

Environment

Water pollution and abstraction

If it is intended to discharge anything other than clean, uncontaminated surface water to surface waters or groundwater, a Discharge Consent from the Environment Agency is required. The conditions of the Discharge Consent must be complied with.

Anyone who disposes of listed substances in a way that might cause a discharge into groundwater (water below the surface of the ground), must obtain and comply with the conditions of an appropriate authorisation or consent, for example, a discharge consent.

Listed substances include:

- highly damaging and toxic substances which must not directly or indirectly enter, such as mineral oils, hydrocarbons, cadmium, mercury and many pesticides, herbicides and solvents
- less harmful substances which must be controlled so that groundwater is not polluted, such as phosphorus, fluorides, ammonia, many metals and biocides and anything that will make groundwater unfit to drink

If an activity is carried on, or in, the ground which might lead to an accidental discharge of listed substances to groundwater, all measures necessary to prevent it happening must be taken.

Hazardous waste

Hazardous waste must be handled safely, with appropriate notification and documentation. Anyone who stores, treats, produces, transports or disposes of hazardous wastes, must:

- register his premises with the Environment Agency in England and Wales and provide quarterly disposal and recovery information (some businesses which produce less than 200kg in a 12-month period are exempt from this requirement)

- ensure that the movement of hazardous waste is accompanied by a consignment note
- not mix different categories of hazardous waste, or mix hazardous waste with non-hazardous waste or other substances and materials, unless you have a permit or exemption
- notify the relevant agency if his waste crosses the borders of the devolved regions, e.g. if his waste is moved from England into Scotland the Environment Agency and the Scottish Environment Protection Agency must be notified.

Hazardous waste is waste with one or more properties that are hazardous to health or the environment and which is:

- defined as hazardous in the Regulations or
- any specific batch of waste that is exceptionally classified as hazardous by the Environment Agency

Examples of hazardous waste include asbestos, chemical wastes, lead-acid batteries, pesticides, solvents and electrical equipment containing hazardous components such as cathode ray tubes, eg televisions.

Control of water pollution from silage, slurry and fuel oil

Anyone who stores slurry, makes or stores silage, or stores fuel oil used for agricultural purposes and whose storage facilities were constructed or substantially altered after 1 March 1991, must comply with certain requirements. If for example, silage is made in a new or substantially changed silo, or fields or bulk bags are used in a previously unused site, the Environment Agency must be notified in writing at least 14 days in advance.

Sewage sludge or Septic tank sludge must not be spread on agricultural land unless:

- the sludge has been tested for microbiological content, nutrients and metals, and the limits on microbiological content and average annual rate of addition of metals in the sludge are not exceeded
- the soil has been tested for pH, nutrients and metals, and the limit on the concentration of metals in the soil will not be exceeded by using the sludge
- the soil pH is at least 5

It is required that:

- sludge supplier is given information relating to any past sludge use from a different producer on where, when and how much sludge was used and who supplied the sludge
- the environmental regulator is immediately informed if sludge enters a stream

It is illegal to:

- spread untreated sludge
- spread sludge when fruit or vegetables are growing or are to be harvested in the soil
- spread sludge without taking account of the nutrient needs of the plants
- spread sludge if the quality of the soil, surface water or groundwater will be impaired by sludge
- graze animals or harvest forage crops for at least three weeks after using sludge
- harvest fruit and vegetable crops grown in direct contact with the soil and normally eaten raw for at least ten months after using sludge

Nitrate pollution

Those who use, or store, fertiliser or manure must comply with certain requirements. There are controls and restrictions on the use of fertilisers and manure in a Nitrate Vulnerable Zone (NVZ). Accurate record keeping is required.

A farmer of land that is within Nitrate Vulnerable Zones (currently covering (approximately 55 per cent of England and 3 per cent of Wales) **must not:**

- apply manufactured nitrogen fertiliser to fields during the closed periods - 15 September to 1 February for fields in grass or 1 September to 1 February for fields not in grass - unless there is a specific crop requirement during that time (which must be recorded and retained)
- on sandy or shallow soils, apply slurry, poultry manures or liquid digested sewage sludge during the closed periods - 1 September to 1 November for

fields in grass or to be sown with an autumn crop, or 1 August to 1 November for other fields

- apply manufactured nitrogen fertiliser or organic manures when the soil is waterlogged or frozen hard, or the land is flooded or snow covered
- apply manufactured nitrogen fertiliser in a way which makes it likely that it will directly enter surface water
- apply manufactured nitrogen fertiliser or organic manures to steeply sloping fields
- apply more nitrogen via manufactured nitrogen fertilisers or organic manures than the crop requires in each year, taking account of crop uptake and soil supply from soil organic matter, crop residues and organic manures
- apply organic manures within ten metres of surface water
- exceed the maximum limits for the amount of organic manure applied to land, averaged over the whole farmed area of:
 - 250 kilograms (kg) total nitrate per hectare (N/ha) for grassland in any NVZ.
 - 170kg total N/ha for land in agricultural crops other than grass in any NVZ
- exceed the maximum limit of 250 kilograms per hectare of total nitrogen applied to land from organic manures on individual fields in any 12-month period

A farmer must:

- spread manufactured nitrogen fertiliser and organic manures uniformly and accurately to the cropped area
- provide storage capacity in excess of the closed periods during which the land application of livestock manures is prohibited, except where it can be demonstrated that other environmentally acceptable means of disposal are available
- keep records of livestock numbers and use of nitrogen fertiliser and organic manures for five years

Water resources environmental impact assessments

A water management project for agriculture that involves the abstraction or impounding of water, such as for irrigation, that would be likely to have a significant effect on the environment requires consent from the Environment Agency before carrying out the works and an environmental impact assessment (EIA) if required to do so by the Environment Agency.

Animal, plant and habitat conservation

It is unlawful to;

- (1) deliberately capture, kill or disturb certain protected wild animals including bats, wild cats, dolphins and otters, or damage or destroy a breeding site or resting place of such an animal
- (2) pick, collect, cut, uproot or destroy certain protected wild plants
- (3) trade, transport or possess certain protected wild animals and plants
- (4) fail to comply with a management agreement

The owners or occupiers of a European site notified as a site of special scientific interest (SSSI), must not carry out, or allow, an operation likely to cause damage to an interest feature without consent from Natural England.

It is possible to apply for a licence from Natural England which allows exceptions from the above. Licences may be granted for a number of purposes (such as science and education, conservation and preserving public health and safety), but only after the licensing authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on the wild population of the species concerned. Conditions may be attached to the licence.

Animals or plants may not be imported into Great Britain without a licence.

Controlling harmful weeds

A landowner or occupier of land must not allow the following harmful weeds or their seeds to spread to adjacent land:

- common ragwort

- spear thistle
- creeping or field thistle
- broad-leaved dock
- curled dock

Failure to comply with the duty can lead to service of an **enforcement order** by the Department for Environment, Food and Rural Affairs (Defra) or the relevant authority requiring action to prevent the spread of the weeds

- **charging** for a third party to clear the land of harmful weeds
- **inspection** to ensure compliance

Natural England takes enforcement action on behalf of Defra.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.