste (England and Wales) Regulations 2005.</p>
<p>Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.6 to Reg.9 (as amended)</p>	<p>Defines hazardous waste and non-hazardous wastes. Hazardous waste is any controlled waste, other than household waste (except for asbestos and separately collected fractions), which is listed in the List of Wastes Regulations 2005 as being hazardous to which a six-digit code is assigned in the Regs. Absolute entries are all hazardous waste, irrespective of composition. Mirror entry wastes may be hazardous if they display any of the dangerous properties specified in the Hazardous Waste Regs. (coded H1 – H15 overleaf). The SoS can determine that any batch of waste not listed in the List of Wastes Regs is hazardous</p>
<p>Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.12 to Reg17.</p>	<p>Clarify which wastes are within the scope of the Regs, particularly: household waste –asbestos and separately collected fractions (Regs 13 & 14); radioactive waste where it possess hazardous properties (other than its radioactive property)(Reg.15); agricultural and mines and quarries waste only after 1st Sept 2006 (Regs 16 & 17).</p>
<p>Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.18 to Reg.20.</p>	<p>Bans producers, carriers, and those who treat or dispose of waste from mixing hazardous waste, except in accordance with an environmental permit or an exemption. Where waste has been mixed, the holder has duty to separate it if this is technically and economically feasible and is necessary to comply with the Waste Directive conditions.</p>
<p>Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.21to Reg.22.</p>	<p>Reg 21 requires that where hazardous waste is produced at, or removed from, any premises other than exempt premises, the premises must be notified by the producer to the Agency according the Reg.24 before the waste is consigned or an exemption limit is exceeded. A notification lasts for 12 months. No person shall move hazardous waste from a premises unless it has been properly notified (except for clearance of fly tipped wastes) (Reg.22).</p>
<p>Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.23 and 30 (as amended)</p>	<p>Defines premises exempt from notification under Reg 21 as: 30.—(1) The qualifying limitation for— (a) a mobile service is that the total aggregated quantity of hazardous waste produced at, collected at, or removed from any one set of related premises in the course of that service is less than 500kg in any period of twelve months; and . (b) any exempt premises is that the total aggregated quantity of hazardous waste produced at, collected at, or removed from the premises is less than 500kg in any period of twelve months. . (2) When calculating the total aggregated quantity, a given quantity of hazardous waste must not be counted against more than one of the activities in paragraph (1)(a) or (b).</p>
<p>Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.26 to Reg32.</p>	<p>Sets out prescribed information that must be provided upon notification to the Environment Agency and the form of notification allowed (writing or telephone). The information that must be provided is contact name and address, address of premises being notified, SIC classification of notified premises, and other information the Agency requires. Reg. 29 specifies requirements applying to mobile services.</p>
<p>Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.33 to Reg.44.</p>	<p>Covers consignment requirements. Reg 33 and 34 require that the producer assigns a unique consignment code to consignment notes as provided by the Agency. Regs 35 to 41 set out procedures for consignment notes for different types of notification. The most common will be the ‘standard procedure’ under Reg. 36. This requires that before the consignment is removed - (a) the hazardous waste producer, or holder, as the case may be, shall - (i) prepare a copy of the consignment note for each of the following: the hazardous waste producer or holder, where different from the consignor; the consignor; the carrier; and the consignee; (ii) complete Parts A and B on each copy; and (iii) give every copy to the carrier; (b) the carrier shall complete Part C on each copy and give every copy to the consignor; (c) the consignor shall - (i) complete Part D on each copy; (ii) where the hazardous waste producer or holder, as the case may be, is not the consignor, give one copy to him; (iii) retain one copy; and (iv) give every remaining copy to the carrier. The carrier shall ensure that every copy which he has received travels with the consignment; and is given to the consignee on delivery of the consignment. Subject to regulation 42, on receiving the consignment the consignee shall complete Part E on both copies; and give one copy to the carrier. Reg.42 to 44 applies to situations where a consignee rejects a consignment.</p>
<p>Hazardous Waste (England and</p>	<p>Set out requirements for records to be kept where waste is discharged/tipped or treated/recovered. Requires that registers be kept containing prescribed information.</p>

Wales) Regulations 2005 (SI 2005/894) Reg.47 & Reg.48	
Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.49 to Reg.55.	Set out requirements applying to keeping of records in registers held at the notified premises by producers, holders and consignors (Reg 49). Records Of the quantity, nature, origin, the destination, frequency of collection, mode of transport , carrier, and treatment method and where relevant (a) any consignment note (including multiple consignment notes and, where consignments are not accepted, the original note, a copy of any explanation of the reasons for rejection prepared pursuant to regulation 42 and the consignment note prepared pursuant to regulation 43 or 44); (b) any consignee's return to the producer, holder or consignor received pursuant to regulation 54; and (c) any carrier's schedule given to him pursuant to regulation 37. Registered information must be kept for three years. Carriers must keep similar information for a period of 12 months (Reg.51). Reg.53 requires that consignees who receive waste or anyone disposing of their own waste where it was produced must make quarterly returns to the Agency on prescribed dates. The consignees must also send returns to the producers of the waste within one month of the end of the quarterly period.
Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.56 & Reg.63	Regs 56 to Reg.58 specify requirements on the Agency to undertake periodic inspections and keep registers. Reg. 59 establishes the powers for the Agency to charge fees under the Regulations for which interim fees for premises notification are £28 for each set of premises notified in writing; £23 for each set of premises notified by telephone; and £18 for each set of premises notified in electronic form. There are also fees to be paid by consignees and self-disposers in respect of every consignment of waste they report in the quarterly return. Regs.61 to 63 allow for actions outside of the Regulations to be taken in the event of emergency or grave danger, providing that the person takes all lawful and reasonable steps to avert the emergency or grave danger; or where it is not reasonably practicable, take all lawful and reasonable steps to mitigate the emergency or grave danger. Where the holder of hazardous waste knows or has reasonable grounds to believe that an emergency or grave danger has arisen, he must notify the Agency as soon as reasonably practicable of the circumstances.
List of Wastes (England) Regulations 2005 (SI 2005/895) and List of Wastes (Wales) Regulations 2005 (SI 2005/1820)	Contains lists of waste categorised by activity headings which may be marked with *. Such marked waste may be hazardous irrespective of any dangerous properties where they are specifically referred to be name, e.g. asbestos, PCBs etc. Other entries marked with * refer to dangerous substances or specific properties (e.g. flammable) only. These are only hazardous waste if they possess one or more of the dangerous properties listed in the table below.
Waste (England and Wales) Regulations 2011 SI 988	The regulations introduce a new category, H15 Sensitizing, to the list of properties defining waste as hazardous. Sensitizing substances cause hypersensitization, ie the substance will cause adverse effects if you inhale it or it penetrates your skin and you are then further exposed to the substance. The former category H13 now becomes H15. This adds ecotoxicity to the properties that can define a leachate as hazardous. These changes mean that some non-hazardous wastes may be reclassified as hazardous wastes.

Criminal penalties and remedies

Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) Reg.69 & Reg.70	The main offences established by Reg.65 are liable to penalties listed in Reg.69 as being: failure to notify premises; breach of prohibition on removal of waste from premises unless notified or exempt; general breach of notification requirements; failure to use correct consignment codes or record; failure to make consignee and self-disposal quarterly returns; failing to make consignee's returns to the producer, holder or consignor; or failing to supply information to the Agency shall each be liable on summary conviction, to a fine not exceeding level 5 (£5,000) on the standard scale. A person who commits an offence under Reg.65 (other than those above) or Reg.68 (providing false or misleading information) in connection with any other requirement under these Regulations shall be liable to on summary conviction, to a fine not exceeding the statutory maximum (£20,000); or on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both. There are also provisions under Reg 70 for fixed penalty notices.
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Hazardous properties which waste must possess to be Hazardous Waste

Code	Hazardous Property	Thresholds for Certain Hazardous Properties
H1	Explosive S & P which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene.	
H2	Oxidising S & P which exhibit highly exothermic reactions when in contact with other substances, particularly flammable substances.	
H3-A	Highly flammable:- <ul style="list-style-type: none"> ➤ liquid S & P having a flash point below 21°C, or ➤ S & P which may become hot and finally catch fire in contact with air at ambient temperature without any application of energy, or ➤ solid S & P which may readily catch fire after brief contact with a source of ignition and continue to burn, or 	Flash point of less than or equal to 55°C

	<ul style="list-style-type: none"> ➤ gaseous S & P which are flammable in air at normal pressure, or ➤ S & P which, in contact with water or damp air, evolve highly flammable gases in dangerous quantities. 	
H3-B	Flammable liquid S & P having a flash point equal or greater than 21°C and less than or equal to 55°C.	Flash point of less than or equal to 55°C
H4	Irritant non-corrosive S & P which, through immediate, prolonged or repeated contact with the skin or mucous membranes can cause inflammation.	Where the total concentration of substances with risk phrases R36, R37 or R38 is equal to or greater than 20%; or Where the total concentration of substances with risk phrase R41 is equal to or greater than 10%
H5	Harmful S & P which if they are inhaled or ingested or if they penetrate the skin, may involve limited health risks.	Where the total concentration of harmful substances is equal to or greater than 25%
H6	Toxic S & P which if they are inhaled or ingested or if they penetrate the skin may involve serious, acute or chronic risks and even death.	Where the total concentration of very toxic substances is equal to or greater than 0.1%; or Where the total concentration of toxic substances is equal to or greater than 3%
H7	Carcinogenic S & P which may induce cancer or increase its incidence.	Where the total concentration of carcinogenic substances and placed by the approved classification and labelling guide in category 1 or 2 of that classification is equal to or greater than 0.1%
H8	Corrosive S & P which may destroy living tissue on contact.	Where the total concentration of substances with risk phrase R34 is equal to or greater than 5%; or Where the total concentration of substances with risk phrase R35 is equal to or greater than 1%
H9	Infectious S containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.	
H10	Teratogenic S & P which if they are inhaled or ingested or if they penetrate the skin may induce non-hereditary congenital malformations or increase their incidence.	Where one substance toxic for reproduction of category 1 or 2 classified as R60, R61 at a concentration $\geq 0.5\%$; or Where one substance toxic for reproduction of category 3 classified as R62, R63 at a concentration $\geq 5\%$.
H11	Mutagenic S & P which if they are inhaled or ingested or they penetrate the skin may induce hereditary genetic defects or increase their incidence.	Where one mutagenic substance of category 1 or 2 classified as R46 at a concentration $\geq 0.1\%$; or Where one mutagenic substance of category 3 classified as R40 at a concentration $\geq 1\%$.
H12	S & P which release toxic or very toxic gases in contact with water, air or an acid.	
H13	Sensitizing substances and preparations which, if they are inhaled or if they penetrate the skin, are capable of eliciting a reaction of hypersensitization such that on further exposure to the substance or preparation, characteristic adverse reactions occur.	
H14	Ecotoxic S & P which present or may present immediate or delayed risks for one or more sectors of the environment.	
H15	S & P capable by any means, after disposal, of yielding another substance, eg a leachate, which possesses any of the characteristics listed above.	

S = substances P = preparations

Thresholds % is total proportion by weight of a substance.

Hazardous properties are equivalent to those used to categorise substances under the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 as amended.

Consignment/Disposal of Hazardous Waste

It is the producer's responsibility to ensure that in arranging for consignment for disposal or treatment, the characteristics of waste are identified to an extent sufficient to determine whether or not they may be hazardous waste. If the waste is consigned to landfill, the producer must also ensure that the waste is characterised to determine whether or not it meets the relevant Waste Acceptance Criteria (WAC) for the specific disposal facility.

The carrier of hazardous waste must be registered as a waste carrier with the Environment Agency unless the producer carries his own waste and it is not construction or demolition waste. At the time of consignment, the producer and the carrier both complete the relevant parts of the consignment note. The consignment note obviates the need for a duty of care transfer note.