

WASTE LEGISLATION - THE COST OF NON-COMPLIANCE

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WHICH CONSTRUCTION WASTE LEGISLATION APPLIES TO YOU?

The legislation relating to construction waste is very complex, incorporating some laws specific to the industry as well as wider health and safety and environmental laws. New regulations are frequently introduced, with certain requirements coming into force at a later date. As an added complication, since 1998, [different laws](#) have applied in Scotland and Northern Ireland than in England and Wales.

Much of the current legislation originates from the 2008 [EU Waste Framework Directive](#). This introduced:



the 'polluter pays' principle, that companies should take financial responsibility for any negative environmental impact they create



the concept of extended producer responsibility, which promotes environmentally responsible design and planning

A NEW TARGET FOR

70%

OF CONSTRUCTION AND
DEMOLITION WASTE
PRODUCED IN EACH MEMBER
STATE TO BE REUSED,
RECYCLED OR RECOVERED
BY OTHER MEANS





the waste hierarchy, which encourages prevention, minimisation, reuse or recycling of waste over landfill disposal.

Construction waste is classed as a type of ‘controlled waste’, which means that it’s also covered by the [Environmental Protection Act 1990](#) in England, Wales and Scotland. The movement of controlled waste, particularly anything considered hazardous waste, is strictly regulated.

WHAT ARE THE RULES?

Although the legislation varies across different countries within the UK, the same key rules apply:

1

You must ensure that any waste your business produces is:

- stored safely on site
- transported by a registered waste carrier
- disposed of at a licensed facility
- covered by a valid waste transfer note (WTN) or consignment note described correctly on the transfer documentation
- disposed of according to the waste hierarchy.

You must keep records of each movement of waste for two years, or three years for hazardous waste.

2

3 If any one of your sites will produce more than 500kg of hazardous waste in a year, you must register as a hazardous waste producer.

You must ensure that dangerous waste, including asbestos or flammable liquids, is transported under the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009.

4

5 If you carry out any type of waste treatment, this must be covered by an environmental permit. Temporary storage and on-site segregation in preparation for collection is covered by an exemption, as long as all the waste is stored on the same site where it was produced.

FAILURE TO COMPLY WITH WASTE LEGISLATION

Just keeping on top of the relevant legislation is difficult enough. But how can you make sure the workers on each site you control are handling waste competently and, where appropriate, segregating it correctly? And how confident are you that the companies you choose to handle your waste are going to carry out their duty of care responsibly?

The cost of failing to comply with any of the legislation can be steep.



ENVIRONMENT AGENCY SANCTIONS

When actions that are potentially damaging to the environment come to the attention of the [Environment Agency](#), they will generally offer advice and guidance in the first instance. If this doesn't work, or if the agency deems that it won't be effective, it will consider imposing [civil or criminal sanctions](#).

The possibilities include:



warnings



statutory
enforcement
notices



prohibition
notices



fixed penalty
notices



formal
cautions.

The Environment Agency may also:



suspend or revoke
the relevant
environmental
permit



vary the conditions
of a permit



impose additional
licence conditions



or apply for an
injunction.

An [injunction](#) is a court order directing an individual or company to either to stop a particular activity (a prohibitory injunction) or to take particular action (a mandatory injunction). If you fail to comply with the injunction you could face an unlimited fine and up to two years in prison.

If the issue is serious enough, the Environment Agency could decide to take the individuals responsible, or the organisation they represent, straight to the criminal court, which could again lead to prosecution.

According to the latest [Environment Agency statistics](#), there were 131 successful prosecutions in England in 2012-13. These led to five prison sentences served and 15 suspended sentences. There were 52 formal cautions and 116 fines imposed, adding up to a total of £827,940.

THE HIGHEST INDIVIDUAL FINE THAT YEAR WAS
£262,500.

You can see a list of some of the more recent prosecutions by searching under '[enforcement actions](#)' on the Environment Agency's sanctions register.

HEALTH AND SAFETY EXECUTIVE ENFORCEMENT

The [Health and Safety Executive](#) can also take action in cases related to mishandling of waste. When an incident is reported the executive will usually carry out an investigation and may then:

- **serve a notice**
- **withdraw approval**
- **vary a licence, conditions or exemptions**
- **issue a caution**
- **or seek prosecution.**

In 2014 a recycling firm was found guilty of corporate manslaughter and

FINED £500,000

after a worker died due to 'inexcusable neglect'.

THE TRUE PRICE OF NON-COMPLIANCE

Even if you escape prosecution, the media coverage generated is likely to cause serious damage to your company's reputation. This could affect your chances of winning contracts in the future and may even prompt existing clients to terminate their arrangements with you and contract an alternative provider.

On a personal level, the scandal may taint your own good name in the industry, or that of senior executives. As the recent cases mentioned above highlight, the personal cost of non-compliance can be not just life-changing but fatal. This brings home the fact that the legislation exists to protect human health and the environment.



WHAT'S THE SOLUTION?

As you can't personally keep an eye on compliance across all the sites you control, one option is to delegate responsibility to other employees. For example you could appoint a monitor on each site to take charge of compliance. However you will need to help them keep up-to-date with the latest changes to legislation.

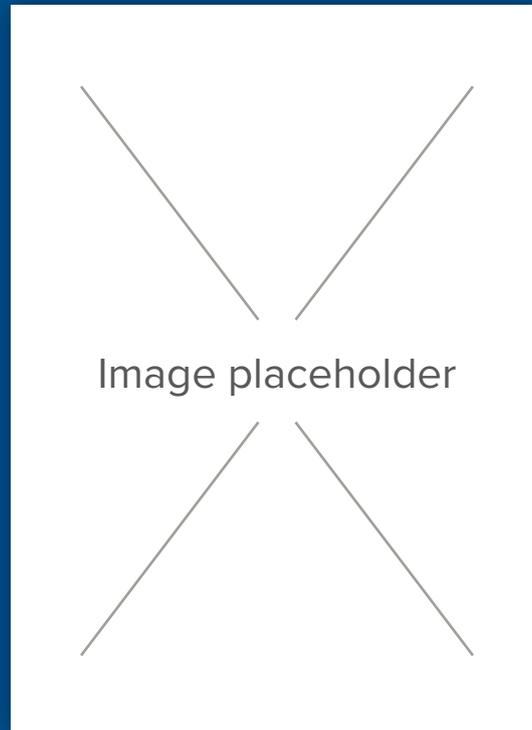
Another possibility is to create a specific compliance officer role, so a particular employee is dedicated to maintaining compliance with all the relevant legislation across all the sites you operate.

Alternatively, you could delegate to a third party organisation, such as an outsourced waste management provider with a dedicated environmental and compliance team. They should be able to share the benefit of their expertise to help you stay compliant across all the sites you control.

They should also provide technical solutions that will help you monitor compliance on all your sites remotely, for example giving you digital access to the WTN or consignment note for every waste collection or drop-off. Whichever option you go for, trust will be an essential component, as the cost of non-compliance (to finances as well as reputation) can be very high for all parties involved.

TAKEAWAYS

- ✓ The legislation surrounding the management of construction waste is highly complex.
- ✓ New regulations come into force frequently and different laws apply in different parts of the UK.
- ✓ The costs of non-compliance frequently includes financial penalties and custodial sentences.
- ✓ Failure to comply can also result in damage to your personal reputation and that of your company.
- ✓ Ensuring compliance across multiple sites can be challenging, and it's essential to have full confidence in any person or company to whom you entrust the task of managing it.



Outsourcing your waste management to a reliable provider could give you access to valuable resources to help you manage compliance as well as many additional benefits.

**DISCOVER HOW OUTSOURCED
WASTE MANAGEMENT WILL HELP
YOU TO OBTAIN A BETTER DEAL**

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