

Text of Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14th June, 2006 on shipments of waste as at October 2018 as modified to apply in Guernsey

Background Notes.

1. This is an informal document provided to assist the reader. It shows how Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14th June, 2006 on shipments of waste ("the EU Waste Shipment Regulation") applies in Guernsey, marked up to show the modifications made by the Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018 ("the Ordinance") as at the date the Ordinance came into force. The modifications are shown in square brackets. The text excludes the recitals to the EU Regulation.

Whilst it is believed to be accurate, it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions and no liability is accepted for any loss arising from its use. The authoritative text of the modifications to the EU Regulation is as shown in the Schedule to the Ordinance.

2. This document shows the text of the EU Regulation as modified at the date the Ordinance came into force and so will not include subsequent amendments made to the EU Regulation or repeals and replacements of legislation referred to in the EU Regulation. Significant amendments to the EU Regulation will be made available at the Office of the Director of Environmental Health and Pollution Regulation, electronic versions will be available from European Commission websites (e.g EUR-Lex) and hard copies in the Official Journal of the European Communities.

3. To assist the reader the text of the EU Regulation as modified has been amended to refer specifically to the Director of Environmental Health and Pollution Regulation where the Director is the competent authority concerned.

4. Certain additional footnotes, indicated in italics, are included for the assistance of the reader. These were not in the original text of the EU Regulation or added by the modifications made by the Ordinance.

5. The text of the EU Regulation as modified retains certain references to competent authorities other than the Director of Environmental Health and Pollution Regulation and to

persons involved in a shipment of waste who are not carrying on an activity in Guernsey in relation to a shipment of waste. The Ordinance does not confer or impose functions on those competent authorities or other persons and the text is retained to clarify the context of functions which are conferred or imposed on persons who are carrying on an activity in relation to a shipment of waste in Guernsey.

6. Reference to compliance with, or anything being done in accordance with, the requirements of an Article of the EU Regulation (however worded) are to be read as referring to compliance with the equivalent national legislation where referring to a person carrying on an activity in relation to a waste shipment outside Guernsey (for example, the EU Regulation where referring to an activity being carried on in an EU country).

TITLE I SCOPE AND DEFINITIONS

Article 1

Scope

1. This Regulation establishes procedures and control regimes for the shipment of waste, depending on the origin, destination, and route of the shipment, the type of waste shipped and the type of treatment to be applied to the waste at its destination.
2. This Regulation shall apply to shipments of waste:
 - (a) [...]
 - (b) imported into [Guernsey] from [...] countries [outside Guernsey];
 - (c) exported from [Guernsey] to [...] countries [outside Guernsey];
 - (d) in transit through [Guernsey], on the way from and to [...] countries [outside Guernsey].
3. The following shall be excluded from the scope of this Regulation:

- (a) the offloading to shore of waste, including waste water and residues, generated by the normal operation of ships and offshore platforms, provided that such waste is subject to the requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (Marpol 73/78), or other binding international instruments;
- (b) waste generated on board vehicles, trains, aeroplanes and ships, until such waste is offloaded in order to be recovered or disposed of;
- (c) shipments of radioactive waste as defined in Article 5 of Council Directive 2006/117/EURATOM of 20TH November, 2006 on the supervision and control of shipments of radioactive waste and spent fuel^a;
- (d) shipments which are subject to the approval requirements of Regulation (EC) No 1774/2002^b;
- (e) shipments of the waste referred to in Article 2(1)(d) and (e) and 2(2)(a) of Directive 2008/98/EC^c, where such shipments are already covered by other European Community legislation containing similar provisions;
- (f) shipments of waste from the Antarctic into Guernsey which are in accordance with the requirements of the Protocol on Environmental Protection to the Antarctic Treaty (1991);
- (g) [...]
- (h) shipments of CO₂ for the purposes of geological storage in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the

^a OJ L 337, 5.12.2006, p. 21.

^b OJ L 273, 10.10.2002, p. 1.

^c OJ L 312, 22.11.2008, p. 3.

geological storage of carbon dioxide^d,

(i) ships flying the flag of a Member State [of the European Union] falling under the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council^e.

4. Shipments of waste from the Antarctic to countries outside [Guernsey], which transit through [Guernsey], shall be subject to Articles 36 and 49.

5. [...]

Article 2

Definitions

For the purposes of this Regulation:

1. ‘waste’ is as defined in Article 3(1) of Directive 2008/98/EC;

2. ‘hazardous waste’^f is as defined in Article 3(2) of Directive 2008/98/EC;

3. ‘mixture of wastes’ means waste that results from an intentional or unintentional mixing of two or more different wastes and for which mixture no single entry exists in Annexes III, IIIB, IV and IVA. Waste shipped in a single shipment of wastes, consisting of two or more wastes, where each waste is separated, is not a mixture of wastes;

4. ‘disposal’ is as defined in Article 3(19) of Directive 2008/98/EC;

^d OJ L 140, 5.6.2009, p. 114.

^e Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1.).

^f [The same wastes are defined as specially controlled waste under the Waste Control and Disposal (Specially Controlled Waste) Regulations, 2010 (G.S.I. No. 47 of 2010).]

5. 'interim disposal' means disposal operations D 13 to D 15 as defined in Annex I to Directive 2008/98/EC;
6. 'recovery' is as defined in Article 3(15) of Directive 2008/98/EC;
7. 'interim recovery' means recovery operations R 12 and R 13 as defined in Annex II of Directive 2008/98/EC;
- 7a. 're-use' is as defined in Article 3(13) of Directive 2008/98/EC of the European Parliament and of the Council^g;
8. 'environmentally sound management' means taking all practicable steps to ensure that waste is managed in a manner that will protect human health and the environment against adverse effects which may result from such waste;
9. 'waste producer' is anyone whose activities produce waste (original waste producer) and/or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste (new waste producer) (as defined in Article 3(5) of Directive 2008/98/EC);
10. 'waste holder' is the waste producer or the natural or legal person who is in possession of it (and as defined in Article 3(6) of Directive 2008/98/EC);
11. 'collector' is anyone carrying out waste collection as defined in Article 3(10) of Directive 2008/98/EC;
12. 'dealer' is anyone who acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste, and as defined in 3(7) of Directive 2008/98/EC;

^g Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

13. 'broker' is anyone arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste, as defined in Article 3(8) of Directive 2008/98/EC;
14. 'consignee' means the person or undertaking under the jurisdiction of the country of destination to whom or to which the waste is shipped for recovery or disposal;
15. 'notifier' means:
 - (a) in the case of a shipment originating from [Guernsey], any natural or legal person under the jurisdiction of [Guernsey] who intends to carry out a shipment of waste or intends to have a shipment of waste carried out and to whom the duty to notify is assigned. The notifier is one of the persons or bodies listed below, selected in accordance with the ranking established in this listing:
 - (i) the original waste producer; or
 - (ii) the licensed new waste producer who carries out operations prior to shipment;
or
 - (iii) a licensed collector who, from various small quantities of the same type of waste collected from a variety of sources, has assembled the shipment which is to start from a single notified location; or
 - (iv) a registered dealer who has been authorised in writing by the original waste producer, new waste producer or licensed collector specified in (i), (ii) and (iii) to act on his/her behalf as notifier;
 - (v) a registered broker who has been authorised in writing by the original waste producer, new waste producer or licensed collector specified in (i), (ii) and (iii) to act on his/her behalf as notifier;

- (vi) where all of the persons specified in (i), (ii), (iii), (iv) and (v) if applicable, are unknown or insolvent, the waste holder.

Should a notifier specified in (iv) or (v) fail to fulfil any of the take-back obligations set out in Articles 22 to 25, the original waste producer, new waste producer or licensed collector specified in (i), (ii) or (iii) respectively who authorised that dealer or broker to act on his/her behalf shall be deemed to be the notifier for the purposes of the said take-back obligations. In circumstances of illegal shipment notified by a dealer or broker specified in (iv) or (v), the person specified in (i), (ii) or (iii) who authorised that dealer or broker to act on his/her behalf shall be deemed to be the notifier for the purposes of this Regulation;

- (b) in the case of import into, or transit through, [Guernsey] of waste that does not originate in [Guernsey], any of the following natural or legal persons under the jurisdiction of the country of dispatch who intends to carry out a shipment of waste or intends to have, or who has had, a shipment of waste carried out, being either:
 - (i) the person designated by the law of the country of dispatch; or, in the absence of any such designation,
 - (ii) the waste holder at the time the export took place;

- 16. 'Basel Convention' means the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal^h;
- 17. 'OECD Decision' means Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations;
- 18. 'competent authority' means:

^h 1673 U.N.T.S. 126.

- (a) in the case of Member States [of the European Union], the body designated by the Member State concerned in accordance with Article 53 [of this Regulation as it applies in the European Union]; or
 - (b) in the case of a non-Member State [of the European Union] that is a Party to the Basel Convention, the body designated by that country as the competent authority for the purposes of that Convention in accordance with Article 5 thereof; or
 - (c) in the case of any country not referred to in either (a) or (b), the body that has been designated as the competent authority by the country or region concerned or, in the absence of such designation, the regulatory authority for the country or region, as appropriate, which has jurisdiction over shipments of waste for recovery or disposal or transit, as the case may be;
19. ‘competent authority of dispatch’ means the competent authority for the area from which the shipment is planned to be initiated or is initiated;
20. ‘competent authority of destination’ means the competent authority for the area to which the shipment is planned or takes place, or in which waste is loaded prior to recovery or disposal in an area not under the national jurisdiction of any country;
21. ‘competent authority of transit’ means the competent authority for any country, other than that of the competent authority of dispatch or destination, through which the shipment is planned or takes place;
22. ‘country of dispatch’ means any country from which a shipment of waste is planned to be initiated or is initiated;
23. ‘country of destination’ means any country to which a shipment of waste is planned or takes place for recovery or disposal therein, or for the purpose of loading prior to recovery or disposal in an area not under the national jurisdiction of any country;
24. ‘country of transit’ means any country, other than the country of dispatch or destination, through which a shipment of waste is planned or takes place;

- [24A. 'country' includes a territory;]
- [24B. 'Director' means the Director of Environmental Health and Pollution Regulation appointed under section 4 of the Environmental Pollution (Guernsey) Law, 2004,]
- [24C. 'Guernsey' includes Herm and Jethou and all other islands, islets and rocks around the coast of Guernsey, whether or not attached at low water and the territorial waters adjacent to Guernsey,]
- [24D. 'licensed' means licensed by the Director under section 15 of the Environmental Pollution (Guernsey) Law, 2004,]
- [24E. 'registered' means registered by the Director under section 15 of the Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018,]
25. 'area under the national jurisdiction of a country' means any land or marine area within which a state exercises administrative and regulatory responsibility in accordance with international law as regards the protection of human health or the environment;
26. [...];
27. ['officer of customs and excise' means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972;]
28. [...]
29. [...]
30. 'import' means any entry of waste into [Guernsey] but excluding transit through [Guernsey];
31. 'export' means the action of waste leaving [Guernsey] but excluding transit through [Guernsey];

32. 'transit' means a shipment of waste or a planned shipment of waste through one or more countries other than the country of dispatch or destination;
33. 'transport' means the carriage of waste by road, rail, air, sea or inland waterways;
34. 'shipment' means the transport of waste destined for recovery or disposal which is planned or takes place:
- (a) between a country and another country; or
 - (b) [...]
 - (c) between a country and any land area which is not part of any country under international law; or
 - (d) between a country and the Antarctic; or
 - (e) from one country through any of the areas referred to above; or
 - (f) [...]
 - (g) from a geographic area not under the jurisdiction of any country, to a country;
35. 'illegal shipment' means any shipment of waste effected:
- (a) without notification to all competent authorities concerned pursuant to this Regulation;
 - (b) without the consent of the competent authorities concerned pursuant to this Regulation; or
 - (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or

- (d) in a way which is not specified materially in the notification or movement documents;
or
- (e) in a way which results in recovery or disposal in contravention of [Guernsey law] or [any relevant] international [agreements the UK's ratification of which is extended to Guernsey]; or
- (f) contrary to Articles 34, 36, 39, [...], 41 [or] 43; or
- (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4) has resulted from:
 - (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
 - (ii) non-compliance with Article 3(4),
 - (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

35a. “inspection” means actions undertaken by the authorities involved to ascertain whether an establishment, an undertaking, a broker, a dealer, a shipment of waste or the related recovery or disposal complies with the relevant requirements set out in this Regulation.

TITLE II

[WASTE SHIPMENTS-COMMON PROVISION]

Article 3

Overall procedural framework

1. Shipments of the following wastes shall be subject to the procedure of prior written notification and consent as laid down in the provisions of this Title [subject to the adaptations and additions in Articles 35, 38, 42, 44, 47 and 48 in relation to particular categories of shipment]:

(a) if destined for disposal operations:

all wastes;

(b) if destined for recovery operations:

(i) wastes listed in Annex IV, which include, inter alia, wastes listed in Annexes II and VIII to the Basel Convention,

(ii) wastes listed in Annex IVA,

(iii) wastes not classified under one single entry in either Annex III, IIIB, IV or IVA,

(iv) mixtures of wastes not classified under one single entry in either Annex III, IIIB, IV or IVA unless listed in Annex IIIA.

2. Shipments of the following wastes destined for recovery shall be subject to the general information requirements laid down in Article 18, if the amount of waste shipped exceeds 20 kg:

(a) waste listed in Annex III or IIIB;

(b) mixtures, not classified under one single entry in Annex III, of two or more wastes listed in Annex III, provided that the composition of these mixtures does not impair their environmentally sound recovery and provided that such mixtures are listed in Annex IIIA, in accordance with Article 58 as it applies in the European Union.

3. For wastes listed in Annex III, in exceptional cases, the relevant provisions shall apply as if they had been listed in Annex IV, if they display any of the hazardous characteristics listed in Annex III to Directive 2008/98/EC. These cases shall be treated in accordance with Article 58 as it applies in the European Union.

4. Shipments of waste explicitly destined for laboratory analysis to assess either its physical or chemical characteristics or to determine its suitability for recovery or disposal operations shall not be subject to the procedure of prior written notification and consent as described in paragraph 1. Instead, the procedural requirements of Article 18 shall apply. The amount of such waste exempted when explicitly destined for laboratory analysis shall be determined by the minimum quantity reasonably needed to adequately perform the analysis in each particular case, and shall not exceed 25 kg.
5. Shipments of mixed municipal waste (waste entry 20 03 01) collected from private households, including where such collection also covers such waste from other waste producers, to recovery or disposal facilities shall, in accordance with this Regulation, be subject to the same provisions as shipments of waste destined for disposal.

CHAPTER 1

Prior written notification and consent

Article 4

Notification

Where the notifier intends to ship waste as referred to in Article 3(1)(a) or (b), he/she shall submit a prior written notification to and through the competent authority of dispatchⁱ and, if submitting a general notification, comply with Article 13.

When a notification is submitted, the following requirements shall be fulfilled:

1. notification and movement documents:

Notification shall be effected by means of the following documents:

- (a) the notification document set out in Annex IA; and
- (b) the movement document set out in Annex IB.

ⁱ [The Director in the case of exports from Guernsey.]

In submitting a notification, the notifier shall fill in the notification document and, where relevant, the movement document.

When the notifier is not the original waste producer in accordance with point 15(a)(i) of Article 2, the notifier shall ensure that this waste producer or one of the persons indicated in point 15(a)(ii) or (iii) of Article 2, where practicable, also signs the notification document set out in Annex IA.

The notification document and the movement document shall be issued to the notifier by the [Director, as] competent authority of dispatch[, in the case of exports from Guernsey^j]:

2. information and documentation in the notification and movement documents:

The notifier shall supply on, or annex to, the notification document information and documentation as listed in Annex II, Part 1. The notifier shall supply on, or annex to, the movement document information and documentation referred to in Annex II, Part 2, to the extent possible at the time of notification.

A notification shall be considered properly carried out when the competent authority of dispatch^k is satisfied that the notification document and movement document have been completed in accordance with the first subparagraph;

3. additional information and documentation:

If requested by any of the competent authorities concerned, the notifier shall supply additional information and documentation. A list of additional information and documentation that may be requested is set out in Annex II, Part 3.

^j [For imports into and transits through Guernsey the competent authority in the country of dispatch will issue the notification and movement documents in accordance with relevant national legislation e.g. the EU Transfrontier Shipment Regulation in the case of EU countries.]

^k [The Director in the case of exports from Guernsey.]

A notification shall be considered properly completed when the competent authority of destination^[**l**] is satisfied that the notification document and the movement document have been completed and that the information and documentation as listed in Annex II, Parts 1 and 2, as well as any additional information and documentation requested in accordance with this paragraph and as listed in Annex II, Part 3, have been supplied by the notifier;

4. conclusion of a contract between the notifier and the consignee:

The notifier shall conclude a contract as described in Article 5 with the consignee for the recovery or disposal of the notified waste.

Evidence of this contract or a declaration certifying its existence in accordance with Annex IA shall be supplied to the competent authorities involved at the time of notification. A copy of the contract or such evidence to the satisfaction of the competent authority concerned shall be provided by the notifier or consignee upon request by the competent authority;

5. establishment of a financial guarantee or equivalent insurance:

A financial guarantee or equivalent insurance shall be established as described in Article 6. A declaration to this effect shall be made by the notifier through completion of the appropriate part of the notification document set out in Annex IA.

The financial guarantee or equivalent insurance (or if the competent authority so allows, evidence of that guarantee or insurance or a declaration certifying its existence) shall be supplied as part of the notification document at the time of notification or, if the competent authority so allows, pursuant to national legislation, at such time before the shipment starts^[**m**];

6. Coverage of the notification:

^{**l**} [The Director in the case of imports into Guernsey.]

^{**m**} [For exports from Guernsey, see section 5 of the Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018.]

A notification shall cover the shipment of waste from its initial place of dispatch and including its interim and non-interim recovery or disposal.

If subsequent interim or non-interim operations take place in a country other than the first country of destination, the non-interim operation and its destination shall be indicated in the notification and Article 15(f) shall apply.

Only one waste identification code shall be covered for each notification, except for:

- (a) wastes not classified under one single entry in either Annex III, IIIB, IV or IVA. In this case, only one type of waste shall be specified;
- (b) mixtures of wastes not classified under one single entry in either Annex III, IIIB, IV or IVA unless listed in Annex IIIA. In this case, the code for each fraction of the waste shall be specified in order of importance.

Article 5

Contract

1. All shipments of waste for which notification is required shall be subject to the requirement of the conclusion of a contract between the notifier and the consignee for the recovery or disposal of the notified waste.
2. The contract shall be concluded and effective at the time of notification and for the duration of the shipment until a certificate is issued in accordance with Article 15(e), Article 16(e) or, where appropriate, Article 15(d).
3. The contract shall include obligations:
 - (a) on the notifier to take the waste back if the shipment or the recovery or disposal has not been completed as intended or if it has been effected as an illegal shipment, in accordance with Article 22 and Article 24(2);

- (b) on the consignee to recover or dispose of the waste if it has been effected as an illegal shipment, in accordance with Article 24(3); and
 - (c) on the [operator of the] facility to provide, in accordance with Article 16(e), a certificate that the waste has been recovered or disposed of, in accordance with the notification and the conditions specified therein and the requirements of this Regulation.
4. If the waste shipped is destined for interim recovery or disposal operations, the contract shall include the following additional obligations:
- (a) the obligation on the [operator of the] facility of destination to provide, in accordance with Article 15(d) and, where appropriate, Article 15(e), the certificates that the waste has been recovered or disposed of in accordance with the notification and the conditions specified therein and the requirements of this Regulation; and
 - (b) the obligation on the consignee to submit, where applicable, a notification to the initial competent authority of the initial country of dispatch in accordance with Article 15(f)(ii).
5. If the waste is shipped between two establishments under the control of the same legal entity, the contract may be replaced by a declaration by the entity in question undertaking to recover or dispose of the notified waste.

Article 6

Financial guarantee

1. All shipments of waste for which notification is required shall be subject to the requirement of a financial guarantee or equivalent insurance covering:
- (a) costs of transport;
 - (b) costs of recovery or disposal, including any necessary interim operation; and
 - (c) costs of storage for 90 days.

2. The financial guarantee or equivalent insurance is intended to cover costs arising in the context of:
 - (a) cases where a shipment or the recovery or disposal cannot be completed as intended, as referred to in Article 22; and
 - (b) cases where a shipment or the recovery or disposal is illegal as referred to in Article 24.
3. The financial guarantee or equivalent insurance shall be established by the notifier or by another natural or legal person on its behalf and shall be effective at the time of the notification or, if the competent authority which approves the financial guarantee or equivalent insurance so allows, at the latest when the shipment starts, and shall apply to the notified shipment at the latest when the shipment starts.
4. [Where the Director is the] competent authority of dispatch[,ⁿ the Director] shall approve the financial guarantee or equivalent insurance, including the form, wording and amount of the cover[^o].

However, in cases of import into [Guernsey, the Director] shall review the amount of cover and, if necessary, approve an additional financial guarantee or equivalent insurance.

5. The financial guarantee or equivalent insurance shall be valid for and cover a notified shipment and completion of recovery or disposal of the notified waste.

ⁿ [In the case of exports from Guernsey.]

^o [For imports into and transits through Guernsey the competent authority in the country of dispatch will approve the financial guarantee or equivalent insurance etc. in accordance with relevant national legislation e.g. the EU Regulation in the case of EU countries. Such approval is otherwise given by the competent authority of dispatch in accordance with relevant national legislation.]

The financial guarantee or equivalent insurance shall be released when the competent authority concerned has received the certificate referred to in Article 16(e) or, where appropriate, in Article 15(e) as regards interim recovery or disposal operations.

6. By way of derogation from paragraph 5, if the waste shipped is destined for interim recovery or disposal operations and a further recovery or disposal operation takes place in the country of destination, the financial guarantee or equivalent insurance may be released when the waste leaves the interim facility and the competent authority concerned has received the certificate referred to in Article 15(d). In this case, any further shipment to a recovery or disposal facility shall be covered by a new financial guarantee or equivalent insurance unless the competent authority of destination is satisfied that such a financial guarantee or equivalent insurance is not required. In these circumstances, [where] the [Director is the] competent authority of destination^P, the Director] shall be responsible for obligations arising in the case of an illegal shipment or for take-back where the shipment or the further recovery or disposal operation cannot be completed as intended^Q].
7. [Where the Director] has approved the financial guarantee or equivalent insurance[, the Director] shall have access thereto and shall make use of the funding, including for the purpose of payments to other authorities concerned, in order to meet the obligations arising in accordance with Articles 23 and 25.
8. In the case of a general notification pursuant to Article 13, a financial guarantee or equivalent insurance covering parts of the general notification may be established, instead of one covering the entire general notification. In such cases, the financial guarantee or equivalent insurance shall apply to the shipment at the latest when the notified shipment it covers starts.

The [Director shall release a] financial guarantee or equivalent insurance [approved by the Director] when the [Director] has received the certificate referred to in Article 16(e) or,

^P [In the case of imports into Guernsey.]

^Q [In the case of exports from and transits through Guernsey responsibility for the same is in accordance with relevant national legislation of the relevant country of destination e.g. the EU Regulation in the case of EU countries.]

where appropriate, in Article 15(e) as regards interim recovery or disposal operations for the relevant waste^r]. Paragraph 6 shall apply mutatis mutandis.

9. [...]

Article 7

Transmission of the notification by the competent authority of dispatch

1. Once the notification has been properly carried out, as described in the second subparagraph, point 2 of Article 4, [where] the [Director is the] competent authority of dispatch^s, the Director] shall retain a copy of the notification and transmit the notification to the competent authority of destination with copies to any competent authority(ies) of transit, and shall inform the notifier of the transmission. This shall be done within three working days of receipt of the notification^t].
2. If the notification is not properly carried out [where] the [Director is the] competent authority of dispatch[, the Director] shall request information and documentation from the notifier in accordance with the second subparagraph, point 2 of Article 4^u].

This shall be done within three working days of receipt of the notification.

In such cases[, where] the [Director is the] competent authority of dispatch[, the Director] shall have three working days following the receipt of the information and/or documentation requested in which to comply with paragraph 1.

^r [Release of financial guarantees and equivalent insurance approved by other competent authorities concerned is in accordance with relevant national legislation e.g. the EU Regulation in the case of EU countries.]

^s [In the case of exports from Guernsey.]

^t [In the case of imports and transits through Guernsey the notification is transmitted by the competent authority concerned in accordance with relevant national legislation e.g. the EU Regulation in the case of EU countries.]

^u [In the case of imports and transits through Guernsey where another competent authority is the competent authority of dispatch that authority may request information in accordance with relevant national legislation.]

3. Once the notification has been properly carried out, as described in the second subparagraph, point 2 of Article 4 [where] the [Director is the] competent authority of dispatch, the Director may decide, within three working days, not to proceed with the notification, if [the Director] has objections to the shipment in accordance with Articles 11 and 12^V].

[The Director] shall immediately inform the notifier of [the Director's] decision and of these objections.

4. If, within 30 days of receipt of the notification, [where] the [Director is the] competent authority of dispatch[, the Director] has not transmitted the notification as required under paragraph 1, [the Director] shall provide the notifier with a reasoned explanation upon his/her request. This shall not apply when the request for information, referred to in paragraph 2, has not been complied with.

Article 8

Requests for information and documentation by the competent authorities concerned and acknowledgement by the competent authority of destination

1. Following the transmission of the notification by the competent authority of dispatch, [where the Director is one] of the [other] competent authorities concerned [and] considers that additional information and documentation is required as referred to in the second subparagraph, point 3 of Article 4, [the Director] shall request such information and documentation from the notifier and inform the other competent authorities of such request. This shall be done within three working days of receipt of the notification. In such cases the [Director] shall have three working days following the receipt of the information and documentation requested in which to inform the competent authority of destination^W].

^V [In the case of imports and transits through Guernsey where another competent authority is the competent authority of dispatch it may have objections in accordance with relevant national legislation.]

^W [Other competent authorities concerned may request additional information and documentation in accordance with relevant national legislation.]

2. When the [Director is the] competent authority of destination [and] considers that the notification has been properly completed, as described in the second subparagraph, point 3 of Article 4, [the Director] shall send an acknowledgement to the notifier and copies to the other competent authorities concerned. This shall be done within three working days of receipt of the properly completed notification.
3. If, within 30 days of receipt of the notification, [where] the [Director is the] competent authority of destination[, the Director] has not acknowledged the notification as required under paragraph 2, [the Director] shall provide the notifier, upon his/her request, with a reasoned explanation.

Article 9

Consents by the competent authorities of destination, dispatch and transit and time periods for transport, recovery or disposal

1. [Where the Director is any of the] competent authorities of destination, dispatch and transit[, the Director] shall have 30 days following the date of transmission of the acknowledgement by the competent authority of destination in accordance with Article 8 in which to take one of the following duly reasoned decisions in writing as regards the notified shipment:
 - (a) consent without conditions;
 - (b) consent with conditions in accordance with Article 10; or
 - (c) objections in accordance with Articles 11 and 12.

Tacit consent by the [Director, where the Director is the] competent authority of transit[,] may be assumed if no objection is lodged within the said 30-day time limit.

2. [Where the Director is any of the] competent authorities of destination, dispatch [or], where appropriate, transit[, the Director] shall transmit [the Director's] decision and the reasons therefor to the notifier in writing within the 30-day time limit referred to in paragraph 1, with copies to the other competent authorities concerned.

3. The [Director] shall signify [the Director's] written consent by appropriately stamping, signing and dating the notification document or [the Director's] copies thereof.
4. A written consent [of the Director] to a planned shipment shall expire one calendar year after it is issued or on such later date as is indicated in the notification document. However, this shall not apply if a shorter period is indicated by the [Director].
5. Tacit consent [by the Director] to a planned shipment shall expire one calendar year after the expiry of the 30-day time limit referred to in paragraph 1.
6. The planned shipment may take place only after fulfilment of the requirements of Article 16(a) and (b) and during the period of validity of the tacit or written consents of all competent authorities.
7. The recovery or disposal of waste in relation to a planned shipment shall be completed no later than one calendar year from the receipt of the waste by the operator of a facility, unless a shorter period is indicated by the competent authorities concerned.
8. The [Director] shall withdraw [the Director's] consent when [the Director has] knowledge that:
 - (a) the composition of the waste is not as notified; or
 - (b) the conditions imposed on the shipment are not respected; or
 - (c) the waste is not recovered or disposed of in compliance with the permit of the [operator of the] facility that performs the said operation; or
 - (d) the waste is to be, or has been, shipped, recovered or disposed of in a way that is not in accordance with the information supplied on, or annexed to, the notification and movement documents.

9. Any withdrawal of consent shall be transmitted by [the Director by] means of official notice to the notifier with copies to the other competent authorities concerned and to the consignee.

Article 10

Conditions for a shipment

1. [Where the Director is any of the] competent authorities of dispatch, destination and transit[, the Director] may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8, lay down conditions in connection with [the Director's] consent to a notified shipment. Such conditions may be based on one or more of the reasons specified in either Article 11 or Article 12.
2. [Where the Director is any of the] competent authorities of dispatch, destination and transit[, the Director] may also, within the 30-day time limit referred to in paragraph 1, lay down conditions in respect of the transport of waste within [Guernsey]. Such transport conditions shall not be more stringent than those laid down in respect of similar shipments occurring wholly within [Guernsey] and shall take due account of existing agreements, in particular relevant international agreements.
3. [Where the Director is any of the] competent authorities of dispatch, destination and transit[, the Director] may also, within the 30-day time limit referred to in paragraph 1, lay down a condition that [the Director's] consent is to be considered withdrawn if the financial guarantee or equivalent insurance is not applicable at the latest when the notified shipment starts, as required by Article 6(3).
4. Conditions shall be transmitted to the notifier in writing by the [Director] with copies to the competent authorities concerned.

Conditions shall be supplied on, or annexed to, the notification document by the [Director].

5. [Where the Director is the] competent authority of destination^x [the Director] may also, within the 30 day time limit referred to in paragraph 1, lay down a condition that the [operator of the] facility which receives the waste [in Guernsey] shall keep a regular record of inputs, outputs and/or balances for wastes and the related recovery or disposal operations as contained in the notification, and for the period of validity of the notification. Such records shall be signed by a person legally responsible for the facility and be sent to the [Director] within one month of completion of the notified recovery or disposal operation.

Article 11

Objections to shipments of waste destined for disposal

1. Where a notification is submitted regarding a planned shipment of waste destined for disposal, the [Director, where the Director is the] competent authorit[y] of destination [or] dispatch may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8, raise reasoned objections based on one or more of the following grounds and [must do so where required under section 14 of the Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018]:
- (a) [...]
 - (b) that the planned shipment or disposal would not be in accordance with [Guernsey] legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in [Guernsey]; or
 - (c) that the notifier or the consignee has previously been convicted of [an offence in relation to] illegal shipment or some other illegal act in relation to environmental protection. In this case, the [Director] may refuse all shipments involving the person in question [and in this paragraph "**offence**" includes an offence under the law of another jurisdiction which would be an offence in Guernsey if the conduct, activity or omission constituting the offence occurred in Guernsey.]; or

^x [In the case of imports into Guernsey.]

- (d) that the notifier or the [operator of the] facility has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or
- (e) that [Guernsey] wishes to exercise its right pursuant to Article 4(1) of the Basel Convention to prohibit the import of hazardous waste or of waste listed in Annex II to that Convention; or
- (f) that the planned shipment or disposal conflicts with obligations resulting from international conventions [the UK's ratification of which is extended to Guernsey]; or
- (g) [...]
 - (i) [...]
 - (ii) [...]
 - (iii) [...]
- (h) [...]
- (i) that the waste is mixed municipal waste collected from private households (waste entry 20 03 01); or
- (j) that the waste concerned will not be treated in accordance with legally binding environmental protection standards in relation to disposal operations established in [Guernsey] legislation [...].

2. [Where the Director is the] competent authority(ies) of transit[, the Director] may, within the 30-day time limit referred to in paragraph 1, raise reasoned objections based only on paragraph 1(b), (c), (d) and (f).

3. [...]

[...]

[...].

4. If, within the 30-day time limit referred to in paragraph 1, the [Director] consider[s] that the problems which gave rise to [the Director's] objections have been resolved, [the Director] shall immediately inform the notifier in writing, with copies to the consignee and to the other competent authorities concerned.
5. If the problems giving rise to the [Director's] objections have not been resolved within the 30-day time limit referred to in paragraph 1, the notification shall cease to be valid. In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise.
6. [...]

Article 12

Objections to shipments of waste destined for recovery

1. Where a notification is submitted regarding a planned shipment of waste destined for recovery, the [Director, where the Director is the] competent [authority] of destination [or] dispatch may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with [relevant national legislation], raise reasoned objections based on one or more of the following grounds and [must do so where required in accordance with section 14 of the Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018]:
 - (a) [...]
 - (b) that the planned shipment or recovery would not be in accordance with [Guernsey] legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in [Guernsey]; or

(c) [...]

[...]

(i) [...]

(ii) [...]

(iii) [...]

(d) that the notifier or the consignee has previously been convicted of [an offence in relation to] illegal shipment or some other illegal act in relation to environmental protection. In this case, the [Director] may refuse all shipments involving the person in question [and in this paragraph "**offence**" includes an offence under the law of another jurisdiction which would be an offence in Guernsey if the conduct, activity or omission constituting the offence occurred in Guernsey]; or

(e) that the notifier or the [operator of the] facility has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or

(f) that the planned shipment or recovery conflicts with obligations resulting from international conventions [the UK's ratification of which is extended to Guernsey]; or

(g) that the ratio of the recoverable and non-recoverable waste, the estimated value of the materials to be finally recovered or the cost of the recovery and the cost of the disposal of the non-recoverable fraction do not justify the recovery, having regard to economic and/or environmental considerations; or

(h) that the waste shipped is destined for disposal and not for recovery; or

(i) [...]

(j) that the waste concerned will not be treated in accordance with legally binding environmental protection standards in relation to recovery operations, or legally binding recovery or recycling obligations established in [Guernsey] legislation[;]

(k) [...]

2. [Where the Director is the] competent [authority] of transit [the Director] may, within the 30-day time limit referred to in paragraph 1, raise reasoned objections to the planned shipment based only on paragraph 1(b), (d), (e) and (f).

3. If, within the 30-day time limit referred to in paragraph 1, the [Director] consider[s] that the problems which gave rise to [the Director's] objections have been resolved, [the Director] shall immediately inform the notifier in writing, with copies to the consignee and to the other competent authorities concerned.

4. If the problems giving rise to the Director's objections are not resolved within the 30-day time limit referred to in paragraph 1, the notification shall cease to be valid. In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise.

5. [...]

6. [...]

Article 13

General notification

1. The notifier may submit a general notification to cover several shipments if, in the case of each shipment:

(a) the waste has essentially similar physical and chemical characteristics; and

(b) the waste is shipped to the same consignee and the same facility; and

(c) the route of the shipment as indicated in the notification document is the same.

2. If, owing to unforeseen circumstances, the same route cannot be followed, the notifier shall inform the competent authorities concerned as soon as possible and, if possible, before the shipment starts if the need for modification is already known.

Where the route modification is known before the shipment starts and involves competent authorities other than those concerned by the general notification, the general notification may not be used and a new notification shall be submitted.

3. The [Director] may make [an] agreement [with the other competent authorities concerned] to the use of a general notification subject to the subsequent provision of additional information and documentation, in accordance with the second subparagraph, points 2 and 3 of Article 4.

Article 14

Pre-consented recovery facilities

1. [Where the Director is the] competent [authority] of destination [having] jurisdiction over specific recovery facilities[, the Director] may decide to issue pre-consents to such facilities.

Such decisions shall be limited to a specific period and may be revoked [by the Director] at any time.

2. In the case of a general notification submitted in accordance with Article 13, the period of validity of the consent referred to in Article 9(4) and (5) may be extended to up to three years by the [Director, where the Director is the] competent authority of destination, in agreement with the other competent authorities concerned.
3. [Where the Director] decide[s] to issue a pre-consent to a facility in accordance with paragraphs 1 and 2[, the Director] shall inform [...], where appropriate, the OECD Secretariat [(through the Secretary of State)] of:

- (a) the name, registration number and address of the recovery facility;

- (b) the description of technologies employed, including R-code(s);
- (c) the wastes as listed in Annexes IV and IVA or the wastes to which the decision applies;
- (d) the total pre-consented quantity;
- (e) the period of validity;
- (f) any change in the pre-consent;
- (g) any change in the information notified; and
- (h) any revocation of the pre-consent.

For this purpose the form set out in Annex VI shall be used.

4. By way of derogation from Articles 9, 10 and 12, the consent given in accordance with Article 9, conditions imposed in accordance with Article 10 or objections raised in accordance with Article 12 by the [Director] shall be subject to a time limit of seven working days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8.
5. Notwithstanding paragraph 4, [where the Director is] the competent authority of dispatch[, the Director] may decide that more time is needed in order to receive further information or documentation from the notifier.

In such cases, [the Director] shall, within seven working days, inform the notifier in writing with copies to the other competent authorities concerned.

The total time needed [by the Director to receive further information or documentation from the notifier] shall not exceed 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8.

Article 15

Additional provisions regarding interim recovery and disposal operations

Shipments of waste destined for interim recovery or disposal operations shall be subject to the following additional provisions:

- (a) Where a shipment of waste is destined for an interim recovery or disposal operation, all the facilities where subsequent interim as well as non-interim recovery and disposal operations are envisaged shall also be indicated in the notification document in addition to the initial interim recovery or disposal operation.
- (b) [Where the Director is the] competent authority[...] of dispatch [or] destination[, the Director] may give [...] consent to a shipment of waste destined for an interim recovery or disposal operation only if there are no grounds for objection, in accordance with Articles 11 or 12, to the shipment(s) of waste to the facilities performing any subsequent interim or non-interim recovery or disposal operations.
- (c) [Where the interim recovery or disposal operation is carried out in Guernsey, within] three days of the receipt of the waste by the [operator of the] facility which carries out this interim recovery or disposal operation, [the operator of] that facility[,] shall provide confirmation in writing that the waste has been received. This confirmation shall be supplied on, or annexed to, the movement document. The said [operator of the] facility shall send signed copies of the movement document containing this confirmation to the notifier and to the competent authorities concerned.
- (d) As soon as possible, but no later than 30 days after completion of the interim recovery or disposal operation [carried out in Guernsey], and no later than one calendar year, or a shorter period in accordance with Article 9(7), following the receipt of the waste, the [operator of the] facility carrying out this operation shall, under its responsibility, certify that the interim recovery or disposal has been completed.

This certificate shall be contained in, or annexed to, the movement document.

The said [operator of the] facility shall send signed copies of the movement document

containing this certificate to the notifier and to the competent authorities concerned.

- (e) When [the operator of] a recovery or disposal facility which carries out an interim recovery or disposal operation [in Guernsey] delivers the waste for any subsequent interim or non-interim recovery or disposal operation to a facility located in the country of destination, [the operator of the facility in Guernsey] shall obtain as soon as possible but no later than one calendar year following delivery of the waste, or a shorter period in accordance with Article 9(7), a certificate from [the operator of] that facility that the subsequent non-interim recovery or disposal operation has been completed.

The [operator of a] facility that carries out an interim recovery or disposal operation [in Guernsey] shall promptly transmit the relevant certificate(s) to the notifier and the competent authorities concerned, identifying the shipment(s) to which the certificate(s) pertain.

- (f) When a delivery as described in subparagraph (e) is made to a facility respectively located:
 - (i) in the initial country of dispatch[...], a new notification shall be required in accordance with the provisions of this Title, or
 - (ii) in a [...] country [outside Guernsey], a new notification shall be required in accordance with the provisions of this Regulation, with the addition that the provisions concerning the competent authorities concerned shall also apply to the initial competent authority of the initial country of dispatch.

Article 16

Requirements following consent to a shipment

After consent has been given to a notified shipment by the competent authorities involved, all undertakings involved shall complete the movement document, or, in the case of a general notification, the movement documents at the points indicated, sign it or them and retain a copy or copies. The following requirements shall be fulfilled:

- (a) Completion of the movement document by the notifier: once the notifier has received consent from the competent authorities of dispatch, destination and transit or, in relation to the competent authority of transit, can assume tacit consent, he/she shall insert the actual date of shipment and otherwise complete the movement document to the extent possible.
- (b) Prior information regarding actual start of shipment: the notifier shall send signed copies of the then completed movement document, as described in point (a), to the competent authorities concerned and to the consignee at least three working days before the shipment starts.
- (c) Documents to accompany each transport: the notifier shall retain a copy of the movement document. The movement document and copies of the notification document containing the written consents and the conditions of the competent authorities concerned shall accompany each transport. [Where waste is received in Guernsey, the] movement document shall be retained by the [operator of a]facility which receives the waste^y.
- (d) Written confirmation of receipt of the waste by the [operator of the] facility: within three days of receipt of the waste [in Guernsey], the facility shall provide confirmation in writing that the waste has been received.

This confirmation shall be contained in, or annexed to, the movement document.

The [operator of the] facility shall send signed copies of the movement document containing this confirmation to the notifier and to the competent authorities concerned^z.

^y [Where waste is received in another country the movement document shall be retained by the operator of the receiving facility in accordance with relevant national legislation.]

^z [Confirmation of receipt of waste in other countries is in accordance with relevant national legislation.]

- (e) Certificate for non-interim recovery or disposal by the [operator of the] facility: as soon as possible, but no later than 30 days after completion of the non-interim recovery or disposal operation [in Guernsey], and no later than one calendar year, or a shorter period in accordance with Article 9(7), following receipt of the waste, the [operator of the] facility carrying out the operation shall, under its responsibility, certify that the non-interim recovery or disposal has been completed.

This certificate shall be contained in, or annexed to, the movement document.

The operator of the facility in Guernsey shall send signed copies of the movement document containing this certificate to the notifier and to the competent authorities concerned^{aa}.

Article 17

Changes in the shipment after consent

1. If any essential change is made to the details and/or conditions of the consented shipment, including changes in the intended quantity, route, routing, date of shipment or carrier, the notifier shall inform the competent authorities concerned and the consignee immediately and, where possible, before the shipment starts.
2. In such cases a new notification shall be submitted, unless all the competent authorities concerned consider that the proposed changes do not require a new notification.
3. Where such changes involve competent authorities other than those concerned in the original notification, a new notification shall be submitted.

CHAPTER 2

General information requirements

^{aa} [Certification of non-interim recovery or disposal in other countries is in accordance with relevant national legislation.]

Article 18

Waste to be accompanied by certain information

1. Waste as referred to in Article 3(2) and (4) that is intended to be shipped shall be subject to the following procedural requirements:
 - (a) In order to assist the tracking of shipments of such waste, the person under the jurisdiction of [Guernsey] who arranges the shipment[, in the case of an export,] shall ensure that the waste is accompanied by the document contained in Annex VII^{bb}].
 - (b) The document contained in Annex VII shall be signed[, in the case of exports,] by the person who arranges the shipment before the shipment takes place and shall be signed by the [operator of the] recovery facility or the laboratory and the consignee[, in the case of imports,] when the waste in question is received.
2. The contract referred to in Annex VII between the person who arranges the shipment and the consignee for recovery of the waste shall be effective when the shipment starts and shall include an obligation, where the shipment of waste or its recovery cannot be completed as intended or where it has been effected as an illegal shipment, on the person who arranges the shipment or, where that person is not in a position to complete the shipment of waste or its recovery (for example, is insolvent), on the consignee, to:
 - (a) take the waste back or ensure its recovery in an alternative way; and
 - (b) provide, if necessary, for its storage in the meantime.

The person who arranges the shipment or the consignee shall provide a copy of the contract upon request by the competent authority concerned.

3. [...]

bb [For imports into and transits through Guernsey tracking is assisted in accordance with the national legislation of the country of dispatch.]

4. The information referred to in paragraph 1 shall be treated as confidential where this is required [under Guernsey law].

CHAPTER 3

General requirements

Article 19

Prohibition on mixing waste during shipment

From the start of the shipment to the receipt in a recovery or disposal facility, waste, as specified on the notification document or as referred to in Article 18, shall not be mixed with other waste.

Article 20

Keeping of documents and information

1. All documents sent to or by the competent authorities in relation to a notified shipment shall be kept in [Guernsey] for at least three years from the date when the shipment starts, by the [Director], the notifier, the consignee and the [operator of the] facility [in Guernsey] which receives the waste.
2. Information given pursuant to Article 18(1) shall be kept in [Guernsey] for at least three years from the date when the shipment starts, by the person who arranges for the shipment, the consignee and the [operator of the] facility [in Guernsey] which receives the waste.

Article 21

[...]

[...]

CHAPTER 4

Take-back obligations

Article 22

Take-back when a shipment cannot be completed as intended

1. Where [the Director is] any of the competent authorities concerned [and] becomes aware that a shipment of waste, including its recovery or disposal, cannot be completed as intended in accordance with the terms of the notification and movement documents and/or contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5, [the Director] shall immediately inform the competent authority of dispatch. Where [the operator of] a recovery or disposal facility [in Guernsey] rejects a shipment received, it shall immediately inform the [Director].
2. [Where the Director is the] competent authority of dispatch[, the Director] shall ensure that, except in cases referred to in paragraph 3, the waste in question is taken back to [Guernsey] by the notifier as identified in accordance with the ranking established in point 15 of Article 2, or, if impracticable, by [the Director] or by a natural or legal person on [the Director's] behalf.

This shall take place within 90 days, or such other period as may be agreed between the [Director and the other] competent authorities concerned, after the [Director] becomes aware or has been advised in writing by the competent authorities of destination or transit that the consented shipment of waste or its recovery or disposal cannot be completed and has been informed of the reason(s) therefor. Such advice may result from information submitted to the competent authorities of destination or transit, inter alia, by other competent authorities.

3. The take-back obligation in paragraph 2 shall not apply if the [Director and the] competent authorities of [...] transit and destination involved in disposing of or recovering the waste are satisfied that the waste can be recovered or disposed of in an alternative way in the country of destination or elsewhere by the notifier or, if impracticable, by the [Director] or by a natural or legal person on [the Director's] behalf.

The take-back obligation in paragraph 2 shall not apply if the waste shipped has, in the course of the operation at the facility concerned, been irreversibly mixed with other waste before a competent authority concerned has become aware of the fact that the notified shipment cannot be completed as referred to in paragraph 1. Such mixture shall be recovered or disposed of in an alternative way in accordance with the first subparagraph.

4. In cases of take-back as referred to in paragraph 2, a new notification shall be submitted, unless the competent authorities concerned agree that a duly reasoned request by the [Director] is sufficient.

A new notification, where appropriate, shall be submitted by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the [Director] or by a natural or legal person on [the Director's] behalf.

[The Director shall not] oppose or object to the return of waste from a shipment that cannot be completed or to the related recovery and disposal operation.

5. In cases of alternative arrangements outside the initial country of destination as referred to in paragraph 3, a new notification, where appropriate, shall be submitted by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the [Director] or by a natural or legal person on [the Director's] behalf.

When such a new notification is submitted by the notifier, this notification shall also be submitted to the [Director].

6. In cases of alternative arrangements in the initial country of destination as referred to in paragraph 3, a new notification shall not be required and a duly reasoned request shall suffice. Such a duly reasoned request, seeking agreement to the alternative arrangement, shall be transmitted to the competent authority of destination and [to the Director] by the initial notifier or, if impracticable, to the competent authority of destination by the [Director].

7. If no new notification is to be submitted in accordance with paragraphs 4 or 6, a new movement document shall be completed in accordance with Article 15 or Article 16 by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the [Director] or by a natural or legal person on [the Director's] behalf.

If a new notification is submitted by the [Director] in accordance with paragraphs 4 or 5, a new financial guarantee or equivalent insurance shall not be required.

8. The obligation of the notifier and the subsidiary obligation of [Guernsey, where it is] the country of dispatch, to take the waste back or arrange for alternative recovery or disposal shall end when the [operator of the] facility issues the certificate of non-interim recovery or disposal as referred to in Article 16(e) or, where appropriate, in Article 15(e). In the cases of interim recovery or disposal referred to in Article 6(6), the subsidiary obligation of [Guernsey, where it is] the country of dispatch[,] shall end when the [operator of the] facility issues the certificate referred to in Article 15(d)^{cc}.

If a[n operator of a] facility issues a certificate of recovery or disposal in such a way as to result in an illegal shipment, with the consequence that the financial guarantee is released, Article 24(3) and Article 25(2) shall apply.

9. Where waste from a shipment which cannot be completed, including its recovery or disposal, is discovered within [Guernsey], the [Director] shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.

Article 23

Costs for take-back when a shipment cannot be completed

1. Costs arising from the return of waste from a shipment that cannot be completed, including costs of its transport, recovery or disposal pursuant to Article 22(2) or (3) and, from the date on which the [Director, where the Director is the] competent authority of dispatch[,] becomes aware that a shipment of waste or its recovery or disposal cannot be completed, storage costs pursuant to Article 22(9) shall be charged:
 - (a) to the notifier as identified in accordance with the ranking established in point 15 of Article 2; or, if impracticable;

^{cc} [Obligations for take-back where another country is the country of dispatch will be in accordance with relevant national legislation e.g. the EU Regulation for EU countries.]

- (b) to other natural or legal persons as appropriate; or, if impracticable;
 - (c) to the [Director, where the Director is the] competent authority of dispatch; or, if impracticable;
 - (d) as otherwise agreed between the competent authorities concerned.
2. This Article shall be without prejudice to [the] provisions [of any other enactment] concerning liability.

Article 24

Take-back when a shipment is illegal

1. Where [the Director] discovers a shipment that [the Director] considers to be an illegal shipment, [the Director] shall immediately inform the other competent authorities concerned.
2. If an illegal shipment is the responsibility of the notifier [and the Director is] the competent authority of dispatch[, the Director] shall ensure that the waste in question is:
 - (a) taken back by the notifier de facto; or, if no notification has been submitted;
 - (b) taken back by the notifier de jure; or, if impracticable;
 - (c) taken back by the [Director] or by a natural or legal person on [the Director's] behalf; or, if impracticable;
 - (d) alternatively recovered or disposed of in the country of destination or [in Guernsey] by the [Director] or by a natural or legal person on [the Director's] behalf; or, if impracticable;
 - (e) alternatively recovered or disposed of in another country by the [Director] or by a natural or legal person on [...] behalf [of the Director] if all the competent authorities concerned agree.

This take-back, recovery or disposal shall take place within 30 days, or such other period as may be agreed between the competent authorities concerned after the [Director] becomes aware of or has been advised in writing by the competent authorities of destination or transit of the illegal shipment and informed of the reason(s) therefor. Such advice may result from information submitted to the competent authorities of destination or transit, inter alia, by other competent authorities.

In cases of take-back as referred to in (a), (b) and (c), a new notification shall be submitted, unless the competent authorities concerned agree that a duly reasoned request by the [Director] is sufficient.

The new notification shall be submitted by the person or [by the Director] as listed in (a), (b) or (c) and in accordance with that order.

[The Director shall not] oppose or object to the return of waste of an illegal shipment. In the case of alternative arrangements as referred to in (d) and (e) by the [Director], a new notification shall be submitted by the [Director] or by a natural or legal person on [the Director's] behalf unless the competent authorities concerned agree that a duly reasoned request by that authority is sufficient.

3. If an illegal shipment is the responsibility of the consignee [and] the [Director is the] competent authority of destination[, the Director] shall ensure that the waste in question is recovered or disposed of in an environmentally sound manner:
 - (a) by the consignee; or, if impracticable,
 - (b) by the [Director] or by a natural or legal person on [the Director's] behalf.

This recovery or disposal shall take place within 30 days, or such other period as may be agreed between the competent authorities concerned after the [Director] becomes aware of or has been advised in writing by the competent authorities of dispatch or transit of the illegal shipment and informed of the reason(s) therefor. Such advice may result from

information submitted to the competent authorities of dispatch and transit, inter alia, by other competent authorities.

To this end, the [Director] shall cooperate [with the other competent authorities concerned], as necessary, in the recovery or disposal of the waste.

4. If no new notification is to be submitted, a new movement document shall be completed in accordance with Article 15 or 16 by the person responsible for take-back or, if impracticable, by the [Director where it is the] initial competent authority of dispatch.

If a new notification is submitted by the [Director], a new financial guarantee or equivalent insurance shall not be required.

5. In particular in cases where responsibility for the illegal shipment cannot be imputed to either the notifier or the consignee, the [Director shall cooperate with the other] competent authorities concerned [...] to ensure that the waste in question is recovered or disposed of.
6. In the cases of interim recovery or disposal referred to in Article 6(6) where an illegal shipment is discovered after completion of the interim recovery or disposal operation, the subsidiary obligation of [Guernsey, where it is] the country of dispatch, to take the waste back or arrange for alternative recovery or disposal shall end when the [operator of the] facility has issued the certificate referred to in Article 15(d).

If a[n operator of a] facility issues a certificate of recovery or disposal in such a way as to result in an illegal shipment, with the consequence that the financial guarantee is released, paragraph 3 and Article 25(2) shall apply.

7. Where the waste of an illegal shipment is discovered within [Guernsey], the [Director] shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.
8. Articles 34 and 36 shall not apply in cases where illegal shipments are returned [from Guernsey] to the country of dispatch and that country of dispatch is a country covered by the prohibitions set out in those Articles.

9. In the case of an illegal shipment as defined in point 35(g) of Article 2, the person who arranges the shipment shall be subject to the same obligations established in this Article as the notifier.
10. This Article shall be without prejudice to [the] provisions [of any other enactment] concerning liability.

Article 25

Costs for take-back when a shipment is illegal

1. Costs arising from the take-back of waste of an illegal shipment, including costs of its transport, recovery or disposal pursuant to Article 24(2) and, from the date on which the competent authority of dispatch becomes aware that a shipment is illegal, storage costs pursuant to Article 24(7), shall be charged to:
 - (a) the notifier de facto, as identified in accordance with the ranking established in point 15 of Article 2; or, if no notification has been submitted;
 - (b) the notifier de jure or other natural or legal persons as appropriate; or, if impracticable;
 - (c) the competent authority of dispatch.
2. Costs arising from recovery or disposal pursuant to Article 24(3), including possible transport and storage costs pursuant to Article 24(7), shall be charged to:
 - (a) the consignee; or, if impracticable;
 - (b) the competent authority of destination.
3. Costs arising from recovery or disposal pursuant to Article 24(5), including possible transport and storage costs pursuant to Article 24(7), shall be charged to:

- (a) the notifier, as identified in accordance with the ranking established in point 15 of Article 2, and/or the consignee, depending upon the decision by the competent authorities involved; or, if impracticable,
 - (b) other natural or legal persons as appropriate; or, if impracticable,
 - (c) the [Director where the Director is the] competent authorit[y] of dispatch [or] destination^{dd}].
4. In the case of an illegal shipment as defined in point 35(g) of Article 2, the person who arranges the shipment shall be subject to the same obligations established in this Article as the notifier.
5. This Article shall be without prejudice to [the] provisions [of any other enactment] concerning liability.

CHAPTER 5

General administrative provisions

Article 26

Format of the communications

1. The information and documents listed below may be submitted by post:
- (a) notification of a planned shipment pursuant to Articles 4 and 13;
 - (b) request for information and documentation pursuant to Articles 4, 7 and 8;

^{dd} [Other relevant competent authorities will be responsible for costs where provided for in accordance with relevant national legislation e.g. the EU Regulation in the case of EU countries.]

- (c) submission of information and documentation pursuant to Articles 4, 7 and 8;
- (d) written consent to a notified shipment pursuant to Article 9;
- (e) conditions for a shipment pursuant to Article 10;
- (f) objections to a shipment pursuant to Articles 11 and 12;
- (g) information on decisions to issue pre-consents to specific recovery facilities pursuant to Article 14(3);
- (h) written confirmation of receipt of the waste pursuant to Articles 15 and 16;
- (i) certificate for recovery or disposal of the waste pursuant to Articles 15 and 16;
- (j) prior information regarding actual start of the shipment pursuant to Article 16;
- (k) information on changes in the shipment after consent pursuant to Article 17; and
- (l) written consents and movement documents to be sent pursuant to Titles IV, V and VI.

2. Subject to the agreement of the competent authorities concerned and the notifier, the documents referred to in paragraph 1 may alternatively be submitted using any of the following methods of communication:

- (a) by fax; or
- (b) by fax followed by post; or
- (c) by e-mail with digital signature. In this case, any stamp or signature required shall be replaced by the digital signature; or

(d) by e-mail without digital signature followed by post.

3. The documents to accompany each transport in accordance with Article 16(c) and Article 18 may be in an electronic form with digital signatures if they can be made readable at any time during the transport and if this is acceptable to the competent authorities concerned.

4. [...]

[...]

Article 27

Language

1. Any notification, information, documentation or other communication submitted pursuant to the provisions of this Title shall be supplied in a language acceptable to the competent authorities concerned.

2. The notifier shall provide the competent authorities concerned with authorised translation(s) into a language which is acceptable to them, should they so request.

Article 28

Disagreement on classification issues

1. If the [Director is the competent authority of dispatch or destination and cannot agree with the other] competent [authority concerned which is the competent] authority of dispatch [or] destination [...] on the classification as regards the distinction between waste and non-waste, the [Director shall treat the] subject matter [...] as if it were waste. This shall be without prejudice to the right of the country of destination to deal with the shipped material in accordance with its national legislation, following arrival of the shipped material and where such legislation is in accordance with [...] international law.

2. If the [Director is the competent authority of dispatch or destination and cannot agree with the other] competent authorit[y concerned which is the competent authority] of dispatch

[or] destination [...] on the classification of the notified waste as being listed in Annex III, IIIA, IIIB or IV, the [Director] shall [...] regard[the waste] as listed in Annex IV.

3. If the [Director is the competent authority of dispatch or destination and cannot agree with the other] competent authorit[y concerned which is the competent authority] of dispatch [or] destination [...] on the classification of the waste treatment operation notified as being recovery or disposal, the [Director shall apply the] provisions regarding disposal[...].
4. Paragraphs 1 to 3 shall apply only for the purposes of this Regulation, and shall be without prejudice to rights of interested parties to resolve any dispute related to these questions before a court of law or tribunal.

Article 29

Administrative costs

[The Director may charge appropriate] and proportionate administrative costs of implementing the notification and supervision procedures and usual costs of appropriate analyses and inspections [...] to the notifier.

Article 30

[...]

1. [...]
2. [...]
3. [...]
4. [...]

CHAPTER 6

[...]

Article 31

[...]

[...]

(a) [...]

(b) [...]

Article 32

[...]

1. [...]

2. [...]

TITLE III

[...]

Article 33

[...]

1. [...]

2. [...]

3. [...]

TITLE IV

EXPORTS FROM [GUERNSEY] TO [...] COUNTRIES [OUTSIDE GUERNSEY]

CHAPTER 1

Exports of waste for disposal

Article 34

Export prohibited except to EFTA countries[, Member States of the EU or Jersey]

1. All exports of waste from [Guernsey] destined for disposal shall be prohibited.
2. The prohibition in paragraph 1 shall not apply to exports of waste destined for disposal in EFTA countries [or Member States of the European Union] which are also Parties to the Basel Convention [or in Jersey].
3. However, exports of waste for disposal to an EFTA country [or a Member State of the European Union] Party to the Basel Convention [or to Jersey] shall also be prohibited:
 - (a) where the EFTA country[, Member State of the European Union or Jersey] prohibits imports of such waste; or
 - (b) if the [Director] has reason to believe that the waste will not be managed in an environmentally sound manner, as referred to in Article 49, in the country of destination concerned.
4. This provision shall be without prejudice to the take-back obligations as laid down in Articles 22 and 24.

Article 35

Procedures when exporting to EFTA countries, [Member States of the EU or Jersey]

1. Where waste is exported from [Guernsey] and destined for disposal in EFTA countries [or Member States of the European Union which are also] Parties to the Basel Convention [or in Jersey], the provisions of Title II shall apply mutatis mutandis, with the adaptations and additions listed in paragraphs 2 and 3.
2. The following adaptations [and additions] shall apply:
 - (a) the competent authority of transit outside [Guernsey] shall have [-]

- (i) in the case of a competent authority of a Member State of the European Union, 30 days in accordance with the EU Regulation;
- (ii) in the case of a competent authority of Alderney or Sark, 30 days in accordance with any Ordinance, relating to the transfrontier shipment of waste, from time to time in force in the island in question and made under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994; or
- (iii) in the case of a competent authority of another country, 60 days, or such other period provided for in accordance with relevant national legislation in the country of transit,]

following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; and

- (b) the [Director] shall take the decision to consent to the shipment as referred to in Article 9 only after having received written consent from the competent authority of destination and, where appropriate, the tacit or written consent of the competent authority of transit outside [Guernsey], and not earlier than [–]

- (i) 30 days, where the country of transit is a Member State of the European Union, in accordance with the EU Regulation;
- (ii) 30 days, where the country of transit is Alderney or Sark in accordance with any Ordinance, relating to the transfrontier shipment of waste, from time to time in force in the island in question and made under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994; or
- (ii) 61 days, where the country of transit is another country, or such other period

provided for in accordance with relevant national legislation in the country of transit,

following the date of transmission of the acknowledgement by the competent authority of transit. The [Director] may take the decision before the conclusion of the [relevant] time limit if [the Director] has the written consent of the other competent authorities concerned.

3. The following additional provisions shall apply:

(a) [...]

(b) [...]

(c) a copy of the movement document shall be delivered by the carrier to [an officer of customs and excise;]

(d) [...]

(e) if, 42 days after the waste has left [Guernsey], the [Director] has received no information from the [operator of the] facility about receipt of the waste, [the Director] shall without delay inform the competent authority of destination; and

(f) the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:

(i) if [the operator of] a facility issues an incorrect certificate of disposal with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to [Guernsey] and from its recovery or disposal in an alternative and environmentally sound manner,

- (ii) within three days of receipt of the waste for disposal, the [operator of the] facility shall send signed copies of the completed movement document, except for the certificate of disposal referred to in subpoint iii, to the notifier and the competent authorities concerned, and
- (iii) as soon as possible but no later than 30 days after completion of disposal, and no later than one calendar year following the receipt of the waste the [operator of the] facility shall, under its responsibility, certify that the disposal has been completed and shall send signed copies of the movement document containing this certification to the notifier and to the competent authorities concerned.

4. The shipment may take place only if:

- (a) the notifier has received written consent from the [Director and the] competent authorities of [...] destination and, where appropriate, transit outside [Guernsey] and if the conditions laid down are met;
- (b) a contract between the notifier and consignee has been concluded and is effective, as required in the second subparagraph, point 4 of Article 4 and in Article 5;
- (c) a financial guarantee or equivalent insurance has been established and is effective, as required in the second subparagraph, point 5 of Article 4 and in Article 6; and
- (d) environmentally sound management, as referred to in Article 49, is ensured.

5. Where waste is exported, it shall be destined for disposal operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

6. If [an officer of customs and excise] discovers an illegal shipment, [the officer] shall without delay inform the [Director.]

(a) [...]

(b) [...]

CHAPTER 2

Exports of waste for recovery

Section 1

Exports to non-OECD Decision countries

Article 36

Exports prohibition

1. Exports from [Guernsey] of the following wastes destined for recovery in countries to which the OECD Decision does not apply are prohibited:
 - (a) wastes listed as hazardous in Annex V;
 - (b) wastes listed in Annex V, Part 3;
 - (c) hazardous wastes not classified under one single entry in Annex V;
 - (d) mixtures of hazardous wastes and mixtures of hazardous wastes with non-hazardous wastes not classified under one single entry in Annex V;
 - (e) wastes that the country of destination has notified to be hazardous under Article 3 of the Basel Convention;
 - (f) wastes the import of which has been prohibited by the country of destination; or
 - (g) wastes which the [Director] has reason to believe will not be managed in an

environmentally sound manner, as referred to in Article 49, in the country of destination concerned.

2. This provision shall be without prejudice to the take-back obligations as set out in Articles 22 and 24.
3. [The Director] may in exceptional cases, adopt provisions to determine, on the basis of documentary evidence provided in an appropriate way by the notifier, that a specific hazardous waste listed in Annex V is excluded from the export prohibition if it does not display any of the properties listed in Annex III to Directive 2008/98/EC, taking into account, as regards the properties H3A to H8, H10 and H11 defined in that Annex, the limit values laid down in Commission Decision 2000/532/EC of 3 May 2000^{ee} replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 7 of Council Directive 2008/98/EC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 7 of Council Directive 2008/98/EC.
4. The fact that waste is not listed as hazardous in Annex V, or that it is listed in Annex V, Part 1, List B, shall not preclude, in exceptional cases, characterisation of such waste as hazardous and therefore subject to the export prohibition if it displays any of the properties listed in Annex III to Directive 2008/98/EC, taking into account, as regards the properties H3A to H8, H10 and H11 defined in that Annex, the limit values laid down in Commission Decision 2000/532/EC, as provided for in Article 7 of Directive 2008/98/EC and in the introductory paragraph of Annex III to this Regulation.
5. In the cases referred to in paragraphs 3 and 4, [the Director] shall inform the envisaged country of destination prior to taking a decision. [The Director] shall notify such cases to the [United Kingdom] before the end of each calendar year [for forwarding] to the Secretariat of the Basel Convention. [...]

Article 37

Procedures when exporting waste listed in Annex III or IIIA

^{ee} [OJ L 226, 6.9.2000, p.3.]

1. [Export for recovery of waste listed in Annex III or IIIA, which is not prohibited under Article 36, to countries to which the OECD Decision does not apply shall be governed by the procedures set out in the Annex to Commission Regulation (EC) No. 1418/2007 of 29th November, 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No. 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply^{ff}].

(i) [...]

(ii) [...]

[...]

(a) [...]

(b) [...]

(c) [...]

2. [Where it is indicated in the Annex to Commission Regulation (EC) No. 1418/2007 that a country, with regard to certain shipments of waste, does not prohibit them or apply the procedure of prior written notification and consent as described in article 35 of this Regulation, article 18 of this Regulation shall apply mutatis mutandis to such shipments.]

[...]

[...]

3. [The references to the procedures of the EU Regulation in the Annex to Commission Regulation (EC) No. 1418/2007 shall be construed as referring to those procedures as set out in this modified EU Regulation.]

^{ff} [OJ L 316, 4. 12. 2007, p. 6.]

4. Where waste is exported, it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.
5. In the case of a shipment of waste not classified under one single entry in Annex III or a shipment of mixtures of wastes not classified under one single entry in Annex III or IIIA or a shipment of waste classified in Annex IIIB, and provided that the export is not prohibited pursuant to Article 36, [a procedure of prior written notification and consent as described in Article 35] shall apply.

Section 2

Exports to OECD-Decision countries

Article 38

Exports of waste listed in Annexes III, IIIA, IIIB, IV and IVA

1. Where waste listed in Annexes III, IIIA, IIIB, IV and IVA, waste not classified or mixtures of wastes not classified under one single entry in either Annex III, IV or IVA are exported from [Guernsey] and destined for recovery in countries to which the OECD Decision applies, with or without transit through countries to which the OECD Decision applies, the provisions of Title II shall apply mutatis mutandis, with the adaptations and additions listed in paragraphs 2, 3 and 5.
2. The following adaptations [and additions] shall apply:
 - (a) mixtures of wastes listed in Annex IIIA destined for an interim operation shall be subject to the procedure of prior written notification and consent if any subsequent interim or non-interim recovery or disposal operation is to take place in a country to which the OECD Decision does not apply;

- (b) waste listed in Annex IIIB shall be subject to the procedure of prior written notification and consent;
 - (c) the consent as required in accordance with [Title II] may be provided in the form of tacit consent from the competent authority of destination outside [Guernsey].
3. As regards exports of waste listed in Annexes IV and IVA, the following additional provisions shall apply:
- (a) the [Director] shall send a stamped copy of [the Director's decision] to consent to the shipment to [an officer of customs and excise];
 - (b) a copy of the movement document shall be delivered by the carrier to [an officer of customs and excise];
 - (c) as soon as the waste has left [Guernsey an officer of customs and excise] shall send a stamped copy of the movement document to the [...] Director stating that the waste has left [Guernsey];
 - (d) if, 42 days after the waste has left [Guernsey], the [Director] has received no information from the operator of the facility about receipt of the waste, [the Director] shall without delay inform the competent authority of destination; and
 - (e) the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:
 - (i) if [the operator of] a facility issues an incorrect certificate of recovery with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to [Guernsey] and from its recovery or disposal in an alternative and environmentally sound manner,
 - (ii) within three days of receipt of the waste for recovery, the [operator of the] facility shall send signed copies of the completed movement document, except

for the certificate of recovery referred to in subpoint iii, to the notifier and the competent authorities concerned, and

- (iii) as soon as possible but no later than 30 days after completion of recovery, and no later than one calendar year following the receipt of the waste the [operator of the] facility shall, under its responsibility, certify that the recovery has been completed and shall send signed copies of the movement document containing this certification to the notifier and to the competent authorities concerned.

4. The shipment may take place only if:

- (a) the notifier has received written consent from the [Director and the] competent authorities of [...] destination and, where appropriate, transit or, if tacit consent from the competent authorities of destination and transit outside [Guernsey] is provided or can be assumed and if the conditions laid down are met;
- (b) Article 35(4)(b), (c) and (d) is complied with.

5. If an export as described in paragraph 1 of waste listed in Annexes IV and IVA is in transit through a country to which the OECD Decision does not apply, the following adaptations shall apply:

- (a) the competent authority of transit to which the OECD Decision does not apply shall have [–]
 - [(i) in the case of a competent authority of a Member State of the European Union, 30 days in accordance with the EU Regulation; or]
 - [(ii) in the case of a competent authority of another country, 60 days or such other period provided for in accordance with relevant national legislation in the country of transit;]

following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; and

(b) the [Director] shall take the decision to consent to the shipment as referred to in Article 9 only after having received tacit or written consent from that competent authority of transit to which the OECD Decision does not apply, and not earlier than [–]

[(i) in the case of a competent authority of a Member State of the European Union, 30 days in accordance with the EU Regulation; or]

[(ii) in the case of a competent authority of another country, 61 days, or such other period provided for in accordance with relevant national legislation in the country of transit;]

following the date of transmission of the acknowledgement of the competent authority of transit. The [Director] may take the decision before the conclusion of the [relevant] time limit if [the Director] has the written consent of the other competent authorities concerned.

6. Where waste is exported [from Guernsey], it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

7. If [an officer of customs and excise] discovers an illegal shipment, [the officer] shall without delay inform the [Director .]

(a) [...]

(b) [...]

CHAPTER 3

General provisions

Article 39

Exports to the Antarctic

Exports of waste from [Guernsey] to the Antarctic shall be prohibited.

Article 40

[...]

1. [...]

2. [...]

3. [...]

TITLE V

IMPORTS INTO [GUERNSEY] FROM [COUNTRIES OUTSIDE GUERNSEY]

CHAPTER 1

Imports of waste for disposal

Article 41

Imports prohibited except [from Alderney, Sark or Jersey]

1. Imports into [Guernsey] of waste destined for disposal shall be prohibited except those from [Alderney, Sark or Jersey.]

(a) [...]

(b) [...]

(c) [...]

(d) [...]

2. [...]

[...]

[...]

[...]

[...]

3. [...]

4. [...]

Article 42

Procedural requirements for imports from [Alderney, Sark or Jersey]

1. Where waste is imported into [Guernsey] and destined for disposal from [Alderney, Sark or Jersey], the provisions of Title II shall apply mutatis mutandis, with the adaptations and additions listed in paragraphs 2 and 3.

2. The following adaptations [and additions] shall apply:

(a) the competent authority of transit outside [Guernsey] shall have [–]

[(i) in the case of a competent authority of a Member State of the European Union, 30 days in accordance with the EU Regulation;]

[(ii) in the case of a competent authority of Alderney or Sark, 30 days in accordance

with any Ordinance, relating to the transfrontier shipment of waste, from time to time in force in the island in question and made under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994; or]

[(iii) in the case of a competent authority of another country, 60 days or such other period provided for in accordance with relevant national legislation in the country of transit,]

following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; [...]

(b) [...]

3. The following additional provisions shall apply:

(a) [...]

(b) the [Director] shall send a stamped copy of [the Director's decision] to consent to the shipment [to an officer of customs and excise];

(c) a copy of the movement document shall be delivered by the carrier to [an officer of customs and excise]; and

(d) having carried out the necessary customs formalities, [an officer of customs and excise] shall send a stamped copy of the movement document to the [Director], stating that the waste has entered [Guernsey].

4. The shipment may take place only if:

- (a) the notifier has received written consent from the competent authorities of dispatch, [the Director] and, where appropriate, [the competent authority of] transit and if the conditions laid down are met;
 - (b) a contract between the notifier and consignee has been concluded and is effective, as required in the second subparagraph, point 4 of Article 4 and in Article 5;
 - (c) a financial guarantee or equivalent insurance has been established and is effective, as required in the second subparagraph, point 5 of Article 4 and in Article 6; and
 - (d) environmentally sound management, as referred to in Article 49, is ensured.
5. If [an officer of customs and excise] discovers an illegal shipment, [the officer] shall without delay inform the [Director who] shall:
- (a) [...]inform the competent authority of dispatch outside [Guernsey]; and
 - (b) ensure detention of the waste until the competent authority of dispatch outside [Guernsey] has decided otherwise and has communicated that decision in writing to the [Director].

CHAPTER 2

Imports of waste for recovery

Article 43

Imports prohibited except from [Alderney, Sark or Jersey or another] OECD Decision country [...]

1. [Imports] into [Guernsey] of waste destined for recovery shall be prohibited except those from [Alderney, Sark or Jersey or another OECD Decision country.]
- (a) [...]
 - (b) [...]

(c) [...]

(d) [...]

(e) [...]

2. [...]

[...]

3. [...]

Article 44

Procedural requirements for imports from [Alderney, Sark, Jersey or another] OECD

Decision country [...]

1. Where waste destined for recovery is imported into [Guernsey] from countries and through countries to which the OECD Decision applies, the provisions of Title II shall apply mutatis mutandis, with the adaptations and additions listed in paragraphs 2 and 3.
2. The following adaptations shall apply:
 - (a) the consent as required in accordance with [Title II] may be provided in the form of tacit consent from the competent authority of dispatch outside [Guernsey];
 - (b) prior written notification in accordance with Article 4 may be submitted by the notifier; [...]
 - (c) [...]
3. In addition, Article 42(3)(b), (c) and (d) shall be complied with.

4. The shipment may take place only if:
- (a) the notifier has received written consent from the [Director and the] competent authorities of dispatch [...] and, where appropriate, transit or if tacit consent from the competent authority of dispatch outside [Guernsey] is provided or can be assumed and if the conditions laid down are met;
 - (b) a contract between the notifier and consignee has been concluded and is effective, as required in the second subparagraph, point 4 of Article 4 and in Article 5;
 - (c) a financial guarantee or equivalent insurance has been established and is effective, as required in the second subparagraph, point 5 of Article 4 and in Article 6; and
 - (d) environmentally sound management, as referred to in Article 49, is ensured.
5. If [an officer of customs and excise] discovers an illegal shipment, [the officer] shall without delay inform the [Director who] shall:
- (a) [...]inform the competent authority of dispatch outside [Guernsey]; and
 - (b) ensure detention of the waste until the competent authority of dispatch outside [Guernsey] has decided otherwise and has communicated that decision in writing to the [Director].

Article 45

[...]

Where waste destined for recovery is imported into the Community:

- (a) from a country to which the OECD Decision does not apply; or
- (b) through any country to which the OECD Decision does not apply and which is also Party to the Basel Convention,

Article 42 shall apply mutatis mutandis.

General provisions

Article 46

[...]

1. [...]

2. [...]

3. [...]

TITLE VI

TRANSIT THROUGH [GUERNSEY] FROM AND TO [...] COUNTRIES [OUTSIDE GUERNSEY]

CHAPTER 1

Transit of waste for disposal

Article 47

Transit through [Guernsey] of waste destined for disposal

Where waste destined for disposal is shipped through [Guernsey] from and to [countries outside Guernsey], Article 42 shall apply mutatis mutandis, with the adaptations and additions listed below:

- (a) the [Director] shall, where appropriate, send a stamped copy of the decision to consent to the shipment or, if [the Director has] provided tacit consent, a copy of the acknowledgement [of receipt of notification to the notifier] in accordance with Article 42(3)(a) to [an officer of customs and excise]; and

- (b) as soon as the waste has left [Guernsey, an officer of customs and excise] shall send a stamped copy of the movement document to the [Director], stating that the waste has left [Guernsey].

CHAPTER 2

Transit of waste for recovery

Article 48

Transit through [Guernsey] of waste destined for recovery

1. Where waste destined for recovery is shipped through [Guernsey] from and to a country to which the OECD Decision does not apply, Article 47 shall apply mutatis mutandis.
2. Where waste destined for recovery is shipped through [Guernsey] from and to a country to which the OECD Decision applies, Article 44 shall apply mutatis mutandis, with the adaptations and additions listed below:
 - (a) the [Director] shall, where appropriate, send a stamped copy of the decision to consent to the shipment or, if [the Director has] provided tacit consent, a copy of the acknowledgement [of receipt of the notification to the notifier to an officer of customs and excise]; and
 - (b) as soon as the waste has left [Guernsey, an officer of customs and excise] shall send a stamped copy of the movement document to the [Director], stating that the waste has left [Guernsey].
3. Where waste destined for recovery is shipped through [Guernsey] from a country to which the OECD Decision does not apply to a country to which the OECD Decision applies or vice versa, paragraph 1 shall apply as regards the country to which the OECD Decision does not apply and paragraph 2 shall apply as regards the country to which the OECD Decision applies.

TITLE VII

OTHER PROVISIONS

CHAPTER 1

Additional obligations

Article 49

Protection of the environment

1. The waste producer, the notifier and other undertakings involved in a shipment of waste and/or its recovery or disposal shall take the necessary steps to ensure that any waste they ship is managed without endangering human health and in an environmentally sound manner throughout the period of shipment and during its recovery and disposal. [...]

2. In the case of exports from [Guernsey], the [Director, as the] competent authority of dispatch [in Guernsey] shall:
 - (a) require and endeavour to secure that any waste exported is managed in an environmentally sound manner throughout the period of shipment, including recovery as referred to in Articles 36 and 38 or disposal as referred to in Article 34, in the [...] country of destination;

 - (b) prohibit an export of waste to [countries outside Guernsey if the Director] has reason to believe that the waste will not be managed in accordance with the requirements of point (a).

Environmentally sound management may, inter alia, be assumed as regards the waste recovery or disposal operation concerned, if the notifier or the competent authority in the country of destination can demonstrate that the facility which receives the waste will be operated in accordance with human health and environmental protection standards that are broadly equivalent to standards established in [Guernsey legislation].

This assumption shall, however, be without prejudice to the overall assessment of environmentally sound management throughout the period of shipment and including

recovery or disposal in the [...] country of destination.

For the purposes of seeking guidance on environmentally sound management, the guidelines listed in Annex VIII may be considered.

3. In the case of imports into [Guernsey], the [Director] shall:
 - (a) require and take the necessary steps to ensure that any waste shipped into [Guernsey] is managed without endangering human health and without using processes or methods which could harm the environment [...] throughout the period of shipment, including recovery or disposal in the country of destination;
 - (b) prohibit an import of waste from [countries outside Guernsey if the Director] has reason to believe that the waste will not be managed in accordance with the requirements of point (a).

Article 50

[...]

1. [...]
2. [...]
- 2a. [...]
 - (a) [...]
 - (b) [...]
 - (c) [...]
 - (d) [...]

(e) [...]

(f) [...]

(g) [...]

[...]

3. [...]

(a) [...]

(b) [...]

(c) [...]

(d) [...]

4. [...]

4a. [...]

(a) [...]

(b) [...]

[...]

4b. [...]

— [...]

— [...]

[...]

4c. [...]

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4d. [...]

4e. [...]

[...]

5. [...]

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(f) [...]

6. [...]

7. [...]

Article 51

Reports [...]

1. Before the end of each calendar year, [the States of Guernsey] shall send the [United Kingdom] a copy of the report for the previous calendar year which [the States of Guernsey have drawn up] in accordance with Article 13(3) of the Basel Convention[...].

2. [...]

3. The reports drawn up by [the States of Guernsey] in accordance with [paragraph 1] shall be submitted to the [United Kingdom] in an electronic version.

4. [...]

Article 52

International cooperation

[The States of Guernsey], where appropriate and necessary in liaison with the [United Kingdom], shall cooperate with other Parties to the Basel Convention and inter-State organisations, inter alia, via the exchange and/or sharing of information, the promotion of environmentally sound technologies and the development of appropriate codes of good practice.

Article 53

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Article 54

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Article 55

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Article 56

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(b) [...]

(c) [...]

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CHAPTER 2

[...]

Article 57

[...]

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Article 58

[...]

1. [...]
- (a) [...]
- (b) [...]
- (c) [...]

Article 58a

[...]

1. [...]
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Article 59^{gg}

[...]

Article 59a

[...]

^{gg} [This Article was deleted from 1st January, 2016 by Regulation (EU) No. 660/2014.]

1. [...]

2. [...]

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Article 60

[...]

1. [...]

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2a. [...]

Article 61

[...]

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Article 62

Transition rules

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Article 63

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ANNEX IA

Notification document for transboundary movements/shipments of waste

ANNEX IB

Movement document for transboundary movements/shipments of waste

ANNEX IC

**SPECIFIC INSTRUCTIONS FOR COMPLETING THE NOTIFICATION AND
MOVEMENT DOCUMENTS**

Annexes 1A to IC are not further modified, in their application to Guernsey, except to substitute one reference in Annex 1C to "the European Union" for "Guernsey"^{hh} and so are not set out here.

^{hh}

[See the Schedule to the Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018.]

ANNEX II
INFORMATION AND DOCUMENTATION RELATED TO NOTIFICATION

Part 1: Information to be supplied on, or annexed to, the notification document:

1. Serial number or other accepted identifier of the notification document and intended total number of shipments.
2. Notifier's name, address, telephone number, fax number, e-mail address, registration number and contact person.
3. If the notifier is not the producer: producer's (producers') name, address, telephone number, fax number, e-mail address and contact person.
4. Dealer's (dealers') or broker's (brokers') name, address, telephone number, fax number, e-mail address and contact person, where the notifier has authorised him in accordance with point 15 of Article 2.
5. Recovery or disposal facility's name, address, telephone number, fax number, e-mail address, registration number, contact person, technologies employed and possible status as pre-consented in accordance with Article 14.

If the waste is destined for an interim recovery or disposal operation, similar information regarding all facilities where subsequent interim and non-interim recovery or disposal operations are envisaged shall be indicated.

If the recovery or disposal facility is listed in Annex I, Category 5 of Directive 2010/75/EU, evidence (e.g. a declaration certifying its existence) of a valid permit issued in accordance with [relevant national legislation] shall be provided.

6. Consignee's name, address, telephone number, fax number, e-mail address, registration

number and contact person.

7. Intended carrier's (carriers') and/or their agent's (agents') name, address, telephone number, fax number, e-mail address, registration number and contact person.
8. Country of dispatch and relevant competent authority.
9. Countries of transit and relevant competent authorities.
10. Country of destination and relevant competent authority.
11. Single notification or general notification. If general notification, period of validity requested.
12. Date(s) envisaged for start of the shipment(s).
13. Means of transport envisaged.
14. Intended routing (point of exit from and entry into each country concerned, including customs offices of entry into and/or exit from and/or export from [Guernsey]) and intended route (route between points of exit and entry), including possible alternatives, also in case of unforeseen circumstances.
15. Evidence of registration of the carrier(s) regarding waste transports (e.g. a declaration certifying its existence).
16. Designation of the waste on the appropriate list, the source(s), description, composition and any hazardous characteristics. In the case of waste from various sources, also a detailed inventory of the waste.
17. Estimated maximum and minimum quantities.

18. Type of packaging envisaged.
19. Specification of the recovery or disposal operation(s) as referred to in Article 3(15) and Annex II and Article 3(19) and Annex I respectively to Directive 2008/98/EC.
20. If the waste is destined for recovery:
 - (a) the planned method of disposal for the non-recoverable fraction after recovery;
 - (b) the amount of recovered material in relation to non-recoverable waste;
 - (c) the estimated value of the recovered material;
 - (d) the cost of recovery and the cost of disposal of the non-recoverable fraction.
21. Evidence of insurance against liability for damage to third parties (e.g. a declaration certifying its existence).
22. Evidence of a contract (or a declaration certifying its existence) between the notifier and consignee for the recovery or disposal of the waste that has been concluded and is effective at the time of the notification, as required in the second subparagraph, point 4 of Article 4 and in Article 5.
23. A copy of the contract or evidence of the contract (or a declaration certifying its existence) between the producer, new producer or collector and the broker or dealer, in the event that the broker or dealer acts as notifier.
24. Evidence of a financial guarantee or equivalent insurance (or a declaration certifying its existence if the competent authority so allows) that has been established and is effective at the time of the notification or, if the competent authority which approves the financial guarantee or equivalent insurance so allows, at the latest when the shipment starts, as

required in the second subparagraph, point 5 of Article 4 and in Article 6.

25. Certification by the notifier that the information is complete and correct to the best of his/her knowledge.
26. When the notifier is not the producer in accordance with point 15(a)(i) of Article 2, the notifier shall ensure that the producer or one of the persons indicated in point 15(a)(ii) or (iii) of Article 2, where practicable, also signs the notification document provided for in Annex IA.

Part 2: Information to be supplied on, or annexed to, the movement document:

Supply all information listed in Part 1, updated in accordance with the points set out below, and the other additional information specified:

1. Serial and total number of shipments.
2. Date shipment started.
3. Means of transport.
4. Carrier's (carriers') name, address, telephone number, fax number and e-mail address.
5. Routing (point of exit from and entry into each country concerned, including customs offices of entry into and/or exit from and/or export from [Guernsey]) and route (route between points of exit and entry), including possible alternatives, also in case of unforeseen circumstances.
6. Quantities.
7. Type of packaging.

8. Any special precautions to be taken by the carrier(s).
9. Declaration by the notifier that all necessary consents have been received from the competent authorities of the countries concerned. This declaration must be signed by the notifier.
10. Appropriate signatures for each custody transfer.

Part 3: Additional information and documentation that may be requested by the competent authorities:

1. The type and duration of the authorisation pursuant to which the recovery or disposal facility operates.
2. Copy of the permit issued [for the recovery or disposal facility] in accordance with [relevant national legislation].
3. Information concerning the measures to be taken to ensure transport safety.
4. The transport distance(s) between the notifier and the facility, including possible alternative routes, also in case of unforeseen circumstances and, in the event of intermodal transport, the place where the transfer will take place.
5. Information about costs of transport between the notifier and the facility.
6. Copy of the registration of the carrier(s) regarding the waste transport.
7. Chemical analysis of the composition of the waste.
8. Description of the production process of the waste.

9. Description of the treatment process of the facility which receives the waste.
10. The financial guarantee or equivalent insurance or a copy thereof.
11. Information concerning the calculation of the financial guarantee or equivalent insurance as required in the second subparagraph, point 5 of Article 4 and in Article 6.
12. Copy of the contracts referred to in Part 1, points 22 and 23.
13. Copy of the policy of insurance against liability for damage to third parties.
14. Any other information which is pertinent to the assessment of the notification in accordance with this Regulation and national legislation.

ANNEX III
**LIST OF WASTES SUBJECT TO THE GENERAL INFORMATION REQUIREMENTS
LAID DOWN IN ARTICLE 18
(‘GREEN’ LISTED WASTE)**

ANNEX IIIA
**MIXTURES OF TWO OR MORE WASTES LISTED IN ANNEX III AND NOT
CLASSIFIED UNDER ONE SINGLE ENTRY AS REFERRED TO IN ARTICLE 3(2)**

Annexes III and IIIA, in their application to Guernsey, are not further modified and so are not set out here.

ANNEX IIIB

ADDITIONAL GREEN LISTED WASTE AWAITING INCLUSION IN THE RELEVANT ANNEXES TO THE BASEL CONVENTION OR THE OECD DECISION [...]

1. Regardless of whether or not wastes are included on this list, they may not be subject to the general information requirements laid down in Article 18 if they are contaminated by other materials to an extent which:

(a) increases the risks associated with the wastes sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account the hazardous characteristics listed in Annex III to Directive 2008/98/EC of the European Parliament and of the Council (1); or

(b) prevents the recovery of the wastes in an environmentally sound manner.

2. The following wastes are included in this Annex:

BEU04 Composite packaging consisting of mainly paper and some plastic, not containing residues and not covered by Basel entry B3020

BEU05 Clean biodegradable waste from agriculture, horticulture, forestry, gardens, parks and cemeteries

3. [...]

ANNEX IV
**LIST OF WASTES SUBJECT TO THE PROCEDURE OF PRIOR WRITTEN
NOTIFICATION AND CONSENT ('AMBER' LISTED WASTE)**

ANNEX IVA

**WASTE LISTED IN ANNEX III BUT SUBJECT TO THE PROCEDURE OF
PRIOR WRITTEN NOTIFICATION AND CONSENT (ARTICLE 3(3))**

Annexes IV and IVA, in their application to Guernsey, are not further modified and so are not set out here.

ANNEX V

WASTE SUBJECT TO THE EXPORT PROHIBITION IN ARTICLE 36

Annex V, in its application to Guernsey, is not further modified other than to omit paragraph 1 of the introductory notes and so is not set out here.

ANNEX VI

FORM FOR PRE-CONSENTED FACILITIES (ARTICLE 14)

ANNEX VII

**INFORMATION ACCOMPANYING SHIPMENTS OF WASTE AS
REFERRED TO IN ARTICLE 3(2) AND (4)**

ANNEX VIII

**GUIDELINES ON ENVIRONMENTALLY SOUND MANAGEMENT
(ARTICLE 49)**

Annexes VI to VIII, in their application to Guernsey, are not further modified and so are not set out here.

ANNEX IX

Annex IX (Additional Questionnaire for reports by Member States pursuant to Article 51(2)) is disapplied in the application of the EU Regulation as modified to Guernsey and so is not set out here.