

16 July 2014

Dear Sir/Madam,

ACT NOW TO HELP US PREVENT ILLEGAL WASTE EXPORTS!

MAKE SURE YOUR GREEN LIST WASTE SHIPMENTS HAVE A COMPLETED ANNEX VII

The **Environment Agency** is the Competent Authority for England for regulating waste shipments in accordance with the European Waste Shipments Regulations EC 1013/2006 (**WSR**) and the UK Transfrontier Shipment of Waste Regulations 2007 (**TFS**).

Everyone involved in a shipment of waste (eg. producer/collector/exporter/broker/importer) may be liable under the WSR and has a responsibility to ensure that the shipment is lawful. The export of **Green List** waste listed in Annex III, IIIA or IIIB of the WSR is regulated by **Article 18** of the **WSR**, and you must check that you are compliant with it (see below).

What do you need to do?

- **Green List** waste must be accompanied by an Annex VII form. Checks must be made to ensure that this happens.
- **If you are the person arranging the shipment**, you must ensure that the Annex VII form is completed, prior to the shipment taking place. You must also sign the declaration on the form certifying that all the information contained in the Annex VII is complete and correct and that you have an effective written contract with the importer/consignee (see over).
- The Annex VII form must be **fully completed** in order to provide relevant details of everyone involved in the shipment and an auditable trail for the shipment of waste from its starting point in the country of dispatch through to its recovery operation in the country of destination.
- The Annex VII form must then be signed by the consignee and the recovery facility when the waste shipment is received. All three signatories must keep a copy of the document for at least 3 years from the date the shipment started.

What will happen if you do not comply?

It is a criminal offence to export Green List waste other than in accordance with a fully completed Annex VII form or without a valid contract in place. Such offending shows a failure of duty of care and creates an uneven playing field for those who make the effort to comply with the law.

The Environment Agency will take appropriate enforcement action (including the use of Fixed Penalty Notices) against such offences. Persistent offenders, or those engaging in fraud or misdescription, will be subject to more serious enforcement action, including prosecution.

Can you leave gaps in the Annex VII form because of commercial confidentiality?

The European Court of Justice has ruled¹ that the Annex VII form must be fully complete and the requirements of Article 18 of the WSR are more important than a right to the protection of business secrets or commercial confidentiality. Therefore all relevant details **must** be filled in.

The Environment Agency may ask to see any Annex VII form (or the information it contains) and any Article 18 contract for inspection, enforcement, planning and statistical purposes.

When does Article 18 WSR apply?

Article 18 controls generally apply to waste listed in annex III, IIIA, or IIIB of the WSR. Such waste is known as Green List, destined for recovery in the EU, OECD (Organisation for Economic Co-operation and Development) and non-OECD countries. However, you must check for any further restrictions, higher level of control or even prohibition for your country of destination and any countries of transit. A list of OECD countries, Competent Authorities and the level of controls can be found at <https://www.gov.uk/importing-and-exporting-waste#waste-shipment-controls>.

What is an Article 18 contract?

Article 18(2) requires a valid written contract between the person who arranges the shipment and the consignee for recovery. The contract must include an obligation, where the shipment of waste or its recovery cannot be completed or the shipment is illegal, on the person who arranges the shipment or (if they cannot) the importer/consignee to take the waste back or ensure its recovery in an alternative way. They must also, if necessary, arrange to store the waste in the meantime.

Please ensure that your Green List shipments of waste are fully compliant with the law. For further guidance on how to complete an Annex VII form, see the enclosed example or visit <https://www.gov.uk/importing-and-exporting-waste#import-or-export-article-18-controls>.

We look forward to working with you to beat the illegal trade in waste and improve the environment.

Yours faithfully



Mat Crocker

Deputy Director of Illegals and Waste
Environment Agency

Would you like to know more about us, or about your environment?
Then call us on 03708 506 506 (Mon – Fri 8-6)

Email: enquires@environment-agency.gov.uk

Incident hotline: 0800 80 70 60 (24hrs) or find us at www.gov.uk

Report environmental crime confidentially by calling **CRIMESTOPPERS** on 0800 555 111

¹ Intersoh Scrap and Metals Trading GmbH (Case C-1/11), European Court of Justice (Fourth Chamber) [2012] Env. L.R. 33