

**2012 No. 811**

**ENVIRONMENTAL PROTECTION, ENGLAND AND WALES**

**The Controlled Waste (England and Wales) Regulations 2012**

<i>Made</i>	- - - -	<i>12th March 2012</i>
<i>Laid before Parliament</i>		<i>15th March 2012</i>
<i>Laid before the National Assembly for Wales</i>		<i>15th March 2012</i>
<i>Coming into force</i>	- -	<i>6th April 2012</i>

The Secretary of State is designated(a) for the purposes of the European Communities Act 1972(b) in relation to the environment. The Welsh Ministers are designated(c) for the purposes of that Act in relation to the prevention, reduction and management of waste.

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 45(3), 75(7)(d) and (8) and 96(2)(b) of the Environmental Protection Act 1990(d), make the following Regulations.

**Citation, extent and commencement**

1.—(1) These Regulations may be cited as the Controlled Waste (England and Wales) Regulations 2012.

- (2) They extend to England and Wales.
- (3) They come into force on 6th April 2012.

**Interpretation**

2. In these Regulations—

“the Act” means the Environmental Protection Act 1990;

“Directive waste” means anything that—

- (a) is waste within the meaning of Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives(e); and
- (b) is not excluded from the scope of that Directive by Article 2(1), (2) or (3);

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(a) S.I. 2008/301.  
(b) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).  
(c) S.I. 2010/1552.  
(d) 1990 c. 43. Functions of the Secretary of State under sections 45, 75 and 96, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, S.I. 1999/672. Those functions were then transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).  
(e) OJ No L 312, 22.11.08, p3.

“septic tank sludge” and “sludge” have the meaning given in regulation 2(1) of the Sludge (Use in Agriculture) Regulations 1989<sup>(a)</sup>.

### **Waste which is not to be treated as household waste, industrial waste or commercial waste**

3.—(1) Waste which is not Directive waste is not to be treated as household waste, industrial waste or commercial waste for the purposes of Part 2 of the Act.

(2) The following waste (where it is Directive waste) is not to be treated as household waste, industrial waste or commercial waste for the purposes of Part 2 of the Act—

- (a) sewage, sludge or septic tank sludge which is treated, kept or disposed of (otherwise than by means of mobile plant) within the curtilage of a sewage treatment works as an integral part of the operation of those works;
- (b) sludge which is supplied or used in accordance with the Sludge (Use in Agriculture) Regulations 1989;
- (c) septic tank sludge which is used on agricultural land within the meaning of those Regulations.

(3) Animal by-products (where they are Directive waste) which are collected and transported in accordance with Article 21(1) to (3) of the Animal By-Products Regulation are not to be treated as household waste, industrial waste or commercial waste for the purposes of section 34 of the Act.

(4) In this regulation—

- (a) “animal by-products” has the meaning given in Article 3(1) of the Animal By-Products Regulation;
- (b) “the Animal By-Products Regulation” means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)<sup>(b)</sup>.

### **Household, industrial and commercial waste**

4. Subject to regulation 3.(1), Schedule 1 (household, industrial and commercial waste) has effect.

### **Litter and refuse**

5. Part 2 of the Act has effect as if references to controlled waste collected under section 45 include references to litter and refuse collected under sections 89(1)(a) and (c), 92(9) and 92C(3) of the Act<sup>(c)</sup>.

### **Amendments to other legislation**

6. Schedule 2 (amendments to other legislation) has effect.

### **Revocation**

7. The following Regulations are revoked in England and Wales—

- (a) the Waste Management Licensing (Amendment etc.) Regulations 1995<sup>(d)</sup>;

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(a) S.I. 1989/1263, to which there are amendments not relevant to these instruments.

(b) OJ No L 300, 14.11.09, p1, amended by Directive 2010/63/EU of the European Parliament and of the Council (OJ No L 276, 20.10.10, p33).

(c) A relevant amendment to section 92 was made by the Anti-social Behaviour Act 2003 (c. 38), section 56(1). Section 92C was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 20(2).

(d) S.I. 1995/288, amended by S.I. 2007/3538.

(b) the Controlled Waste Regulations 1992(a).

12th March 2012

*Taylor of Holbeach*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

12th March 2012

*John Griffiths*  
Minister for Environment and Sustainable Development  
One of the Welsh Ministers

## SCHEDULE 1

Regulation 4

### Household, industrial and commercial waste

#### Interpretation

1. In this Schedule—

“camp site” means land on which tents are pitched for the purpose of human habitation and land the use of which is incidental to that purpose;

“charity shop” means a hereditament used wholly or mainly for the sale of goods donated to a charity where the proceeds of sale (after deduction of expenses) are applied for the purposes of a charity;

“clinical waste” means waste from a healthcare activity (including veterinary healthcare) that—

- (a) contains viable micro-organisms or their toxins which are known or reliably believed to cause disease in humans or other living organisms,
- (b) contains or is contaminated with a medicine that contains a biologically active pharmaceutical agent, or
- (c) is a sharp, or a body fluid or other biological material (including human and animal tissue) containing or contaminated with a dangerous substance within the meaning of Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances(b),

and waste of a similar nature from a non-healthcare activity;

“composite hereditament” has the same meaning as in section 64(9) of the Local Government Finance Act 1988(c);

“construction” includes improvement, repair or alteration;

“factory” has the meaning given in section 175 of the Factories Act 1961(d);

“general medical practitioner” means a person registered in the General Practitioner Register kept by the General Medical Council under section 34C of the Medical Act 1983(e);

“gypsies and travellers”—

- (a) in relation to England, has the same meaning as in regulation 2 of the Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006(f);

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(a) S.I. 1992/588, amended by S.I. 1994/1056, 1995/288, 2005/22, 2900, 2006/937 and 2007/3538.

(b) OJ No 196, 16.8.67, P 1 (OJ/SE: Series I, Chapter 1967, P 234), last amended by Directive 2009/2/EC (OJ No L 11, 16.1.09, p6).

(c) 1988 c. 41.

(d) 1961 c. 34. Section 175(2) was amended by S.I. 1983/978, regulation 3(1) and Schedule 1.

(e) 1983 c. 54. Section 34C was inserted by S.I. 2010/234, article 4 and Schedule 1, paragraph 10.

(f) S.I. 2006/3190.

(b) in relation to Wales, has the same meaning as in regulation 2 of the Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (Wales) Regulations 2007(a);

“hazardous waste”—

(a) in relation to England, has the meaning given in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005(b);

(b) in relation to Wales, has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005(c);

“not for profit body” means a body which, by virtue of its constitution or any enactment—

(a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes; and

(b) is prohibited from directly or indirectly distributing among its members any part of its assets (otherwise than for charitable or public purposes);

“offensive waste” means waste that—

(a) is not clinical waste,

(b) contains body fluids, secretions or excretions, and

(c) falls within code 18 01 04, 18 02 03 or 20 01 99 in Schedule 1 to—

(i) the List of Wastes (England) Regulations 2005(d), in relation to England, or

(ii) the List of Wastes (Wales) Regulations 2005(e), in relation to Wales;

“place of worship” means a hereditament exempt from local non-domestic rating by virtue of paragraph 11 of Schedule 5 to the Local Government Finance Act 1988(f);

“scientific research association” has the meaning given in section 469 of the Corporation Tax Act 2010(g);

“scrap metal” has the meaning given in section 9(2) of the Scrap Metal Dealers Act 1964(h);

“vessel” includes a hovercraft within the meaning of section 4(1) of the Hovercraft Act 1968(i);

“waste oil” means any mineral or synthetic lubrication or industrial oil which is unfit for its original purpose.

## Sources of household, industrial and commercial waste

2.—(1) This paragraph describes waste which is to be treated as household waste, industrial waste or commercial waste because of the place where it is produced.

(2) The second column of the table describes the places at which waste is produced.

(3) The waste must be treated for the purposes of Part 2 of the Act as the type of waste mentioned in the third column, subject to any exception in the fourth column.

(4) But in a case where paragraph 3.(1) or 4.(3) requires waste to be treated inconsistently with sub-paragraph (3), the requirements of those paragraphs take precedence.

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(a) S.I. 2007/3235 (W. 285).

(b) S.I. 2005/894, to which there are amendments not relevant to these Regulations.

(c) S.I. 2005/1806 (W. 138), to which there are amendments not relevant to these Regulations.

(d) S.I. 2005/895, to which there are amendments not relevant to these Regulations.

(e) S.I. 2005/1820 (W. 148), to which there are amendments not relevant to these Regulations.

(f) Paragraph 11 was amended by the Local Government Finance Act 1992 (c. 14), section 104 and paragraph 3 of Schedule 10.

(g) 2010 c. 4.

(h) 1964 c. 69. Section 9(2) was amended by the Local Government Act 1972 (c. 70), section 272(1) and Schedule 30 and by the Statute Law (Repeals) Act 1993 (c. 50).

(i) 1968 c. 59.

### Classification by place of production

<i>No.</i>	<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
1	Private storage premises used wholly or mainly for the storage of articles of domestic use	Household waste	
2	Land belonging to or used wholly or mainly in connection with domestic property or a caravan where waste from that property or caravan is to be treated as household waste	Household waste	
3	A private garage	Household waste	Where the garage has a floor area exceeding 25m <sup>2</sup> or is not used wholly or mainly for the accommodation of a private motor vehicle, the waste is to be treated as commercial waste
4	A vehicle or vessel used wholly for the purposes of living accommodation	Household waste	Where the vehicle or vessel is used in the course of a business for the provision of self-catering accommodation, the waste is to be treated as commercial waste
5	A place of worship	Household waste	
6	A residential hostel which provides accommodation only to persons with no other permanent address or who are unable to live at their permanent address	Household waste	
7	A penal institution	Household waste	
8	A charity shop selling donated goods originating from domestic property	Household waste	
9	A caravan or mobile home site for gypsies and travellers	Household waste	
10	Premises used wholly or mainly for public meetings	Household waste	
11	Domestic property used in the course of a business for the provision of self-catering accommodation	Commercial waste	
12	A caravan— <ul style="list-style-type: none"> <li>(a) used in the course of a business for the provision of self-catering accommodation, or</li> <li>(b) which is not allowed to be used for human habitation throughout the year by virtue</li> </ul>	Commercial waste	

<i>No.</i>	<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
	of a licence or planning permission		
13	Premises occupied by a charity and wholly or mainly used for charitable purposes	Commercial waste	Where the waste is from a place of worship or from premises used wholly or mainly for public meetings, it is to be treated as household waste
14	A camp site or a tent pitched on land other than a camp site	Commercial waste	Where the waste is from domestic premises at a camp site, it is to be treated as household waste
15	A royal palace	Commercial waste	
16	Premises occupied by a club, society or any association of persons in which activities are conducted for the benefit of the members	Commercial waste	
17	Premises occupied by— (a) a court; (b) a government department; (c) a local authority; (d) a person appointed by or under any enactment to discharge public functions; (e) a body incorporated by Royal Charter	Commercial waste	Waste classified as household waste or industrial waste because it is from a place— (a) otherwise described in this table (except for entry 27); or (b) described in section 75(5) or (6) of the Act (household waste or industrial waste)
18	A hotel	Commercial waste	
19	Any part of a composite hereditament used for the purposes of a trade or business	Commercial waste	
20	A market or fair	Commercial waste	
21	The practice of a general medical practitioner	Commercial waste	
22	A workshop or similar premises which is not a factory only because— (a) those working there are not employees; or (b) the work carried on there is not carried on by way of trade or for purposes of gain	Industrial waste	Where the principal activities at the premises are computer operations or the copying of documents by photographic or lithographic means the waste is to be treated as commercial waste
23	Waste from a laboratory	Industrial waste	

<i>No.</i>	<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
24	Waste from a scientific research association	Industrial waste	
25	Waste from premises used for the breeding, boarding or stabling of animals	Industrial waste	
26	Waste imported into England or Wales	Industrial waste	
27	Directive waste from a place (including any vehicle, vessel or aircraft) not otherwise described in this table or in section 75(5) or (7) of the Act(a) (household waste and commercial waste)	Industrial waste	

### **Nature of waste and activities producing waste**

3.—(1) This paragraph describes waste which is to be treated as household waste, commercial waste or industrial waste because of its nature or the activity which produces it notwithstanding the place where it is produced.

(2) The second column of the table describes the nature of the waste or the activity which produces it.

(3) The waste must be treated for the purposes of Part 2 of the Act as the type of waste mentioned in the third column, subject to any exception in the fourth column.

(4) But in a case where paragraph 4.(3) requires waste to be treated inconsistently with subparagraph (3), the requirements of that paragraph take precedence.

### **Classification by nature of waste or activity producing waste**

<i>No.</i>	<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
1	Waste arising from the discharge of duties under section 89(1)(a), (c) or (f) of the Act (duties to collect litter and refuse)	Household waste	
2	Waste arising from the discharge by a local authority of its duty under section 89(2) of the Act (duty to ensure highways and roads are kept clean)	Household waste	
3	Waste arising from the discharge of duties under sections 89(1)(d), 92(9), 92C(3) and 93 of the Act(b) (duties and powers in relation to the collection of litter and refuse)	Commercial waste	
4	Waste collected under section 22(3) of the Control of Pollution Act 1974(c) (street cleaning)	Commercial waste	
5	Waste arising from the discharge of duties under section 89(1)(b) and (e) of	Industrial waste	

(a) Section 75(7) was amended by S.I. 2006/937.

(b) Section 92C was inserted by the Clean Neighbourhoods and Environment Act 2005, section 20(2).

(c) 1974 c. 40.

No.	Description	Classification	Exceptions
	the Act (duties to collect litter and refuse)		
6	Waste arising from the discharge by the Secretary of State or the Welsh Ministers of the duty under section 89(2) of the Act <sup>(a)</sup> (duty to ensure highways and roads are kept clean)	Industrial waste	
7	<p>Hazardous waste arising from the following activities carried on at premises used for the purposes of a trade or business—</p> <ul style="list-style-type: none"> <li>(a) mixing or selling paints;</li> <li>(b) sign writing;</li> <li>(c) laundering or dry cleaning;</li> <li>(d) developing photographic film or making photographic prints;</li> <li>(e) selling petrol, diesel fuel, paraffin, kerosene, heating oil or similar substances;</li> <li>(f) selling pesticides, herbicides or fungicides</li> </ul>	Industrial waste	
8	Waste oil, waste solvent or scrap metal	Industrial waste	<p>Where the waste is produced at the following places it is to be treated as household waste—</p> <ul style="list-style-type: none"> <li>(a) a residential home;</li> <li>(b) domestic property, a caravan or land belonging to or used in connection with such a place;</li> <li>(c) a private garage which has a floor area of 25m<sup>2</sup> or less or is used wholly or mainly for the accommodation of a private motor vehicle;</li> <li>(d) private storage premises used wholly or mainly for the storage of articles of domestic use;</li> <li>(e) a vehicle or vessel used wholly for the purposes of living accommodation, except where it is used in the course of a business for</li> </ul>

<sup>(a)</sup> Functions of the Secretary of State under section 89(2), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, S.I. 1999/672. Those functions were then transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).



<i>No.</i>	<i>Description</i>	<i>Classification</i>	<i>Exceptions</i>
			the provision of self-catering accommodation
9	Waste from construction or demolition works, including preparatory works	Industrial waste	The waste is to be treated as household waste for the purposes of section 34(2) and (2A) of the Act only (disapplication of section 34(1) and duty on the occupier of domestic property to transfer household waste only to an authorised person or for authorised transport purposes)
10	Septic tank sludge	Industrial waste	The waste is to be treated as household waste for the purposes of section 34(2) and (2A) of the Act only
11	Sewage	Industrial waste	
12	Clinical waste and offensive waste	Industrial waste	<p>Clinical waste and offensive waste produced at domestic property, a residential home, a caravan or a vehicle or vessel used wholly for the purposes of living accommodation is to be treated as household waste, except that where such a vehicle or vessel is used in the course of a business for the provision of self-catering accommodation, such waste is to be treated as commercial waste</p> <p>Clinical waste and offensive waste collected under section 22(3) of the Control of Pollution Act 1974 or section 89, 92(9), 92C(3) or 93 of the Act is to be treated as household waste or commercial waste in accordance with entries 1 to 6</p>

**Household waste for which collection and disposal charges may be made**

4.—(1) The second column of the table in this paragraph describes waste which is household waste (by virtue of section 75(5) of the Act) or waste which is to be treated as household waste (by virtue of paragraph 2.(1) or 3.(1)).

(2) The third column indicates which household waste is prescribed for the purposes of section 45(3) of the Act (cases in respect of which a charge for collection may be made).

(3) Subject to sub-paragraphs (5) and (8), the fourth column indicates which waste must be treated as commercial waste for the purposes of the following provisions of the Act—

- (a) section 45(4) to the extent that it concerns liability to pay a reasonable charge for disposal of commercial waste and the recovery of such a charge; and
- (b) section 52(9) (which entitles waste disposal authorities to reimbursement by waste collection authorities in relation to costs incurred in arranging the disposal of commercial and industrial waste).

(4) Sub-paragraphs (5) to (8) apply in England only.

(5) Nothing in sub-paragraph (3) has the effect of making a person liable to pay a charge under section 45(4) of the Act for the disposal of waste if the first and second conditions are satisfied.

(6) The first condition is that no charge would have been payable under section 45(4) of the Act for the disposal of that waste had it been collected under section 45(1) of the Act before the coming into force of these Regulations.

(7) The second condition is that the waste is from a hereditament as regards which the person is subject to a non-domestic rate under section 45(1) of the Local Government Finance Act 1988(a), for which the chargeable amount payable is calculated in accordance with section 45(4A)(a) of that Act(b).

(8) In relation to entry 15 of the table (waste from premises forming part of a university, school or other educational establishment), nothing in sub-paragraph (4) has the effect of making a person liable to pay a charge under section 45(4) of the Act for the disposal of waste from premises forming part of—

- (a) a school maintained by a local authority (within the meaning of section 142(1) of the School Standards and Framework Act 1998(c)),
- (b) an institution within the further education sector (within the meaning of section 91 of the Further and Higher Education Act 1992(d)), or
- (c) an Academy (within the meaning of section 1(10) of the Academies Act 2010(e)),

if, immediately before the coming into force of these Regulations, the collection of waste from those premises was being undertaken pursuant to arrangements made under section 45(1) of the Act.

### Collection and disposal charges

No.	Description of household waste	Collection charge	Disposal charge
1	Any article of waste which exceeds 25kg in weight	Yes	No, subject to entries 11 to 17
2	Any article of waste which does not fit or cannot be fitted into— <ul style="list-style-type: none"> <li>(a) a receptacle for household waste provided in accordance with section 46 of the Act; or</li> <li>(b) where no such receptacle is provided, a cylindrical container 750mm in diameter and 1m in length</li> </ul>	Yes	No, subject to entries 11 to 17

- (a) 1988 c. 41. Relevant amendments were made by the Local Government and Housing Act 1989 (c. 42) section 139 and Schedule 5, paragraphs 23(2), 79(3), and by the Rating (Empty Properties) Act 2007 (c. 9), section 1(1).
- (b) The chargeable amount is calculated in accordance with section 45(4A)(a) where section 45(4B) applies: see article 2 of the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2012 (S.I. 2012/148) for the conditions prescribed under subsection (4B)(a)(ii).
- (c) 1998 c. 31. Section 142(1) was amended by S.I. 2010/1158, article 5(1) and Schedule 2, Part 1, paragraph 10(1) and (2). There are other amendments to that section that are not relevant to this instrument.
- (d) 1992 c. 13. Section 91 was amended by the Learning and Skills Act 2000 (c. 21), sections 149 and 153, Schedule 9, paragraphs 1 and 42, and Schedule 11, and the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 125, Schedule 8, paragraphs 1 and 13(1) to (3).
- (e) 2010 c. 32. Section 1 has been amended, as from a date to be appointed, by the Education Act 2011 (c. 21), sections 52 and 53. Section 15(4) of the Academies Act 2010 provides that a reference to an Academy is to be read as including a reference to a city technology college and a city college for the technology of the arts.

<i>No.</i>	<i>Description of household waste</i>	<i>Collection charge</i>	<i>Disposal charge</i>
3	Garden waste	Yes	No, subject to entries 11 to 17
4	Dead domestic pets	Yes	No, subject to entries 11 to 17
5	Waste oil or grease	Yes	No, subject to entries 11 to 17
6	Asbestos	Yes	No, subject to entries 11 to 17
7	Waste which may not be put into a receptacle provided under section 46 of the Act because of a notice served under that section	Yes	No, subject to entries 11 to 17
8	Waste from premises used wholly or mainly for public meetings	Yes	No
9	Clinical waste and offensive waste produced at a domestic property, a caravan or a vehicle or vessel used wholly for the purposes of living accommodation	Yes	No
10	Waste from a residential hostel which provides accommodation only to persons with no other permanent address or who are unable to live at their permanent address	Yes	No
11	Waste from a charity shop selling donated goods originating from domestic property	Yes	Yes, but only to the extent that the waste originated from non-domestic property
12	Waste from premises occupied by— (a) a community interest company (being a company which is registered as such with the registrar of companies), or (b) a charity or other not for profit body, which collects goods for re-use or waste to prepare for re-use from domestic property	Yes	Yes, but only to the extent that the waste originated from non-domestic property
13	Litter and refuse collected under section 89(1)(f) of the Act	Yes	Yes
14	Waste from a residential home or land belonging to or wholly or mainly used in connection with a residential home	Yes	Yes
15	Waste from premises forming part of a university, school or other educational establishment	Yes	In Wales: yes  In England: yes, subject to paragraph 4(8)
16	Waste from premises forming part of a hospital or nursing home except for waste from a residential	Yes	Yes

No.	Description of household waste	Collection charge	Disposal charge
	hostel forming such part which provides accommodation only to persons with no other permanent address		
17	Waste from a penal institution	Yes	Yes

## SCHEDULE 2

Regulation 6

### Amendments to other legislation

#### **The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005**

1. Omit regulation 4 of the Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005(a).

#### **The Waste (Household Waste Duty of Care) (Wales) Regulations 2006**

2. Omit regulation 2(2) in the Welsh and English texts of the Waste (Household Waste Duty of Care) (Wales) Regulations 2006(b).

#### **The Waste Management (England and Wales) Regulations 2006**

3. Omit regulation 5 of the Waste Management (England and Wales) Regulations 2006(c).

#### **The Environmental Permitting (England and Wales) Regulations 2007**

4. Omit paragraphs 33 and 36 of Schedule 21 to the Environmental Permitting (England and Wales) Regulations 2007(d).

#### **The Environmental Permitting (England and Wales) Regulations 2010**

5. In regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2010(e), in the definition of “excluded waste operation”, for “regulation 7(1) of the Controlled Waste Regulations 1992, substitute “regulation 3.(2) of the Controlled Waste (England and Wales) Regulations 2012”.

#### **The Animal By-Products (Enforcement) (England) Regulations 2011**

6. Omit paragraph 2 of Schedule 2 to the Animal By-Products (Enforcement) (England) Regulations 2011(f).

### EXPLANATORY NOTE

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

These Regulations classify waste as household waste, industrial waste or commercial waste for the purposes of Part 2 of the Environmental Protection Act 1990 (“the Act”) and in consequence determine the meaning of “controlled waste” for the purposes of Part 2 of the Act (the definition of “controlled waste” is in section 75(4)).

(a) S.I. 2005/2900.

(b) S.I. 2006/123 (W. 16).

(c) S.I. 2006/937, to which there are amendments not relevant to these Regulations.

(d) S.I. 2007/3538, to which there are amendments not relevant to these Regulations.

(e) S.I. 2010/675, to which there are amendments not relevant to these Regulations.

(f) S.I. 2011/881.

They also prescribe the types of household waste for which a charge for collection may be made and provide that certain litter and refuse is to be treated under Part 2 in the same way as waste collected under section 45 of the Act.

Regulation 3 provides that certain waste is not to be classified as household, industrial or commercial waste, in particular waste which falls outside the scope of Directive 2008/98/EC on waste (OJ No L 312, 22.11.08, p3).

Regulation 4 gives effect to Schedule 1 which, read with section 75(5), (6) and (7) of the Act, establishes the classification of waste as household, industrial or commercial.

Paragraph 2 of Schedule 1 describes waste which is to be classified according to its place of production. It is subject to any inconsistent classification made by paragraphs 3 or 4.

Paragraph 3 of Schedule 1 describes waste which is to be classified according to its nature or the activity producing it. It is subject to any inconsistent classification made by paragraph 4.

Paragraph 4 of Schedule 1 prescribes household waste for which a collection charge may be made and specifies household waste which is to be treated as commercial waste only for the purposes of charging for disposal.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Waste Programme, Department for Environment, Food and Rural Affairs, Ergon House, Horseferry Road, London SW1P 2AL and is published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).