

The Environmental Protection (Duty of Care) Regulations 1991

Anyone who “imports, produces, carries, keeps, treats or disposes of any controlled waste, or a broker who has control of such waste” is subject to the Duty of Care described in Section 34 of the Environmental Protection Act 1990.

Controlled waste is defined as any household, commercial or industrial waste, including building and demolition waste. Therefore all waste that leaves site is defined as controlled waste and must only be moved after a transfer note has been issued.

1. The Duty of Care

The “Duty of Care” states that all those subject to it must:-

- a) Prevent others from depositing, storing, treating or otherwise disposing of waste without a valid licence or contravening the licence conditions; or act in a manner likely to cause environmental pollution or harm to human health.
- b) Prevent the waste from escaping
- c) Ensure that waste is transferred to an authorised person
- d) Include with the waste transfer a written description to enable others to comply with the duty and avoid committing an offence under Section 33.

2. Definitions

Waste Producer - The waste producer is the party undertaking the work which creates waste.

Waste Manager - A person who keeps, treats or disposes of controlled waste.

Waste Broker - A person who arranges the transfer of waste but does not himself control what happens to it.

Waste Carrier - A person who transports waste. The company should be registered with a waste regulation authority and have a licence to confirm this registration.

3. Duties of a Waste Producer

A waste producer is responsible for providing an accurate description of the waste, including:-

- The type of premises or business from which the waste is generated.
- The process that produces the waste and the quantity of waste.
- The name of substances which comprise the waste including a physical and chemical analysis, if applicable.

The waste producer is also responsible for:-

- The care of the waste whilst he holds it.
- The packaging of the waste to prevent its escape during transfer.
- Using a registered (or exempt) carrier to transport the waste.
- The final disposal of the waste depending on the degree of his involvement in the selection of the waste carrier, manager or broker.

Any suspicious circumstances which may indicate a breach of the duty in the disposal chain should be reported to the Waste Regulations Authority.

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4. Duties of a Waste Carrier

The Waste Carrier is responsible for:-

- a) The adequacy of packaging and security of the waste whilst under his control.
- b) Ensuring that a description accompanies the waste and that this description is accurate.
- c) Ensuring that any alteration to the waste is recorded in the description of the waste.

Any requests for contract vehicles to transport waste must be made to the Site Supervisor or manager in charge of the contract who should ENSURE that the contractor is registered for the transport of waste. Waste carriers are subject to the Controlled Waste (Registration of Carriers) and Seizure of Vehicles Regulations 1991.

5. Duties of a Waste Manager

The Waste Manager is responsible for:-

- a) Carrying out the disposal operation in accordance with the conditions of the Waste Regulation Authority Licence.
- b) Checking the description of the waste they receive. Sample checks on the composition are considered to be “good practice” and should be implemented.
- c) Ensuring that correctly completed documentation accompanies the waste.

6. Duty Holders

All duty holders should look out for breaches of the duty committed by others in the chain. Breaches of the duty should be reported to the Waste Regulation Authority and further dealings with the offenders should be reconsidered.

Duty holders are only expected to do what is “reasonable in the circumstances”. The extent to which they should check up on others in the chain depends on the nature of the waste, how it is to be dealt with and what the holder might “reasonably be expected to know or foresee”. It is, for example, more important to check up on a consignment of toxic chemical waste than a load of waste paper.

7. Waste Transfer Notes and Consignment Notes

A waste transfer note or a special waste consignment note must be issued before any waste is transported off site.

8. Completion of Site

On completion of the site, all **Waste Transfer Notes** and **Special Waste Consignment Notes** should be archived with the contract papers and retained :-

- for a period of 2 years in the case of transfer notes.
- for a period of 3 years in the case of special waste consignment notes.

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