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| <p>Title: The Transfrontier Shipment of Waste Regulations 2007 – Post Implementation Review</p> <p>PIR No: PIR-67917</p> <p>Original IA/RPC No: N/A</p> <p>Lead department or agency: Department for Environment, Food and Rural Affairs</p> <p>Other departments or agencies: N/A</p> <p>Contact for enquiries: vanessa.sanderson@defra.gov.uk</p> | Post Implementation Review |
| | Date: 17/05/2024 |
| | Type of regulation: Domestic |
| | Type of review: Statutory |
| | Date measure came into force: 12/07/2007 |
| | Recommendation: Keep |
| RPC Opinion: N/A | |

1. What were the policy objectives of the measure?

The objectives of the Transfrontier Shipment of Waste (TFS) Regulations 2007 are to:

1. Bring the TFS Regulations in line with the EU Waste Shipments Regulation (Council Regulation (EC) No 1013/2006);
2. Align with the UK's international obligations on shipments of waste under the Basel Convention and the Organisation for Economic and Cooperation and Development (OECD) Decision on control of transboundary movements of wastes destined for recovery operations (C(2001)107/Final);
3. Strengthen enforcement provisions in light of the experience of UK Competent Authorities by establishing offences and penalties and powers to seize waste; and
4. Minimise the risks to human health and the environment arising from the transboundary movements of waste.

2. What evidence has informed the PIR?

Defra sought feedback directly from the four UK waste shipments Competent Authorities, and Devolved Administrations, on how the regulations are performing via a survey, in addition to feedback collected through formal and informal consultation opportunities with industry stakeholders. The four UK waste shipments Competent Authorities are the Environment Agency (EA), Natural Resources Wales (NRW), the Scottish Environment Protection Agency (SEPA), and the Northern Ireland Environment Agency.

Overall stakeholders agreed the objectives of the TFS Regulations are being met. However, some stakeholders thought they could be improved and may need amendment in the future to continue to be enforceable, and therefore should be kept under review.

3. To what extent have the policy objectives been achieved?

This review finds the TFS regulations meet their policy objectives as set out above.

All responses to the survey agreed with our assessment that the TFS regulations meet the UK's obligations to bring the regulations in-line with the Council Regulation (EC) No.1013/2006 and the UK's international obligations (objectives 1 and 2), which in turn meets objective 4 by minimising the risks posed by transboundary movements of waste.

We assess that objective 3 has also been met, because the powers to seize waste, and charge for offences and impose penalties contained within the legislation have been implemented and in use by the Competent Authorities. We recognise, however, that further opportunities to

strengthen enforcement provisions are likely to arise during the lifetime of this legislation. Amendments were made to the TFS Regulations in 2014.

Through the survey, the UK Competent Authorities recommended areas where the TFS Regulations could be strengthened based on their experience to date. Defra is currently considering targeted reform of the TFS Regulations to further strengthen enforcement provisions, and the feedback received through this PIR has fed into this work. We plan to publish a consultation on proposed amendments to the TFS regulations in due course which will include implementation of some of the recommendations made by the Competent Authorities. Defra will continue to engage with stakeholders in its efforts to keep the TFS Regulations under review going forward, and this will include consideration of the wider recommendations made by the Competent Authorities.

it is worth noting that Defra's proposal to introduce Digital Waste Tracking from 2025 will be partly implemented through amendments to the TFS Regulations. Digital Waste Tracking will standardise requirements for exporters of Green List Waste across the UK and improve the information available to inform the UK Competent Authorities' compliance and enforcement work.

In completing this PIR, Defra has also considered that the TFS Regulations implemented requirements of the retained EU Regulation that allow for the UK Competent Authorities to charge fees to cover their administrative costs of executing their functions.

The fees chargeable in Northern Ireland remain in a Schedule to the TFS Regulations, but the fees chargeable in England, Scotland and Wales have been replaced by separate charging schemes introduced by the GB Competent Authorities using applicable powers in Primary Legislation. All four of the UK Competent Authorities have either published consultations, or plan to publish consultations on their proposals to amend these charges (including by establishing a charging scheme in Northern Ireland). The objective of this work is to ensure the charges remain appropriate and secure full cost recovery for the work undertaken by the Competent Authorities. Views from stakeholders on the respective proposals will be sought via those consultations, therefore Defra has not assessed whether the fees are proportionate as part of this PIR.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: Mags Bradley, Principal Social Researcher

Date: 11/04/2024



Signed:

Date: 17/05/2024

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions?

The Regulatory Impact Assessment (RIA) included several assumptions on costs and benefits, as follows:

- A. Creation of a database to hold information gathered from Annex VII forms submitted by exporters in Northern Ireland and Scotland: it assumed a database would need to be created which would incur additional costs for UK Competent Authorities in Scotland and Northern Ireland. The assumed costs included setting up and operating a database, and ongoing costs for processing and analysing the information. Costs were estimated but highly uncertain, in part because there was no way to establish the number of forms Competent Authorities were likely to receive each year. Costs to business from this activity were assumed to be minimal.

To note, the requirement to submit Annex VII forms is set to be replaced by new requirements when Digital Waste Tracking come online in 2025. The costs associated with those new requirements are contained in the Regulatory Impact Assessment published here: <https://consult.defra.gov.uk/environmental-quality/waste-tracking/>

- B. Increased powers for Customs Officials to detain shipments: it assumed cost implications for importers and exporters of shipments which are detained for up to five working days by Customs Officials. These costs are assumed to be minimal because shipments arranged by legitimate businesses in compliance with the law are not expected to be detained beyond the minimum. Costs were also assumed to arise for the UK Competent Authorities but these were not quantified.
- C. New charging structure for notified ships: it was assumed that notifications with large numbers of shipments would see the biggest reduction in average charge, and notifications with smaller numbers of shipments will see an increase in charge, to ensure cost recovery of the monitoring of these shipments.

5. Were there any unintended consequences?

From our consultation with stakeholders we assess that the Regulations are functioning effectively. We did not identify any areas where there have been any positive or negative unintended consequences. Stakeholders also did not raise any unintended consequences.

To note, as discussed in section 3, the UK Competent Authorities have, or will shortly, publish consultations on proposals to amend their respective charging schemes. These proposals will take into account assumption 'C' (see section 4).

6. Has the evidence identified any opportunities for reducing the burden on business?

The current TFS Regulations require exporters in Scotland and Northern Ireland submit a completed Annex VII form, which includes details of the persons arranging the waste shipment, importer or consignee, actual shipment date, and waste quality, to the relevant Competent Authority prior to a shipment of green list waste. This requirement means those Competent Authorities can review the information and then better target their compliance checks. The process for providing information in Annex VII forms to the waste shipments Competent Authorities, which is currently a requirement for exporters in Scotland and Northern Ireland, will be simplified through the introduction of the Digital Waste Tracking Service which will represent a one stop shop for exporters to record information on their waste which the UK Competent Authorities will have access to.

No further opportunities have been identified through this PIR to reduce the burden on businesses. This is principally because the offences and penalties, and administrative requirements set out in the regulation are directly required to implement the requirements of the retained Regulation (EC) 1013/2006 on shipments of waste (retained WSR). The retained WSR implements the UK's international obligations on the sound management of waste shipments.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

The Transfrontier Shipment of Waste Regulations 2007 (TFS Regulations) implements the retained Regulation (EC) 1013/2006 on shipments of waste (retained WSR) by designating the relevant Competent Authorities, and establishing offences and penalties for non-compliance with the requirements set out in the retained WSR. The retained WSR is derived from the EU's own WSR which Member States are required to implement through equivalent national legislation.

The EU has adopted a new regulation on waste shipments (2024/1157) in April 2024 to replace the EU's Waste Shipment Regulations (1013/2006). Revisions in the new regulation aim to reduce shipments of problematic waste outside of the EU, update procedures and controls to reflect objectives of a circular economy, and improve enforcement.