

# Registration as a carrier and/or broker of controlled waste

## Waste management Guidance notes



### Convictions for relevant offences

We need to know if you or any other relevant person have been convicted of any offence under the legislation listed on page 2 of these notes.

Conviction for a relevant offence will not automatically disqualify you from registration. This is why we need to know:

- how the incident leading to conviction happened
- what measures have been put in place to stop it happening again.

This information must be supplied with your application in the form of:

- a post-conviction plan for any convictions received since 1 July 2003
- a representation of fitness statement for any convictions received before 1 July 2003.

These give you the opportunity to demonstrate that you should be registered despite relevant convictions being held.

### Conviction assessment process

We will consider your conviction history and decide whether there is:

- no concern – *the application can go ahead*
- some concern – *the application can go ahead but any future convictions will be considered of 'serious concern'*
- serious concern – *the application will be considered by a special assessment panel. You will be able to give supporting information if you want to.*

We will then decide whether or not to register you. If you are already registered when convicted, we will decide whether or not to revoke your registration.

### Post-conviction plan

If you or any other relevant person have been convicted of any offence under the legislation listed on page 2 of these notes since 1 July 2003, you must provide the following information with your application.

Scope of the post-conviction plan:

- list of the offences covered, when and where committed, date of conviction, person convicted and business relationship to the applicant, penalties imposed (i.e. fines/costs/compensation orders)
- waste authorisations held by yourself or for which you are a relevant person to the holder
  - waste management licence(s) (unique number(s))
  - PPC permits for specified waste management activities (unique number(s))
  - registration of waste carriers and/or brokers (unique number(s))
- authorisation(s) to which the post-conviction plan relates
- list of relevant persons to whom the post-conviction plan relates.

Examination of the offences:

- summary of how you have investigated the cause, consequences and potential for repetition of the offences (at the offending location/site and at any other relevant location within the scope of the post-conviction plan)
- circumstances which led to the offences
- effect of the offences on people and the environment.

Authorisation(s) and activities to which the post-conviction plan relates:

- activities authorised by each of the relevant authorisations
- potential consequences on people or the environment should the offence(s) have occurred at each of these sites.

Likelihood of repetition of an offence/future compliance:

- potential for repetition of offences (prior to any remedial measures) within the scope of the post-conviction plan
- remedial measures taken to prevent recurrence and date of implementation (for example, management change, staff change, change in relationship with third parties, provision for retraining, change in working practices, etc.)
- details of the ongoing audit of these remedial measures which ensures they are effective
- changes to other documentation/procedures to give effect to the compliance plan (for example, quality assurance procedures, company standing instructions, training manuals)
- responsibilities at board of directors/senior management level for ensuring compliance.

Other evidence:

- Any further mitigation or evidence that the operator believes we should take into account in our determination. For example, the significance of the offences compared to the number of authorisations and scale of business of the operator. If you wish to supplement your representations with a personal visit to the central assessment panel, please let us know in your application.

### Representation of fitness

If you, or any other relevant person, have been convicted of any offence under the legislation listed on page 2 of these notes before 1 July 2003, you must provide a representation of fitness statement with your application. This should explain the circumstances which led to the offence and what procedures and management systems have been put in place to prevent the offence happening again.

### After you make this application

You must also inform us immediately in writing if you, or another relevant person, are convicted of a relevant offence after you make this application. If by then you have been registered, you must send us a post-conviction plan within two months. We will then decide whether or not to revoke your registration.

## Relevant persons

A 'relevant person' is:

- For companies and other corporate bodies:
  - the company
  - employees convicted in the course of their employment with the company
  - the officers of the company (director, manager, secretary or similar officer)
  - other companies, when the officers of the company were officers of that other company at the time of their conviction
- For partnerships:
  - the individual partners in the partnership
  - employees convicted in the course of their employment with the partnership
  - business partners, where the offence was committed in the course of their business
- For individuals:
  - the individual
  - employees convicted in the course of their employment with the individual
  - companies for which the individual is an officer (director, manager, secretary or similar officer).

We will not automatically refuse your application or revoke your registration because of any information you give us about convictions. But we may refuse your application or revoke your registration if:

- you do not tell us about any convictions
- we find out about them from someone else
- our search finds an unattached conviction.

*You do not need to tell us about any 'spent convictions' covered by the Rehabilitation of Offenders Act 1974, which applies to individuals. Convictions for corporate bodies are never considered 'spent'.*

## List of 'relevant offences'

We need to know if you (or anyone else in your business) have been convicted of any relevant offence under any of the following. Some offences are only 'relevant' if you wish to register as a carrier only or as a broker only. These are indicated by the ticks in the table below. You need only declare convictions for offences that are relevant for the activity you wish to register.

Legislative provision	Brokers	Carriers
Section 22 of the Public Health (Scotland) Act 1897	✓	✓
Section 95(1) of the Public Health Act 1936	✓	✓
Section 3, 5(6), 16(4), 18(2), 31(1), 32(1), 34(5), 78, 92(6) or 93(3) of the Control of Pollution Act 1974	✓	✓
Section 2 of the Refuse Disposal (Amenity) Act 1978	✓	✓
The Control of Pollution (Special Waste) Regulations 1980	✓	✓
Section 9(1) of the Food and Environment Protection Act 1985	✓	✓
The Transfrontier Shipment of Hazardous Waste Regulations 1988	✓	✓
The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988	✓	✓

## Legislative provision *continued*

Legislative provision	Brokers	Carriers
Section 1, 5, 6(9) or 7(3) of the Control of Pollution (Amendment) Act 1989	✓	✓
Section 107, 118(4) or 175(1) of the Water Act 1989	✓	✓
Section 23(1), 33, 34(6), 44, 47(6), 57(5), 59(5), 63(2), 69(9), 70(4), 71(3) or 80(4) of the Environmental Protection Act 1990	✓	✓
Section 85, 202 or 206 of the Water Resources Act 1991	✓	
Section 33 of the Clean Air Act 1993	✓	
The Transfrontier Shipment of Waste Regulations 1994	✓	✓
The Special Waste Regulations 1996	✓	✓
Regulation 32(1) of the 2000 Regulations (the Pollution Prevention and Control (England and Wales) Regulations 2000)	✓	✓
The Pollution Prevention and Control (England and Wales) Regulations 2000		✓
Regulation 17(1) of the Landfill (England and Wales) Regulations 2002	✓	
Section 60 of the Transport Act 1968		✓
Hazardous Waste Regs 2005 (from 16 July 2005)	✓	✓

## Registration numbers

We may need to change your registration number if:

- your certificate is lost or stolen
- you fail to renew your registration on time and have to make a new application

You will also need to make a new application if there is a change in the legal entity carrying or brokering waste e.g. you are registered as an individual and wish to register as a company or partnership. Again, this will result in you being issued with a new registration number.

## Duty of care – waste transfer notes

All transfers of waste must be covered by a waste transfer note that is signed by the transferor and transferee. You must keep a copy of all the transfer notes you use on your files for two years. (We may ask to inspect them at any time during the two-year period.)

You have to print your own waste transfer notes. We have given you a sample note overleaf. You can use it to photocopy or as a guide to produce your own version.

## The List of Wastes Regulations

These regulations categorise waste types under a number of broad headings and assign each individual waste type a six-digit code. You are required to include the appropriate code(s) on each transfer note. The codes themselves are taken from the consolidated European Waste Catalogue which can be found on our web-site. Search for 'EWC' at [www.environment-agency.co.uk](http://www.environment-agency.co.uk).

## Letting you know about our decision

When we receive your application we have two months in which to decide whether to register you or not. We will normally let you know the outcome within this period. If we need more time than this we will write to you to seek your agreement to an extension.