

2008 No. 314

ENVIRONMENTAL PROTECTION, ENGLAND

The Site Waste Management Plans Regulations 2008

<i>Made</i>	- - - -	<i>8th February 2008</i>
<i>Laid before Parliament</i>		<i>15th February 2008</i>
<i>Coming into force</i>	- -	<i>6th April 2008</i>

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SCHEDULE — Additional duties

The Secretary of State, in exercise of the powers conferred by section 54 of the Clean Neighbourhoods and Environment Act 2005^(a), makes the following Regulations:

^(a) 2005 c. 16.

Citation, application and commencement

1. These Regulations may be cited as the Site Waste Management Plans Regulations 2008; they apply in England and come into force on 6th April 2008.

Interpretation

2. In these Regulations—

“client” means a person who in the course of business—

- (a) seeks or accepts the services of another which may be used in the carrying out of a project for that person; or
- (b) carries out a project on their own behalf;

“construction site” includes any place where construction work is being carried out or to which the workers have access, but does not include a workplace within it which is set aside for purposes other than construction work;

“construction work” means the carrying out of any building, civil engineering or engineering construction work and includes—

- (a) the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure;
- (b) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and the clearance or preparation of the site or structure for use or occupation at its conclusion;
- (c) the assembly on site of prefabricated elements to form a structure or the disassembly on site of prefabricated elements which, immediately before such disassembly, formed a structure;
- (d) the removal of a structure or of any product or waste resulting from demolition or dismantling of a structure or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure; and
- (e) the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,

but does not include the exploration for or extraction of mineral resources or preparatory activities carried out at a place where such exploration or extraction is carried out;

“principal contractor” means the principal contractor appointed under regulation 4;

“project” means a project that includes or is intended to include construction work and includes all planning, design, management or other work involved in a project until the end of the construction phase.

Exemptions

3. These Regulations do not apply to a project relating to a Part A installation as defined in the Environmental Permitting (England and Wales) Regulations 2007(a).

Appointment of principal contractor

4.—(1) A client who intends to use one or more contractors for any project to which these Regulations apply must appoint a contractor as the principal contractor.

(a) S. I. 2007/3538.

(2) If a client does not use a contractor, all obligations placed on the principal contractor under these Regulations must be carried out by the client.

Preparation of a site waste management plan

5.—(1) Any client who intends to carry out a project on any one construction site with an estimated cost greater than £300,000 excluding VAT must prepare a site waste management plan conforming to these Regulations before construction work begins.

(2) For these purposes the cost is the price in the accepted tender or, if there is no tender, the cost of labour, plant and materials, overheads and profit.

(3) If such project is started without a site waste management plan, the client and the principal contractor are both guilty of an offence.

Requirements for a site waste management plan

6.—(1) A site waste management plan must identify—

- (a) the client;
- (b) the principal contractor; and
- (c) the person who drafted it.

(2) It must describe the construction work proposed, including—

- (a) the location of the site; and
- (b) the estimated cost of the project.

(3) It must record any decision taken before the site waste management plan was drafted on the nature of the project, its design, construction method or materials employed in order to minimise the quantity of waste produced on site.

(4) It must—

- (a) describe each waste type expected to be produced in the course of the project;
- (b) estimate the quantity of each different waste type expected to be produced; and
- (c) identify the waste management action proposed for each different waste type, including re-using, recycling, recovery and disposal.

(5) It must contain a declaration that the client and the principal contractor will take all reasonable steps to ensure that—

- (a) all waste from the site is dealt with in accordance with the waste duty of care in section 34 of the Environmental Protection Act 1990^(a) and the Environmental Protection (Duty of Care) Regulations 1991^(b); and
- (b) materials will be handled efficiently and waste managed appropriately.

Updating a site waste management plan for a project of £500,000 or less

7.—(1) If the project has an estimated cost of £500,000 or less, whenever waste is removed from the site the principal contractor must record on the site waste management plan—

- (a) the identity of the person removing the waste;
- (b) the types of waste removed; and
- (c) the site that the waste is being taken to.

(2) Within three months of the work being completed the principal contractor must add to the plan—

^(a) 1990 c. 43.

^(b) S. I. 1991/2839.

- (a) confirmation that the plan has been monitored on a regular basis to ensure that work is progressing according to the plan and that the plan was updated in accordance with this regulation; and
 - (b) an explanation of any deviation from the plan.
- (3) Failure to comply with this regulation is an offence.

Updating a site waste management plan for a project worth more than £500,000

8.—(1) If the project has an estimated cost greater than £500,000 the principal contractor must update the site waste management plan in accordance with this regulation.

- (2) When any waste is removed the principal contractor must record on the plan—
- (a) the identity of the person removing the waste;
 - (b) the waste carrier registration number of the carrier;
 - (c) a copy of, or reference to, the written description of the waste required by section 34 of the Environmental Protection Act 1990; and
 - (d) the site that the waste is being taken to and whether the operator of that site holds a permit under the Environmental Permitting (England and Wales) Regulations 2007 or is registered under those Regulations as a waste operation exempt from the need for such a permit.
- (3) As often as necessary to ensure that the plan accurately reflects the progress of the project, and in any event not less than every six months, the principal contractor must—
- (a) review the plan;
 - (b) record the types and quantities of waste produced;
 - (c) record the types and quantities of waste that have been—
 - (i) re-used (and whether this was on or off site);
 - (ii) recycled (and whether this was on or off site);
 - (iii) sent for another form of recovery (and whether this was on or off site);
 - (iv) sent to landfill; or
 - (v) otherwise disposed of; and
 - (d) update the plan to reflect the progress of the project.
- (4) Within three months of the work being completed the principal contractor must add to the plan—
- (a) confirmation that the plan has been monitored on a regular basis to ensure that work is progressing according to the plan and that the plan was updated in accordance with this regulation;
 - (b) a comparison of the estimated quantities of each waste type against the actual quantities of each waste type;
 - (c) an explanation of any deviation from the plan; and
 - (d) an estimate of the cost savings that have been achieved by completing and implementing the plan.
- (5) Failure to comply with this regulation is an offence.

Availability of the plan

- 9.—**(1) The principal contractor must ensure that the site waste management plan is kept—
- (a) at the site office, or
 - (b) if there is no site office, at the site.
- (2) The principal contractor must ensure that every contractor knows where it is kept, and must make it available to any contractor carrying out work described in the plan.

(3) Failure to comply with this regulation is an offence.

Keeping plans

10.—(1) The principal contractor must keep the site waste management plan for two years after the completion of the project at the principal contractor's principal place of business or at the site of the project.

(2) Failure to comply with this regulation is an offence.

Additional duties

11. The Schedule provides for additional duties on the principal contractor and the client.

False statements

12. It is an offence knowingly or recklessly to make a false or misleading statement in a site waste management plan.

Obstruction

13. Any person who—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information that that person may reasonably require under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information knowing it to be false or misleading; or
- (d) fails to produce a site waste management plan or any other record when required to do so by any person acting in the execution of these Regulations,

is guilty of an offence.

Penalties

14.—(1) A person guilty of any offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding £50,000; or
- (b) on conviction on indictment, to a fine.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person is guilty of the offence as well as the body corporate.

(3) In this regulation, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Enforcement

15.—(1) The following may enforce these Regulations—

- (a) the Environment Agency;
- (b) in any local government area with a principal authority, that authority;
- (c) any district or county council;

(d) in the City of London, the common council.

(2) For the purposes of these Regulations an officer of a local authority authorised to enforce these Regulations has all the powers of an officer of the Environment Agency under section 108 of the Environment Act 1995^(a).

Fixed penalty notices

16.—(1) A person authorised to enforce these Regulations who believes that any person has contravened regulation 13(d) (production of a site waste management plan or other record to a person acting in the execution of these Regulations) may give to that person a notice offering the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty of £300.

(2) Where such a notice is served—

- (a) no proceedings may be instituted for that offence for 14 days; and
- (b) that person may not be convicted of that offence if the fixed penalty is paid within that period.

(3) The notice must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and must state—

- (a) the fact that no proceedings for the offence will be instituted for 14 days;
- (b) the amount of the fixed penalty; and
- (c) the name and address of the person to whom the fixed penalty may be paid.

(4) If payment is made by pre-paying and posting to that person at that address a letter containing the amount of penalty (in cash or otherwise), payment is regarded as having been made at the time that the letter would be delivered in the ordinary course of post.

(5) In any proceedings a certificate purporting to be signed by or on behalf of the chief finance officer of the enforcing body stating that payment of a fixed penalty was or was not received by a date specified in the certificate is evidence of the facts stated.

(6) Fixed penalty receipts received by—

- (a) the Environment Agency must be paid to the Secretary of State, and
- (b) a local authority must be used for enforcing these Regulations.

(7) An enforcement authority must supply the Secretary of State with such information relating to its use of its fixed penalty receipts as the Secretary of State may require.

Transitional provisions

17. These Regulations do not apply in relation to a project planned before the coming into force of these Regulations but where the construction work begins before 1st July 2008.

Joan Ruddock

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

8th February 2008

^(a) 1995 c. 25.

Additional duties

Additional duties on the principal contractor

1.—(1) The principal contractor must, so far as is reasonably practicable, ensure co-ordination of the work and co-operation among contractors at work during the construction phase.

(2) The principal contractor must ensure so far as is reasonably practicable that every worker carrying out the construction work is provided with—

- (a) suitable site induction; and
- (b) any further information and training needed for the particular work to be carried out within the terms of the site waste management plan.

(3) The principal contractor must make and maintain arrangements that will enable the principal contractor and the workers engaged in the construction work to co-operate effectively in promoting and developing measures to ensure that any waste arising on site is managed within the terms of the site waste management plan and in checking the effectiveness of such measures.

(4) The principal contractor must ensure, so far as is reasonably practicable, that waste produced during construction is re-used, recycled or recovered.

(5) Failure to comply with this paragraph is an offence.

Additional duties on the client

2.—(1) The client must give reasonable directions to any contractor so far as is necessary to enable the principal contractor to comply with these Regulations.

(2) Failure to comply with this paragraph is an offence.

Additional duties on both the client and the principal contractor

3.—(1) Both the client and the principal contractor must review, revise and refine the site waste management plan as necessary, to ensure that any changes in respective roles and responsibilities are clearly communicated to those affected.

(2) Both the client and the principal contractor must take reasonable steps to ensure that sufficient site security measures are in place to prevent the illegal disposal of waste from the site.

(3) Failure to comply with this paragraph is an offence.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require any person intending to carry out a construction project with an estimated cost greater than £300,000 to prepare a site waste management plan.

The plan must be updated in accordance with the Regulations, with different requirements depending on whether the cost of the project is greater than £500,000.

The Regulations are enforced by the Environment Agency and the local authority.

Breach of the Regulations is an offence punishable—

- (a) on summary conviction, by a fine not exceeding £50,000, or
- (b) on conviction on indictment, by a fine.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available on the Defra website.

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