
STATUTORY RULES OF NORTHERN IRELAND

2011 No. 127

The Waste Regulations (Northern Ireland) 2011

PART 3

Waste

Interpretation of Part 3

9.—(1) In this Part the following definitions apply:-

“best available techniques” means best available techniques as defined in Article 2(12) of Directive [2008/1/EC](#) of the European Parliament and of the Council concerning integrated pollution prevention and control;

“bio-waste” means biodegradable garden and park waste, food and kitchen waste from households, restaurants, caterers and retail premises and comparable waste from food processing plants;

“broker” means any undertaking arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste;

“collection” means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility;

“co-mingled collection” means the collection of waste streams intended for recycling together with each other but separately from other waste;

“dealer” means any undertaking which acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste;

“disposal” means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy (and Annex I to the Waste Framework Directive sets out a non-exhaustive list of disposal operations);

“hazardous waste” has the same meaning as given in regulation 6 of the Hazardous Waste Regulations (Northern Ireland) 2005 (waste which displays one or more of the hazardous properties listed in Annex III of the Waste Framework Directive);

“holder” means the producer of the waste or the natural or legal person who is in possession of it;

“household waste” means waste generated by households;

“material recovery” means any recovery operation, excluding energy recovery and the reprocessing into materials which are used as fuel;

“municipal waste” means household waste and similar waste;

“pollution of the environment” means pollution of the environment due to the release or escape (into any environmental medium) from—

(a) the land on which waste is treated;

- (b) the land on which waste is kept;
- (c) the land in or on which waste is deposited;
- (d) fixed plant by means of which waste is treated, kept or disposed of, of substances or articles constituting or resulting from the waste and capable (by reason of the quantity or concentrations involved) of causing harm to humans or to any other living organisms supported by the environment; and this definition applies in relation to mobile plant by means of which waste is treated or disposed of as it applies to fixed plant on land by means of which waste is treated or disposed of;

“preparing for re-use” means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing;

“prevention” means measures taken before a substance, material or product has become waste, that reduce—

- (e) the quantity of waste, including through the re-use of products or the extension of the life span of products;
- (f) the adverse impacts of the generated waste on the environment and human health; or
- (g) the content of harmful substances in materials and products;

“producer” means any person whose activities produce waste (original waste producer) or any person who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

“public consultees” means the persons to whose attention proposals for the waste prevention programme are brought by the Department pursuant to regulation 15(1)(b);

“recovery” means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. Annex II to the Waste Framework Directive sets out a non-exhaustive list of recovery operations;

“recycling” means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations;

“regeneration of waste oils” means any recycling operation whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, the oxidation products and the additives contained in such oils;

“re-use” means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;

“separate collection” means the collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment;

“the Industrial Pollution Control Order” means the Industrial Pollution Control (Northern Ireland) Order 1997;

“the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste;

“the Waste Hierarchy” means the priority order which shall apply to the prevention and management of waste as follows—

- (a) prevention;
- (b) preparing for re-use;

- (c) recycling;
- (d) other recovery, e.g. energy recovery; and
- (e) disposal;

“treatment” means recovery or disposal operations, including preparation prior to recovery or disposal;

“waste” means any substance or object which the holder discards or intends or is required to discard;

“waste management” means the collection, transport, recovery and disposal of waste, including the supervision of such operations, the after-care of disposal sites, and actions taken as a dealer or broker;

“waste prevention programme” means one or more programmes of waste prevention measures established in accordance with regulation 10;

“waste producer” means any person whose activities produce waste (original waste producer) or any person who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste.

(2) Subject to regulation 25, these regulations do not apply in relation to waste which is excluded from the scope of the waste framework directive by Articles 2(1), (2) or (3) of that Directive.

Establishment of waste prevention programmes

10.—(1) The Department shall, not later than 12th December 2013—

- (a) evaluate the usefulness of the waste prevention measures set out as examples in Annex IV of the Waste Framework Directive and such other waste prevention measures as the Department thinks fit; and
- (b) establish one or more waste prevention programmes.

(2) A programme established before the coming into operation of this provision may be considered a waste prevention programme for the purposes of this provision.

Purposes, etc. of waste prevention programmes

11.—(1) The Department shall ensure that a waste prevention programme—

- (a) is established in accordance with Articles 1 and 4 of the Waste Framework Directive;
- (b) has as its purpose a contribution towards breaking the link between economic growth and the environmental impacts associated with the generation of waste;
- (c) is expressed in writing and sets out the objectives of the waste prevention programme and a description of existing waste prevention measures; and
- (d) if it is integrated into the waste management strategy or other programme, is clearly identified as a waste prevention programme.

Monitoring and evaluation of waste prevention programmes

12.—(1) The Department shall—

- (a) establish qualitative or quantitative benchmarks and may establish qualitative or quantitative targets and indicators, against which to assess the value of waste prevention programmes; and
- (b) publish the benchmarks and any targets or indicators it establishes.

Review and modification of waste prevention programmes

13.—(1) The Department shall—

- (a) shall review each waste prevention programme at least every sixth year; and
- (b) may from time to time modify the waste prevention programmes in accordance with Article 30 of the Waste Framework Directive.

Public participation in waste prevention programmes

14.—(1) Regulations 15 and 16 apply to the modification of a waste prevention programme as they apply to the preparation of such a programme.

(2) Regulations 15 and 16 do not apply to a waste prevention programme—

- (a) designed for the sole purpose of serving national defence or taken in case of civil emergencies;
- (b) for which a public participation procedure is carried out under the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004(1);
- (c) containing only provision relating to separation collection of waste, bio-waste, re-use, preparing for re-use, recovery and recycling targets;

(3) Steps taken before the coming into operation of these Regulations in relation to a waste prevention programme may be steps for the purposes of regulations 15 and 16.

Public participation procedures

15.—(1) As soon as reasonably practicable after preparing proposals for a waste prevention programme or for the modification of such a waste prevention programme, the Department shall—

- (a) send a copy of the proposals to the consultation bodies;
- (b) take such steps as it considers appropriate to bring the proposals to the attention of the persons who in the Department's opinion—
 - (i) are, or are likely to be affected by the waste prevention programme; or
 - (ii) have an interest in the waste prevention programme;
- (c) inform the public consultees of the address (which may include a website)—
 - (i) at which a copy of the proposals may be viewed; and
 - (ii) from which a copy of the proposals may be obtained;
- (d) invite the consultation bodies and public consultees to express their opinion on the proposals, specifying the address to which, and the period within which opinions must be sent.

(2) The period referred to in paragraph (1)(d) must be of such length as will ensure that the consultation bodies and the public consultees are given an early and effective opportunity to express their opinion on the proposals.

(3) The Department shall keep a copy of the proposals for inspection by the public at all reasonable times free of charge.

(4) Nothing in paragraph (1)(c) requires the Department to provide copies of the proposals free of charge, but where a charge is made, it shall be a reasonable amount.

Procedures following public participation

16.—(1) Before decisions on a waste management programme are made, the Department shall take account of any opinions expressed by a consultation body or public consultees.

(2) As soon as reasonably practicable after making decisions on a waste prevention programme the Department shall—

- (a) inform the consultation bodies and the public consultees of the matters in paragraph (3);
- (b) take such steps as it considers appropriate to bring the matters in paragraph (3) to the attention of the public; and
- (c) if it has adopted the waste prevention programme, place a copy of the programme on the Department's website and make a copy of the programme available for inspection by the public at all reasonable times and free of charge.

(3) The matters are—

- (a) the decisions made by the Department on the waste prevention programme;
- (b) the reasons and considerations on which those decisions are based; and
- (c) information about the public participation procedure.

(4) Nothing in paragraph (2)(c) requires the Department to provide copies free of charge, but where a charge is made, it shall be a reasonable amount.

Duty in relation to the waste hierarchy (coming into operation 8 October 2011)

17.—(1) It shall be the duty of any person who imports, produces, collects, carries, keeps, treats or disposes of waste, or as a broker or dealer has control of controlled waste, on the transfer of such waste to take all such measures available to that person as are reasonable in the circumstances to apply the waste hierarchy priority order in accordance with Article 4 of the Waste Framework Directive.

(2) An establishment or undertaking may depart from the waste hierarchy priority order so as to achieve the best overall environmental outcome where this is justified by life-cycle thinking on the overall impacts of the generation and management of the waste;

(3) When considering the overall impacts mentioned in paragraph (2), the following considerations shall be taken into account—

- (a) the general environmental protection principles of precaution and sustainability;
- (b) technical feasibility and economic viability;
- (c) protection of resources;
- (d) the overall environmental, human health, economic and social impacts.

(4) The duty in paragraph (1) shall not apply to an occupier of domestic property as respects the household waste produced on the property.

(5) The Department may give guidance on the discharge of the duty in paragraph (1).

(6) A person discharging the duty in paragraph (1) shall, in doing so, have regard to any guidance given under paragraph (5).

Duties in relation to collection of waste

18.—(1) A district council, when collecting waste paper, metal, plastic or glass shall, from 1st January 2015, take all such measures to ensure separate collection of that waste as are available to it and are—

- (a) technically, environmentally and economically practicable;

(b) appropriate to meet the necessary quality standards for the relevant recycling sectors.

(2) A district council, when making arrangements for the collection of waste paper, metal, plastic or glass, shall, from 1st January 2015, take measures to ensure that those arrangements are by way of separate collection.

(3) The duties under paragraphs (1) and (2) shall apply only where keeping waste separate facilitates or improves recovery.

Duty in relation to collected waste

19.—(1) A district council which collects, transports or receives waste paper, metal, plastic or glass shall, from 1st January 2015, take measures to ensure that where that waste has been separately collected it is not mixed with other waste or other material with different properties.

(2) The duty under paragraph (1) shall apply only where keeping waste separate facilitates or improves recovery.

Duty in relation to collected waste by private operators

20. The duties under regulations 18 and 19 shall apply equally to a person required to be registered as a carrier of controlled waste for the purposes of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999⁽²⁾ as they apply to district councils.

Co-mingled waste

21. Co-mingled collection is a form of separate collection for the purposes of regulations 18, 19 and 20.

Enforcement notices

22.—(1) If the Department considers that a person required to be registered as a carrier of controlled waste for the purposes of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 or the Waste Management Licensing Regulations (Northern Ireland) Regulations 2003⁽³⁾ has contravened regulations 18, or 19 it shall serve a compliance notice, restoration notice or suspension notice, as applicable, on that person.

(2) Paragraph 1 shall not apply to a district council.

(3) For the purposes of this regulation, a “compliance notice” is a notice in writing requiring a person to take specified steps within a specified period to secure that a contravention of regulation 18 or 19 does not continue or recur.

(4) A compliance notice shall—

- (a) specify the contravention;
- (b) specify the steps which shall be taken to secure that the contravention does not continue or recur;
- (c) specify the period within which those steps shall be taken; and
- (d) give information as to the rights of appeal (including the period within which an appeal shall be brought).

(2) [S.R. 1999 No. 362](#)

(3) [S.R. 2003 No. 493](#)

(5) For the purposes of this regulation, a “restoration notice” is a notice requiring a person, to take specified steps within a specified period to secure that the position is, so far as possible, restored to what it would have been if a contravention of regulations 18 or 19 had not occurred.

(6) A restoration notice shall—

- (a) specify the contravention;
- (b) specify the steps which shall be taken to secure restoration;
- (c) specify the period within which those steps shall be taken; and
- (d) give information as to the rights of appeal (including the period within which an appeal shall be brought).

(7) For the purposes of this regulation, a “suspension notice” is a notice in writing prohibiting a person from carrying on a specified activity until such time as specified steps have been taken.

(8) A suspension notice shall—

- (a) specify the contravention;
- (b) specify the activity to be suspended and the period of the suspension;
- (c) specify the steps which shall be taken to remedy the contravention;
- (d) specify the period within which those steps shall be taken; and
- (e) give information as to the rights of appeal (including the period within which an appeal shall be brought).

Appeals

23.—(1) A person on whom a compliance notice, a restoration notice or a suspension notice is served may appeal to the Planning Appeals Commission on the grounds that the compliance notice, restoration notice or suspension notice or any part thereof is—

- (a) defective; or
- (b) unreasonable.

(2) A person who wishes to appeal to the Planning Appeals Commission under this regulation shall give to the Commission written notice of the appeal together with a written statement of the grounds of appeal and the Commission shall as soon as is reasonably practicable send to the Department a copy of the notice of the appeal together with a copy of the statement of the grounds of appeal.

(3) Notice of appeal in accordance with paragraph (2) shall be given before the expiry of the period of 28 days beginning with the date of the service of a notice under regulation 22.

(4) Notice of appeal in accordance with paragraph (2) shall be accompanied by such fee as specified in regulation 17(1) of the Planning (Fees) Regulations (Northern Ireland) 1995 as would be payable if the notice of appeal were a notice of appeal in accordance with Article 32(1) of the Planning (Northern Ireland) Order 1991.

(5) An appellant may withdraw an appeal by notifying the Planning Appeals Commission in writing and the Commission shall as soon as is reasonably practicable notify the Department.

(6) A notice, under regulation 22 shall not be suspended pending the outcome of an appeal.

(7) The Planning Appeals Commission shall determine the appeal and paragraphs (1), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991(4) shall apply in relation to the determination of the appeal as it applies to the determination of an appeal under that Order.

(8) On an appeal, the Planning Appeals Commission may determine that a notice served by the Department under regulation 22 shall cease to have effect or may vary the notice.

(9) The Planning Appeals Commission shall notify the appellant of its determination of the appeal and reasons for it, and shall at the same time send a copy of its determination to the Department.

Offence

24.—(1) A person who fails to comply with regulation 17 or a notice served under regulation 22 shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine.

Radioactive waste

25.—(1) This regulation applies to radioactive waste where it is—

- (a) exempt from the requirement for authorisation by virtue of an order which was made or has effect as if made under section 15(2) of the Radioactive Substances Act 1993⁽⁵⁾; and
- (b) subject to an activity falling within Schedule 2, paragraph 38(a) of the Waste Management Licensing Regulations (Northern Ireland) 2003 and regulation 15 of the Hazardous Waste Regulations (Northern Ireland) 2005⁽⁶⁾.

(2) Radioactive waste to which this regulation applies shall be treated as waste for the purposes of these regulations.

(3) Articles 4 and 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997⁽⁷⁾ shall apply to radioactive waste to which this regulation applies as it applies to controlled waste within the meaning of Article 2(2) of that Order.

⁽⁵⁾ 1993 c. 12

⁽⁶⁾ S.R. 2005 No. 300

⁽⁷⁾ S.I. 1997/2778 (N.I. 19)