

Waste and your Duty of Care

The following information is based on DEFRA (Department for Environment, Food and Rural Affairs) "Waste – Duty of Care" leaflet. To download a copy of the leaflet please [click here](#).

What it means

The duty of care is a law which says that you must take all reasonable steps to keep waste safe. If you give waste to someone else, you must be sure they are authorised to take it and can transport, recycle or dispose of it safely.

If you break this law, you can be fined an unlimited amount.

Does it affect me?

The duty of care applies to anyone who produces or imports, keeps or stores, transports, treats or disposes of waste – so if you are a commercial organisation or a trader then the answer is **yes**.

How do I know what to do?

The law says you must take all reasonable steps to fulfil the duty and complete some paperwork. What is reasonable depends on what you do with the waste.

Steps to take if the duty of care applies to you:

When you have waste

The law says you must stop it escaping from your control. You must store it safely and securely. You must prevent it causing pollution or harming anyone.

First, make it secure. Keep it in a suitable container. If you put loose waste in a skip or on a lorry, cover it.

Second, if you give waste to someone else, check they have authority to take it. The law says the person to whom you give your waste must be authorised to take it. Box A (below) explains who is allowed to take waste and how you can check.

Third, you must describe the waste in writing. You must fill in and sign a transfer note for it. You must keep a copy of the transfer note. To save on paperwork, you can write your description of the waste on the transfer note. See Box B (below).

Box A:

Who has authority to take waste?

Council waste collectors You don't have to do any checking, but if you are not a householder, you will have to complete some paperwork. This is explained in Box B.

Registered waste carriers Most carriers of waste have to be registered with the Scottish Environment Protection Agency (SEPA). Look at the carrier's certificate of registration or check with SEPA.

Exempt waste carriers The main people who are exempt are charities and voluntary organisations. Most exempt carriers need to register their exemption with the Scottish Environment Protection Agency. If someone tells you they are exempt, ask them why. You can also check with the Agencies that their exemption is registered.

Holders of waste management licences Some licences are valid only for certain kinds of waste or certain activities. Ask to see the licence. Check that it covers your kind of waste.

Businesses exempt from waste management licences There are exemptions from licensing for certain activities and certain types of waste. For example, recycling activities of various types of waste, such as paper, textiles and plastic. Exemptions only apply if they comply with the general rules of the exemption and do not harm the environment or human health. Most exempt businesses need to register their exemption with the Scottish Environment Protection Agency. You can check with SEPA that their exemption is registered.

Authorised transport purposes You can also transfer waste to someone for "authorised transport purposes". This means: the transfer of controlled waste between different places within the same premises; the transport of controlled waste into Great Britain from outside Great Britain; and the transport by air or sea of controlled waste from a place in Great Britain to a place outside Great Britain.

Registered waste brokers Anyone who arranges the recycling or disposal of waste, on behalf of someone else, must be registered as a waste broker. You can check with the Scottish Environment Protection Agency that the broker is registered.

Exempt waste brokers Most exempt waste brokers need to register with the Scottish Environment Protection Agency. Those who are exempt are mainly charities and voluntary organisations. If someone tells you they are exempt, ask them why. You can check with SEPA that their exemption is registered.

Box B:

Filling in paperwork

When waste is passed from one person to another the person taking the waste must have a written description of it. A transfer note must also be filled in and signed by both persons involved in the transfer.

You can write the description of the waste on the transfer note. Who provides the transfer note is not important as long as it contains the right information.

Repeated transfers of the same kind of waste between the same parties can be covered by one transfer note for up to a year. For example, weekly collections from shops.

The transfer note The transfer note, to be completed and signed by both persons involved in the transfer, must include:

- What the waste is and how much there is.
- What sort of containers it is in.
- The time and date the waste was transferred.
- Where the transfer took place.
- The names and addresses of both persons involved in the transfer.
- Whether the person transferring the waste is the importer or the producer of the waste.
- Details of which category of authorised person each one is. If the waste is passed to someone for authorised transport purposes, you must say which of those purposes applies.
- If either or both persons is a registered waste carrier, the certificate number and the name of the Environment Agency which issued it.
- If either or both persons has a waste management licence, the licence number and the name of the Environment Agency which issued it.
- The reasons for any exemption from the requirement to register or have a licence.
- Where appropriate, the name and address of any broker involved in the transfer of waste.

The written description The written description must provide as much information as someone else might need to handle the waste safely. It must describe the waste by reference to the appropriate 6 digit code/s in the European Waste Catalogue (EWC). The EWC provides a more precise method of identifying the type of waste by listing waste types according to the process or industries from which they arise. The requirement to refer to the code is contained in the Landfill Regulations 2002. For further guidance about the use of EWC codes, please contact your local Environment Agency office.

Keeping the papers Both persons involved in the transfer must keep copies of the transfer note and the description of the waste for two years. They may have to prove in Court where waste came from and what they did with it. A copy of the transfer note must also be made available to the Environment Agency, Waste Collection Authorities or the Scottish Environment Protection Agency if they ask to see it.