

EXPLANATORY MEMORANDUM TO
THE CONTROLLED WASTE AND DUTY OF CARE REGULATIONS
(NORTHERN IRELAND) 2013

S.R. 2013 No. 255

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by Article 17(2) of the Litter (Northern Ireland) 1994 and Articles 2(3) and 5(7) of the Waste and Contaminated Land (Northern Ireland) Order 1997 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. To provide clarity in relation to the classification of wastes as 'household', 'commercial' or 'industrial'; to identify for which of these wastes a charge may be levied for both its collection and disposal; and to introduce more stringent controls under the waste Duty of Care system as a deterrent to waste crime.

3. Background

- 3.1. Article 20(3) of the Waste and Contaminated Land (NI) Order 1997 establishes that district councils shall not charge for the collection of household waste except in prescribed cases. The purpose of the Controlled Waste Regulations (Northern Ireland) 2002 (the 2002 Regulations) was, therefore, to provide clarity in relation to which types of waste are treated as household waste, commercial waste, industrial waste or any other type of controlled waste for the purposes of Part II of the 1997 Order and to lay down which of those wastes the councils may recover a charge for. This was set out in Schedule 2 to the 2002 Regulations.
- 3.2. However, the 2002 Regulations were out of date, failed to recognise developments in the management of waste and no longer provided clarity on the classification of wastes, thus creating a 'loophole' in relation to charging for the collection and disposal of certain wastes, which was in contravention of the 'polluter pays principle' and created a distortion in the waste management market. Accordingly, the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013 (the 2013 Regulations) revoke and replace the 2002 Regulations.
- 3.3. The 2013 Regulations also amend the Controlled Waste (Duty of Care) Regulations (NI) 2002 (the DoC Regulations) to provide for better information to be contained in Waste Transfer Notes (WTNs) to assist in the tracking of certain wastes and to strengthen controls around the movement of waste, which may assist in tackling environmental crime.

4. Consultation

4.1. A public consultation took place between 11 February 2013 and 26 April 2013. In total, 20 responses to the consultation document were received, 3 of which simply noted the proposals but did not express any views on them. Overall, there was support for the revised approach.

5. Equality Impact

5.1. There are no equality issues associated with these Regulations.

6. Regulatory Impact

6.1. An Impact Assessment was carried out and concluded that although there may be a financial impact on various organisations, this is necessary to comply with the polluter pays principle established by the Waste Framework Directive and to ensure that market distortion in the waste industry is redressed. Introduction of the Duty of Care elements are necessary to address environmental crime which has a huge impact on the NI economy as well as on the environment and on all sections of our community.

7. Financial Implications

7.1. The legislation itself does not impose costs on businesses but provides district councils the opportunity to charge waste disposal costs in certain instances. Currently, these services are a major drain on councils' finances. Should councils choose to introduce charging this will present councils with additional recouped monies. However, the knock-on effect will be that business, including public bodies, will be required to pay for their waste disposal - which is in keeping with the polluter pays principle as mentioned at paragraph 6.1.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Statutory Rule complies with the provisions set out in Section 24.

9. EU Implications

9.1. Failure to comply with the polluter pays principle could attract fines from the European Commission for non or incorrect implementation of the Waste Framework Directive.

10. Parity or Replicatory Measure

10.1. Similar measures in relation to the controlled waste element of these Regulations have already been introduced in England and Wales.

11. Additional Information

11.1. Not applicable.