COMMERCIAL WASTE

Waste management law
Waste management law seeks to regulate the production, re-use, recycling, recovery and disposal of waste in order to protect human health and the environment.

What is waste?
The EC Waste Framework Directive (2008/98/EC) defines waste as “any substance or object which the holder discards or intends or is required to discard”. Both the European Court of Justice and the domestic courts have provided further guidance on interpreting the definition.

Who regulates waste?
In England and Wales, first tier local authorities where they exist (e.g., city or district councils) are responsible for waste collection and county councils (or unitary authorities where there is no county council) are responsible for waste disposal. The Environment Agency is responsible for applying and enforcing waste management law. In Scotland, the Scottish Environment Protection Agency is the enforcing authority.

How is waste regulated?
In each area of the UK, it is generally a criminal offence to:
1. deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence;
2. treat, keep or dispose of controlled waste, or knowingly cause or knowingly permit controlled waste to be treated, kept or disposed of in or on any land or by means of any mobile plant except under and in accordance with a waste management licence; or
3. treat, keep or dispose of controlled waste in a manner likely to cause pollution of the environment or harm to human health.

There is also a duty of care, which requires any person in the waste chain from production to disposal to prevent any other person in the chain committing an offence, to prevent the escape of waste from his control, and to ensure that waste is transferred to a properly licensed person.

Key legislation
The main legislation relating to the management of waste includes:
- EC Directive 2008/98/EC on waste
- EC Directive 1999/31/EC on the landfill of waste
- Environmental Protection Act 1990, Part II
- Environmental Permitting (England and Wales) Regulations 2010 (SI 2010/675)
About Commercial Waste

Commercial waste is any waste produced within the confines of a business.

The standard type of waste produced by businesses is classed as municipal waste. This consists of items such as paper, glass, cardboard, cans, foodstuffs, and packaging. Other items used on your premises such as discarded tea bags and the empty wrappers from lunchtime also constitute as commercial waste, as it is consumed or used on the premises.

You must have a legally binding contract with a licensed waste carrier to collect commercial waste, as it is not the duty of the Council to clear it for free. Placing black sacks onto the street without having a contract with the Council or a private collector could constitute an illegal act, and you may receive a fixed penalty notice from one of the Council's Enforcement Officers.

You can find a list of registered waste carriers from the Environment Agency, or your local business directories, under 'waste collection'. Whichever waste carrier you choose, you should ask them for a copy of their Waste Carriers Licence. This certificate is issued by the Environment Agency and should be dated, and have a copy of their waste carriers number printed clearly on it.

The company you choose to collect your waste should also provide you with a Duty of Care Waste Transfer Document.

This document should be issued before they start collecting your waste, and your business should have it to hand at all times. This document should be kept for a minimum of two years and could be inspected at any time. A Duty of Care document will tell the local council or the Environment Agency that you have a legally binding contract with a licensed waste carrier to collect waste from your premises. The document will also show who they are, their license number and most importantly, where the waste is going to end up.

Types of waste

Also listed on the Duty of Care Waste Transfer Document will be the types of waste collected from your premises by your collector. The standard type of general or municipal waste could be covered by a single code, but you may also have different types of waste documented for collection.
Some items must not go into a normal refuse receptacle. Items such as fluorescent tubes, which contain mercury; and uncooked meats and fish waste, which are governed by the Animal by Product regulations, require a specialist collector. This type of waste can no longer be land filled and must be incinerated or recycled.

Other items, such as waste oils, fridges, batteries, waste electronic equipment, clinical waste, and hazardous waste, also need specialist collectors. Whoever you choose to collect these types of waste should be able to provide you with a Duty of Care waste transfer document.

Bulky items that are safe, but too large for a sack or bin, must be taken away by the council or a collector as a 'special collection'. This includes items such as filing cabinets, chairs, fridges, and other furniture items. There will normally be an additional charge for special collection.

The law

All businesses in the United Kingdom have to, by law, pay for their waste to be taken away. The Environmental Protection Act of 1990 states that an authority may levy a reasonable charge against the business for the collection of their commercial waste. Waste collection is not included in the business rates and is levied as a separate charge.

It is illegal to take commercial waste home, and place it in your domestic bin.

Domestic waste collection is paid for within your domestic council tax bill, and this does not include commercial waste from the business. All businesses must keep written documentation (Waste Transfer Document) for at least two years, giving evidence of where the waste has been transferred to. By taking it home you will have no Duty of Care and certainly no documentation.

You are not allowed to transfer waste from one site to another unless you are a licensed waste carrier and can provide Duty of Care documentation. If you put waste into the boot of the car and transport it elsewhere, you are transferring waste from one site to another without a license, and could be fined.

For further information on waste can be obtained from: https://www.gov.uk/topic/environmental-management/waste