

Special Waste Amendment (Scotland) Regulations 2004 - FREQUENTLY ASKED QUESTIONS

These frequently asked questions provide a quick overview of the changes resulting from the Special Waste Amendment (Scotland) Regulations 2004. It is not exhaustive and is not a substitute for the legislation.

The Special Waste Regulations 1996 transposed the requirements of the Hazardous Waste Directive. However, they did not fully transpose all of the Directive's requirements nor did they take into account possible amendments to and expansions of the European Waste Catalogue and the list of hazardous wastes. The Special Waste Amendment (Scotland) Regulations 2004 addresses these issues.

What is special waste in Scotland?

Regulations 2, 2A and 2B of The Special Waste Amendment (Scotland) Regulations 2004 provide a full definition of special waste. Simply put, 'special waste' is any waste which is hazardous waste as defined by Article 1(4) of the Hazardous Waste Directive.

The joint agencies guidance entitled 'Hazardous waste. Interpretation of the definition and classification of hazardous waste' applies to wastes that are 'special wastes' in Scotland. This guidance (sometimes referred to as WM2) is available on SEPA's website.

How do I consign waste that is 'special waste' under Scottish legislation?

For 'special waste' produced in Scotland, you may only use consignment notes or codes issued by SEPA.

SEPA will accept the use of the old style of SEPA consignment notes as long as 6 digit European Waste Catalogue codes and the full details of the postcode of the waste producer are included on the note in accordance with The Special Waste Amendment (Scotland) Regulations 2004.

If you are a producer of 'special waste' in Scotland you do not have to register with the Environment Agency, even if you export your waste to England or Wales.

How do I consign 'hazardous waste' produced in England or Wales after 15 July 2005?

Guidance on The Hazardous Waste (England and Wales) Regulations 2005 can be found on the Environment Agency's website.

Regulation 2A says that in most circumstances (domestic asbestos waste being the exception and is dealt with in regulation 2B) the Regulations do not apply to 'special waste' which is domestic waste. What does this mean?

This means that small amounts of 'special waste' generated at a domestic premises and discarded with the normal mixed domestic refuse that is collected, are not subject to the controls of the Regulations.

For the time being, householders can put their waste TV sets into their bins with their other domestic waste for Local Authority collection. Local Authorities can subsequently deposit the waste at a landfill classified as a non-hazardous landfill.

There is no definition of 'domestic', but SEPA suggests that it may be interpreted as being only waste from accommodation used purely for living purposes (and without commercial gain). Waste from church halls, residential homes, camp sites, prisons and buildings used for public meetings and charities would probably be considered to be generating household waste that is not domestic waste. 'Special waste' generated at these premises would therefore be expected to have to comply with the requirements of the Special Waste Regulations 1996, as amended.

What about sites that accept domestic 'special waste' and keep it separate from non-special domestic waste?

Where a site keeps domestic 'special wastes' separate, these wastes will be regarded as 'separately collected fractions' and subject to the requirements of the Special Waste Regulations 1996, as amended. For example, a site taking domestic refrigerators would need a waste management licence or Pollution Prevention and Control permit that allows them to accept this sort of 'special waste'. A consignment note would not be required to be used by the householder transporting his own waste, but the separately collected fractions of 'special waste' will need to be consigned when moved off the premises.

What changes do The Special Waste Amendment (Scotland) Regulations 2004 make to 'domestic asbestos waste'?

Domestic asbestos waste is 'special waste'. The requirements of the Special Waste Regulations 1996, as amended, apply to this 'special waste', except where the original producer is also the person who resides at the domestic premises where the waste arises or where the waste producer is acting on behalf of the resident without reward. This means that a contractor who undertakes work for a householder that generates asbestos waste, must comply with the requirements of these Regulations.

What is the situation if there is a fluorescent tube or a couple of computer screens in a skip at a commercial premises?

Domestic 'special waste' aside, the law does not include a de minimis for small quantities of 'special waste'. If a business deposits a fluorescent tube or a computer screen in a skip of otherwise non-special waste, the whole content of the skip would be 'special waste'.

Computers used in the course of business (even where the business is conducted at domestic premises) are not domestic waste.

If a commercial premises disposes of hazardous waste with non-hazardous waste eg. a cathode ray tube in a skip of mixed municipal waste, the most appropriate European Waste Catalogue codes used to describe the load are likely to be:

- 20 03 01 - mixed municipal waste and
- 16 02 13* - discarded equipment containing hazardous components.

How do I classify waste from a transfer station that receives only mixed municipal waste from households if it contains small amounts of 'special waste' from domestic premises?

Small amounts of 'special waste' generated at a domestic premises and disposed of via the normal mixed domestic refuse collection, are not subject to the controls of the Regulations. The waste would enter the transfer station as '20 03 01 - mixed municipal waste' (which is not 'special waste') and if it is not mixed with any waste that is 'special waste' it would leave the transfer station as '20 03 01 - mixed municipal waste'.

If the waste has been subject to physical and/or chemical treatment (transfer would not count as physical treatment, but sorting would), the waste would be classified as either:

- 19 02 03 – premixed wastes composed only of non-hazardous wastes or
- 19 02 04* - premixed wastes composed of at least one hazardous waste.

What is the duty to separate mixed wastes about?

Regulation 17A imposes a duty on those who transport, recover or dispose of 'special waste' mixed with other waste, substances or materials to separate it. This requirement applies where it is technically and economically feasible, and necessary in order to ensure that the waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment. In particular, this is without:

risk to water, air, soil, plants or animals
causing a nuisance through noise or odours
adversely affecting the countryside or places of special interest.

The impact of this Regulation is unlikely to be significant on those in the waste industry. Separation is however, likely to increase as a result of changing waste management practices and legislation.

Are all fluorescent tubes 'special waste'?

SEPA is of the view that all fluorescent tubes from commercial and industrial premises are 'special waste' as it is clear from chapter 20 of the European Waste Catalogue that separately collected fluorescent tubes are always 'special waste'.

The codes used to describe a consignment from commercial or industrial premises that is comprised of mixed municipal waste and fluorescent tubes for example, would therefore be expected to be:

- 16 02 13* - discarded equipment containing hazardous components and
- 20 03 01 - mixed municipal waste

Interim position statement on the use and acceptance of special waste consignment notes for waste produced in Northern Ireland


Regulation 19A of the Special Waste Amendment (Scotland) Regulations 2004 states that 'where special waste is removed from premises situated outside Scotland, any consignment note that

contains or purports to contain the same information.....shall be treated for the purposes of these Regulations as if it was a consignment note raised in compliance or purported compliance with the provisions of these Regulations.'

SEPA's interim position is that consignment note documentation generated in Northern Ireland in accordance with the Hazardous Waste Regulations (Northern Ireland) 2005, is acceptable in terms of Regulation 19A.

SEPA reserves the right to review this interpretation of the legislation and will ensure that any changes are stated on the SEPA website.

Useful References

- European Directives and legislation can be accessed through www.europa.eu.int 
- Council Directive 75/442/EEC on waste (and amendments)
- Council Directive on hazardous waste (91/689/EEC)
- European Waste Catalogue

Copy of legislation that apply to Scotland, England and Wales can be obtained via the HMSO website or The Stationary Office Limited.

- Special Waste Regulations 1996, as amended
- The Environmental Protection (Duty of Care) Regulations 1991, as amended (SI 1991/2839, relevant amendments were made by SI 2000/1973 and SSI 2003/235)
- The Special Waste Amendment (Scotland) Regulations 2004 (SSI 2004 No.112 and amendment SSI 2004 No.204)