

Waste management legislation summary

This fact sheet provides a summary of just some of the key waste legislation relevant for SMEs; however it does not provide legal advice on the obligations of SMEs in respect to waste management. In order to ensure legal compliance you must consult the relevant regulator's website. The NetRegs website is another useful source of information regarding waste legislation in the UK. In addition to information on current legislation in the regions, it also provides details of environmental legislation that is due to come into force, as well as information on proposed developments in environmental law.

A lot of current UK waste legislation comes from the European Union and is then interpreted by the different regions (England, Wales, Scotland and Northern Ireland) therefore environmental legislation and regulation can vary across the different regions of the UK. Often the content of regulations is very similar but for example, the regulator might be different or the obligations on producers might be interpreted differently.

Part of the UK	Regulator	Duty of Care	Fly tipping	Hazardous/ Special Waste	WEEE	Packaging
England and Wales	Environment Agency	The Environmental Protection (Duty of Care) Regulations 1991	Environmental Protection Act 1990	The Hazardous Waste Regulations 2005	The Waste Electrical and Electronic Equipment Regulations 2006	The Producer Responsibility Obligations (Packaging Waste) Regulations 2007
Scotland	SEPA			The Special Waste (Scotland) Regulations 1997		
Northern Ireland	Environment and Heritage Service			The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002		

Duty of Care

All businesses have a Duty of Care to ensure all the waste produced is handled safely and within the law. The Duty of Care requires businesses to take reasonable care to store waste safely and securely and prevent it from causing pollution or harming anyone. The Duty of Care applies to anyone who produces, imports, transports, stores, treats or disposes of controlled waste (commercial, industrial and household wastes including hazardous/special wastes are classified as 'controlled waste').

You must ensure that:

- You store and dispose of all waste responsibly. All waste materials should be appropriately and robustly packaged to stop them escaping from your or anyone else's control
- You keep records of all waste that you transfer or receive for at least two years. Waste being transferred should be accompanied by a written description that will enable anyone receiving it to dispose of it or handle it safely and appropriately.
- Your waste is only handled or dealt with by people or businesses that are authorised to do so. You should not give your waste to anyone for storage, disposal or recovery unless they have an **environmental permit** (England and Wales), a **waste management licence** (Northern Ireland and Scotland), or an **exemption**. Check their permit, licence or exemption to make sure that they are within its conditions. You should also check that your waste is only transferred to a person or business authorised to deal with your particular type of waste.

It is a requirement that anyone transporting, recycling or disposing of a third party's waste must have a **Waste Carriers Licence**. Your recycling waste contractor must be authorised by the relevant regulator to carry out these activities; you should ask to see a copy of their certificate of registration or check with the regulator that they have one. This applies to scrap metal merchants, and skip hire companies as well as local councils and other waste contractors. If you don't check that they are authorised to take your waste and it is illegally disposed of, you could be held responsible.

The Duty of Care has no time limit. It extends until the waste has either been finally disposed of or fully recovered.

Fly tipping

Flytipping is the illegal dumping of waste and is prohibited by the Environmental Protection Act 1990. Fly-tipped waste may be found anywhere from road side verges to private land. The cost of cleaning up fly-tipped waste is borne by the tax payer and private landowners and fly-tipping undermines legitimate waste businesses where illegal operators undercut those operating within the law. Fly-tipping waste, rather than disposing of it at licenced facilities enables operators to avoid payment of landfill tax, however uncontrolled waste disposal can be hazardous to the public and the environment and looks unsightly and can harm investment into an area.

Fly-tipping or transferring waste without checking waste carrier or waste management licenses, or without receiving the correct paperwork is a breach of the Duty of Care. The following punishments can apply:

- Fly-tipping fines are up to £20,000 and/or 6 months' imprisonment. Fines are unlimited if the case goes to the Crown Court or up to 2 years' imprisonment, and up to 5 years if hazardous waste is dumped.
- It is also an offence to permit or authorise fly-tipping on land where a Waste Management License is not held.
- Where fly-tipping involves the use of a vehicle, the driver can be prosecuted, as can the owner of the vehicle.
- The police have powers to seize vehicles used for fly-tipping.

You should report any incidence of fly-tipping to your local authority or to the Environment Agency (England and Wales) or the Scottish Environment Protection Agency in Scotland on the Scottish national hotline number 0800 807060. You can also report the incident anonymously.

Hazardous Waste

Hazardous waste is essentially waste that contains hazardous properties that may make it harmful to human health or the environment. Examples of hazardous wastes include:

- asbestos
- healthcare waste
- fluorescent light tubes
- lead-acid batteries
- oils and oily sludges (other than edible oils)
- pesticides
- solvents

In Scotland, the terms hazardous waste is referred to as special waste. This is because under Scottish law, 'special waste' is any waste that is defined as hazardous by the European Hazardous Waste Directive.

The European Commission issued a Directive on the controlled management of such waste (91/689/EEC) and hazardous waste is defined on the basis of a list called the European Waste Catalogue (EWC). The EWC contains a list of all types of waste (hazardous and non-hazardous) and each waste type is given a six-digit code. Hazardous wastes are identified in the EWC with an asterisk (*). There are some wastes, called 'absolute entries' which are always classed as hazardous, whereas other wastes, called 'mirror entries' are only hazardous if they contain substances over a certain threshold. The table below gives some examples:

Six digit code	Description of waste	Mirror or absolute
20 01 01	Paper and cardboard	Neither (not hazardous)
20 01 21*	Fluorescent tubes and other mercury-containing waste	Absolute
20 01 23*	Discarded equipment containing chlorofluorocarbons	Mirror

The document WM2: Hazardous Wastes contains guidance to help you determine whether or not your waste is hazardous and provides advice on classifying and assessing hazardous wastes. It also contains a complete consolidated version of the EWC. Material Safety Data Sheets that should accompany materials or chemicals received at your site will also help you determine if your waste is hazardous. If you are in any doubt, contact your regulator or a specialist waste management contractor.

Environmental regulators track hazardous waste through a consignment note system which ensures waste is managed responsibly from the point of production through to disposal. Waste producers must keep consignment notes for a minimum of three years.

There are two different systems of notification; one that applies in Scotland and Northern Ireland (although under different regulators), and one for England and Wales.

In Scotland and Northern Ireland there is a pre-notification system where you must notify the SEPA local area office (in Scotland) or the Environment and Heritage Service (in Northern Ireland) at least three working days and not more than one month before hazardous/special waste is moved or, in the case of Scotland, imported from England and Wales. Waste produced in Scotland must use a unique Scottish consignment note code.

You must identify all hazards and hazardous properties associated with the hazardous/special waste on the consignment note. You must keep consignment notes for three years. The consignment note must include:

- Details of your premises including address and postcode
- The unique code provided by EHS
- Details of everyone involved in the movement

Certain types of hazardous/special waste are exempt from pre-notification but must still be accompanied by a consignment note. An exemption will apply if:

- you regularly produce and transport the same type of waste to the same disposal or recovery facility. You only need to pre-notify SEPA/EHS of the first consignment in any one year
- your business operates on a number of sites, and you transport your hazardous/special waste to one central site that holds a suitable licence, permit or exemption to receive the waste
- you return faulty products or materials with hazardous properties to the person who supplied them
- your consignment consists solely of lead-acid motor vehicle batteries

In England and Wales you must register your premises with the Environment Agency before you allow hazardous waste to leave your premises. The Environment Agency will issue you with a unique registration code. Your premises may be exempt from registering if they fulfill the following three conditions;

- you produce less than 200kg of hazardous waste over a 12 month period, and
- your premises is a office, shop, used for the collection of waste electrical and electronic equipment, or a dental, veterinary or medical practice; and
- a registered carrier (or one exempt from being registered) is used to remove your hazardous waste.

The Environment Agency provides details on how to register, and on exemptions. Even if you are exempt from registering, you must still use a consignment note to accompany hazardous waste.

Storage of hazardous waste

Businesses will be exempt from the requirement to hold a waste management licence if you store hazardous waste on the site where it was produced, pending collection for no more than 12 months, and you store:

- no more than 80 cubic metres of hazardous waste in secure containers
- no more than 50 cubic metres of hazardous waste in a secure place
- no more than 23,000 litres of liquid hazardous waste at any one time

Staff should be provided with specific procedures and training on how to deal with hazardous materials that are stored on your premises, including what to do in case of a spill, the type of personal protective equipment required and how to dispose of contaminated clean-up materials. In order to reduce the chances of any spills, waste areas and containers should be inspected regularly for leaks or deterioration.

Businesses are encouraged to look at ways of minimising hazardous waste production (not least because hazardous waste collection costs considerably more than normal waste) through exploring alternative, less hazardous materials or through waste minimisation at source.

WEEE

Waste Electrical and Electronic Equipment (WEEE) is one of the fastest growing waste streams in the UK; around 1.8 million tones are produced every year. The WEEE Regulations were brought in to reduce the environmental impact of WEEE by

- reducing waste from electrical and electronic equipment
- encourage the separate collection of WEEE
- encourage treatment, reuse, recovery, recycling and sound environmental disposal of WEEE
- making producers of EEE responsible for the environmental impact of their products
- improving the environmental performance of all those involved during the lifecycle of EEE

The WEEE Regulations will apply to you if:

- you manufacture or import electrical or electronic equipment;
- you distribute electrical or electronic equipment;
- you generate any electrical or electronic waste;
- you collect electrical or electronic waste from your customers for treatment or disposal;
- you operate a waste treatment facility; or
- you export electrical or electronic waste.

Failure to comply with the regulations may lead to prosecution.

The WEEE Regulations apply to electrical and electronic equipment which has an AC voltage of up to 1000 volts or a DC voltage of up to 1500 volts. You will need to comply with the WEEE Regulations if you generate, handle or dispose of waste in any of the following ten categories:

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools
7. Toys, leisure and sports equipment
8. Medical devices
9. Monitoring and control equipment
10. Automatic dispensers.

All businesses that use electrical and electronic equipment (EEE) must comply with the Waste Electrical and Electronic Equipment (WEEE) Regulations. This includes all domestic or household EEE that you may use on your premises. For all non-household EEE, either the producer or end user is responsible for the disposal of the products.

Your WEEE must only be passed on to a registered waste carrier or other approved person. You must ensure that it is accompanied by a waste transfer note or hazardous waste consignment note (as appropriate) and taken to a suitable facility to be treated and recycled.

You must obtain and keep proof that your WEEE was given to a waste management business, and was treated and disposed of in an environmentally sound way.

Your business can return WEEE for free if:

- You bought it after 13 August 2005, or
- you are replacing it with new equivalent EEE, or
- you rent or lease EEE.

If you dispose of WEEE that may contain information covered by the Data Protection Act, ensure that the waste disposal business you use holds a relevant certificate in information security management or equivalent.

Some waste electrical and electronic equipment (WEEE) is classified as hazardous/special waste. This includes WEEE that contains:

- polychlorinated biphenyls (PCBs)
- ozone depleting substances (ODS) (eg fridges and freezers)
- asbestos
- cadmium
- lead
- cathode ray tubes, found in televisions and older computer monitors.

If you are responsible for disposing of WEEE and it contains hazardous/special waste, you must make sure it is treated at an approved authorised treatment facility.

If you are selling EEE to the public, retailers will have to ensure that their customers can return their WEEE free of charge. This will be on a one-for-one basis, as long as the new equipment is of a similar type and has the same function as the old equipment.

For more information about the WEEE Regulations, go to [Netregs](#).

Packaging

The Packaging Directive was implemented into UK law through two pieces of legislation:

1. The Packaging (Essential Requirements) Regulations 2003 (as amended) requires that packaging is minimized, that it can be recycled and recovered and that dangerous substances (such as heavy metals) are restricted.
2. The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 place an obligation to reduce packaging on all UK companies with £2 million plus turnover or handling more than 50 tonnes of packaging each year.

Individual business targets for obligated businesses range from 20.5% recovery for wood to 73.5% for glass. The business targets, which are those used by businesses to calculate their obligations, and which are designed to enable the UK to meet the Directive targets, are shown in the table below:

Business recovery and recycling targets

Material	2006	2007	2008	2009	2010
Paper	66.5%	67%	67.5%	68%	68.5%
Glass	65%	69.5%	73.5%	74%	74.5%
Aluminum	29%	31%	32.5%	33%	33.5%
Steel	56%	57.5%	58.5%	59%	59.5%
Plastic	23%	24%	24.5%	25%	25.5%

Wood	19.5%	20%	20.5%	21%	21.5%
Overall recovery	66	67	68	69	70

In order to demonstrate that the required amount of recovery and recycling has been carried out, the producer (or a compliance scheme on his behalf) must purchase evidence of compliance from an accredited reprocessor or an accredited exporter. These businesses will issue, respectively, Packaging Waste Recovery Notes (PRNs) and Packaging Waste Export Recovery Notes (PERNs). These are the only legal forms of demonstrating compliance.

In order to issue PRNs and PERNs, reprocessors and exporters must be accredited by the relevant Agency (Environment Agency for England and Wales; Scottish Environment Protection Agency (SEPA) in Scotland, and the Environment and Heritage Service (EHS) in Northern Ireland). In order to accredit a business the relevant Agency will scrutinise the business and, if satisfied, the Agency will accredit it. The Regulations also set out a number of conditions of accreditation which reprocessors and exporters must adhere to. This includes demonstrating a business plan to the relevant Agency.