

EXPLANATORY MEMORANDUM TO

The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2017

SR 2017 No. 202

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (the Department) 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 3(3)(a) of the Waste and Contaminated Land (Northern Ireland) Order 1997 (the 1997 Order) and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2017 (the 2017 Regulations) will amend Schedule 6 to The Waste Management Licensing Regulations (Northern Ireland) 2003 (the 2003 Regulations) to clarify and update the list of prescribed offences. To assist understanding of the offences contained within the 2003 Regulations, specific paragraphs and sub-paragraphs that contain the offences within the provision have been identified. In addition, outdated offences have been removed and further offences added to help maintain a relevant list.
- 2.2. It is the intention of the Department that Schedule 6 will be reviewed and, where appropriate, amended to ensure the ongoing relevance and effectiveness of the prescribed offences element of the "fit and proper person" test as required under the 1997 Order.

3. Background

- 3.1. Regulation 2 of the 2003 Regulations sets out the list of prescribed offences in relation to waste management. However, it was out of date and focused heavily on environmental offences. The Waste Management Licensing (Amendment No.2) Regulations (Northern Ireland) 2015 broadened the spectrum to include other offences and criminal activities. The rationale for doing so was to reflect the importance of a "fit and proper person's" reputation. Under the amended Regulations, anyone convicted of an offence will be denied a licence or have an existing licence revoked. The Department created a new Schedule 6 to allow for offences to be inserted by amending regulations if necessary in the future.
- 3.2. The 2017 Regulations amend Schedule 6 to identify specific paragraphs or sub-paragraphs that contain the offences within each provision where appropriate. Also, outdated offences have been removed and further offences added to help maintain a relevant list.

4. Consultation

- 4.1. As the Regulations are technical and there is no amendment to the policy, a consultation was deemed unnecessary.

5. Equality Impact

- 5.1. It was determined at the time of the original consultation that changes made by this Rule would have no impact in terms of Section 75 of the Northern Ireland Act 1998. There are no equality issues associated with these Regulations.

6. Regulatory Impact

- 6.1. An Impact Assessment was carried out as part of the original consultation process and concluded that introduction of these Regulations would have no major impact.

7. Financial Implications

- 7.1. No financial implications for legitimate waste operators.

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. Introduction of the Regulations ensures better compliance with the requirements of the Waste Framework Directive.

10. Parity or Replicatory Measure

- 10.1. The regulations governing waste management in England and Wales are the Environmental Permitting (England and Wales) Regulations 2007 (as amended), the Waste (England and Wales) Regulations 2011 and Hazardous waste is covered by the Hazardous Waste (England and Wales) Regulations (as amended) 2005. The relevant regulations in Scotland are the Pollution, Prevention and Control (Scotland) Regulations 2000 and the Waste Management Licensing (Scotland) Regulations 2011.
- 10.2. In December 2013, Defra released the "Consultation on Alternatives to Waste Transfer Notes Arising from the Red Tape Challenge and Other Aspects of Waste Regulation". One of the proposals is to amend Regulation 29 of the Waste Regulations (England and Wales) Regulations 2011 which lists "Relevant Offences". This list is the GB equivalent of NI's prescribed offences.

11. Additional Information

- 11.1. Not applicable.