

**2020 No. 285**

**ENVIRONMENTAL PROTECTION**

**The Waste (Circular Economy) (Amendment) Regulations  
(Northern Ireland) 2020**

*Made* - - - - - *26th November 2020*

*Coming into operation* - *18th December 2020*

The Department of Agriculture, Environment and Rural Affairs<sup>(a)</sup> having been designated<sup>(b)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(c)</sup> in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste and in relation to the environment, in exercise of the powers conferred upon it by that section and by Articles 4(3) and 77 of the Waste and Contaminated Land (Northern Ireland) Order 1997<sup>(d)</sup> (having in particular had regard in exercising its power under Article 4(3) of that Order to the matters specified in Article 4(4) of that Order), hereby makes the following Regulations.

**PART 1**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 and shall come into operation on 18th December 2020.

(2) The Interpretation Act (Northern Ireland) 1954<sup>(e)</sup> applies to these Regulations as it applies to an Act of the Assembly.

**PART 2**

**Amendment of primary legislation**

**Amendment of the Waste and Contaminated Land (Northern Ireland) Order 1997**

2.—(1) The Waste and Contaminated Land (Northern Ireland) Order 1997 is amended as follows.

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- (a) Formerly the Department of the Environment which was dissolved by section 1(9) of the Departments Act (Northern Ireland) 2016 (c.5 N.I.) and, by virtue of Article 8(1)(c) of the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No.76), its functions for the purpose of these Regulations were transferred to the Department of Agriculture, Environment and Rural Affairs
- (b) S.I. 1992/2870 and S.I. 2008/301
- (c) 1972 c.68
- (d) S.I. 1997/2778 (N.I. 19); relevant amending Regulations are S.R. 2009 No.178, S.R. 2011 No.127, S.R. 2015 No.14, S.R. 2016 No.95, S.R. 2016 No.380 and S.R. 2019 No.240
- (e) 1954 c.33 (NI)

(2) In Article 2(2)—

(a) insert the following definitions in the appropriate alphabetical order—

““municipal waste” means—

(a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture; and

(b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households,

but does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or waste generated by construction and demolition activities;

“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;

“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;”;

(b) for the definition of “bio-waste” substitute—

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

(c) in the definition of—

(i) “the Packaging Waste Directive” at the end insert “, as last amended by Directive (EU) 2018/852(a)”; and

(ii) “the Waste Framework Directive” at the end insert “, as last amended by Directive (EU) 2018/851(b)”.

(d) omit the definition of “Commission Directive (EU) 2015/1127”.

(3) In Article 2(7), after ““recycle”” insert “(except in Schedule 3)”.

(4) In Article 2, after paragraph (7) insert—

“(7A) In Schedule 3—

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

(a) the quantity of waste, including through the re-use of products or the extension of the life span of products;

(b) the adverse impacts of the generated waste on the environment and human health;  
or

(c) the content of hazardous substances in materials and products;

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

(7B) In paragraph (7A) “backfilling” means any recovery operation where an amount of suitable non-hazardous waste is used, in substitution for non-waste materials, for the purposes of reclamation in excavated areas or for engineering purposes in landscaping, and that amount is no more than is strictly necessary to achieve those purposes.”.

(5) In Article 19(2) for “7(b), (c), (d) and 8” substitute “8 to 11”.

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(a) OJ No. L150, 14.6.2018, p. 141–154

(b) OJ No. L150, 14.6.2018, p. 109–140

(6) In Article 19(4)—

- (a) after sub-paragraph (b), omit “and”;
- (b) in sub-paragraph (c), for “.” substitute “; and”; and
- (c) after sub-paragraph (c), insert—

“(d) for the purposes of litter prevention, must conform to—

- (i) the programmes of measures published pursuant to regulation 14(1) of the Marine Strategy Regulations 2010(a); and
- (ii) each programme of measures proposed under regulation 12(1) of the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017(b).”.

(7) For Schedule 3 substitute—

## “SCHEDULE 3

Article 19

### THE WASTE MANAGEMENT PLAN

#### Part 1

#### Objectives

##### **Overall objective**

1. To protect the environment and human health by preventing or reducing the generation of waste and the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use.

##### **Application of the waste hierarchy**

2.—(1) To apply the following waste hierarchy as a priority order in waste prevention and management policy—

- (a) prevention;
- (b) preparing for re-use;
- (c) recycling;
- (d) other recovery (for example energy recovery); and
- (e) disposal.

(2) To apply the waste hierarchy in sub-paragraph (1) in a manner which—

- (a) encourages the options that deliver the best overall environmental outcome, which may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste; and
- (b) takes into account—
  - (i) the general environmental protection principles of precaution and sustainability;
  - (ii) technical feasibility and economic viability;
  - (iii) protection of resources; and

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(a) S.I. 2010/1627 to which there are amendments not relevant to these Regulations

(b) S.R. 2017 No. 81 to which there are amendments not relevant to these Regulations

(iv) the overall environmental, human health, economic and social impacts.

(3) To make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those listed in Part 4 of this Schedule or other appropriate instruments and measures.

### **Protection of human health and the environment**

3. To ensure that waste management is carried out without endangering human health, without harming the environment and, in particular—

- (a) without risk to water, air, soil, plants or animals;
- (b) without causing a nuisance through noise or odours; and
- (c) without adversely affecting the countryside or places of special interest.

### **Principles of self-sufficiency and proximity**

4.—(1) To establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers, taking into account best available techniques.

(2) The network must be designed so as to enable the European Union as a whole to become self-sufficient in waste disposal as well as in the recovery of mixed municipal waste collected from private households, and to enable the United Kingdom to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste.

(3) The network must enable waste to be disposed of, or mixed municipal waste collected from private households for recovery to be recovered, in one of the nearest appropriate installations and by means of the most appropriate methods and technologies, so as to ensure a high level of protection for the environment and human health.

(4) This paragraph does not require that the full range of final recovery facilities is located in Northern Ireland.

## **Part 2**

### **Matters which must be included in the waste management plan**

#### **Analysis of the current waste management situation etc.**

5. The waste management plan must include an analysis of the current waste management situation, an analysis of the measures to be taken to improve environmentally sound preparation for re-use, recycling, recovery and disposal of waste and an evaluation of how the waste management plan will support the implementation of the objectives and provisions of the Waste Framework Directive.

#### **General policies in relation to waste and litter**

6. The waste management plan must include such matters as the Department of Agriculture, Environment and Rural Affairs considers appropriate, taking into account the geographical level and geographical area to which the waste management plan relates and including at least the following—

- (a) the type, quantity and source of waste generated within Northern Ireland;
- (b) the waste likely to be shipped from or to Northern Ireland;
- (c) an evaluation of the development of waste streams in the future;

- (d) existing major disposal and recovery installations, including any special arrangements for waste containing significant amounts of critical raw materials, waste oils, hazardous waste, or waste streams addressed by specific European Union legislation;
- (e) an assessment of the need for closure of existing waste installations, and for additional waste installation infrastructure in accordance with the objective in paragraph 4;
- (f) an assessment of the investments and other financial means required, including for district councils, to meet the needs identified following the assessment in subparagraph (e);
- (g) an assessment of existing waste collection schemes, including the material and territorial coverage of separate collection and measures to improve their operation, of any exceptions to the requirement for waste to be subject to separate collection and of the need for new collection schemes;
- (h) sufficient information on the location criteria for site identification and on the capacity of future disposal or major recovery installations, if necessary;
- (i) general waste management policies, including planned waste management technologies and methods, or policies for waste posing specific management problems;
- (j) measures to combat and prevent all forms of littering and to clean up litter; and
- (k) appropriate qualitative or quantitative indicators and targets, including on the quantity of generated waste and its treatment and on municipal waste that is disposed of or subject to energy recovery.

#### **Policies in relation to packaging waste**

7. The waste management plan must, in pursuance of the objectives and measures referred to in the Packaging Waste Directive, include a chapter on the management of packaging and packaging waste, including measures taken—

- (a) that consist of—
  - (i) Northern Ireland, or United Kingdom, programmes;
  - (ii) incentives through extended producer responsibility schemes; or
  - (iii) similar actions,
 to prevent generation of packaging waste and minimise the environmental impact of packaging;
- (b) to achieve a sustained reduction in the consumption of lightweight plastic carrier bags;
- (c) to actively encourage public information and awareness campaigns concerning the adverse environmental impact of the excessive consumption of lightweight plastic carrier bags; and
- (d) to encourage the increase in the share of re-usable packaging placed on the market and of systems to re-use packaging in an environmentally sound manner without compromising food hygiene or the safety of consumers.

#### **Policies in relation to separate collection of waste**

8. The waste management plan must include measures to promote high quality recycling including the setting up of separate collections of waste, subject to regulation 18 of the Waste Regulations (Northern Ireland) 2011<sup>(a)</sup>.

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<sup>(a)</sup> S.R. 2011 No. 127; relevant amending Regulations are S.R. 2013 No.241, S.R. 2016 No.95 and S.R. 2018 No.200

### **Policies in relation to bio-waste**

**9.** The waste management plan must contain measures, as appropriate, in accordance with the objectives in paragraphs 2 and 3—

- (a) to encourage the recycling, including composting and digestion, of bio-waste in a way that fulfils a high level of environment protection and results in output which meets relevant high-quality standards;
- (b) to encourage home composting; and
- (c) to promote the use of materials produced from bio-waste.

### **Policies in relation to preparing for re-use**

**10.** The waste management plan must include measures to be taken to promote preparing for re-use activities, in particular—

- (a) measures to encourage the establishment and support of preparing for re-use and repair networks;
- (b) measures to facilitate, where compatible with proper waste management, the access of preparing for re-use and repair networks to waste held by collection schemes or facilities that can be prepared for re-use but is not destined for preparing for re-use by those schemes or facilities;
- (c) the use of economic instruments;
- (d) the use of procurement criteria; and
- (e) the setting of quantitative objectives.

### **Policies in relation to recycling targets and landfill reduction targets**

**11.** The waste management plan must include policies in relation to preparing for re-use, recovery and recycling targets including—

- (a) measures to be taken to ensure that—
  - (i) by 2025, the preparing for re-use and the recycling of municipal waste shall be increased to at least 55% by weight;
  - (ii) by 2030, the preparing for re-use and the recycling of municipal waste shall be increased to at least 60% by weight; and
  - (iii) by 2035, the preparing for re-use and the recycling of municipal waste shall be increased to at least 65% by weight; and
- (b) measures to be taken to ensure that the amount of municipal waste landfilled is reduced to 10% or less of the total amount of municipal waste generated (by weight) by 2035.

## **Part 3**

### **Matters which may be included in the waste management plan**

**12.** The waste management plan may include provision about any of the following, taking into account the geographical area to which the plan relates—

- (a) organisational aspects related to waste management including a description of the allocation of responsibilities between public and private operators carrying out waste management;
- (b) an evaluation of the usefulness and suitability of the use of economic and other means of tackling various waste problems;
- (c) the use of awareness campaigns and information provision directed at the general public or at a specific set of consumers; and

- (d) measures for the remediation of historical contaminated waste disposal sites.

## Part 4

### Examples of economic instruments and other measures to provide incentives for the application of the waste hierarchy

13. The economic instruments and other measures referred to in paragraph 2(3) are—
- (a) charges and restrictions for the landfilling and incineration of waste which incentivise waste prevention and recycling, while keeping landfilling the least preferred waste management option;
  - (b) ‘pay-as-you-throw’ schemes that charge waste producers on the basis of the actual amount of waste generated and provide incentives for separation at source of recyclable waste and for reduction of mixed waste;
  - (c) fiscal incentives for donation of products, in particular food;
  - (d) extended producer responsibility schemes for various types of waste and measures to increase their effectiveness, cost efficiency and governance;
  - (e) deposit-refund schemes and other measures to encourage efficient collection of used products and materials;
  - (f) sound planning of investments in waste management infrastructure;
  - (g) sustainable public procurement to encourage better waste management and the use of recycled products and materials;
  - (h) phasing out of subsidies which are not consistent with the waste hierarchy;
  - (i) use of fiscal measures or other means to promote the uptake of products and materials that are prepared for re-use or recycled;
  - (j) support to research and innovation in advanced recycling technologies and remanufacturing;
  - (k) use of best available techniques for waste treatment;
  - (l) economic incentives for Northern Ireland authorities and authorities for any area of Northern Ireland, in particular to promote waste prevention and intensify separate collection schemes, while avoiding support to landfilling and incineration;
  - (m) public awareness campaigns, in particular on separate collection, waste prevention and litter reduction, and mainstreaming these issues in education and training;
  - (n) systems for coordination, including by digital means, between all competent public authorities involved in waste management; and
  - (o) promoting continuous dialogue and cooperation between all stakeholders in waste management and encouraging voluntary agreements and company reporting on waste.”.

## PART 3

### Amendment of subordinate legislation

#### **Amendment of the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) Regulations (Northern Ireland) 2000**

**3.—(1)** The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) Regulations (Northern Ireland) 2000(a) are amended as follows.

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(a) S.R. 2000 No. 232; relevant amending Regulations are S.R. 2011 No.127 and S.R. 2018 No.215

(2) In regulation 2(1) in the definition of “Directive 2008/98/EC” from “and repealing” to the end substitute “as last amended by Directive (EU) 2018/851(a);”; and

(3) In Schedule 1 for “Directive 2008/98/EC on waste, as amended” substitute “Directive 2008/98/EC”.

### **Amendment of the Waste Management Licensing Regulations (Northern Ireland) 2003**

**4.**—(1) The Waste Management Licensing Regulations (Northern Ireland) 2003(b) are amended as follows.

(2) In regulation 1(3)—

(a) for the definition of “the Batteries Directive” substitute—

““the Batteries Directive” means Directive 2006/66/EC(c) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators as last amended by Directive (EU) 2018/849(d);”;

(b) in the definition of “the Directive” for “(EU) 2017/997” substitute “(EU) 2018/851”;

(c) in the definition of “waste electrical and electronic equipment” for “Directive 2008/98/EC” substitute “the Directive”;

(d) in the definition of “the End of Life Vehicles Directive” for “(EU) 2017/2096/EC” substitute “(EU) 2018/849”;

(e) omit the definition of “Commission Directive (EU) 2015/1127”;

(f) in the definition of “recovery” omit “, as amended by Commission Directive (EU) 2015/1127,”; and

(g) in the definition of “the Waste Electrical and Electronic Equipment Directive” for “which replaces Directive 2002/96/EC as amended by Council Directive 2003/108/EC and Directive 2008/34/EC” substitute “as last amended by Directive (EU) 2018/849”;

(3) In regulation 11C(2) for “Directive 2006/66/EC of the European Parliament and of Council” substitute “the Batteries Directive”.

(4) In Schedule 3—

(a) in Part I, paragraph 1—

(i) in the definition of “prevention”, in sub-paragraph (c), for “harmful” substitute “hazardous”; and

(ii) for the definition of “municipal waste” substitute—

““municipal waste” means—

(a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture; and

(b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households,

but does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or waste generated by construction and demolition activities.”;

(b) in Part I, in paragraph 14—

(i) for sub-paragraph (1) substitute—

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(a) OJ No. L150, 14.6.2018, p. 109–140

(b) S.R. 2003 No. 493; relevant amending Regulations are S.R. 2005 No.300, S.R. 2006 No.280, S.R. 2006 No.519, S.R. 2009 No.159, S.R. 2011 No.127, S.R. 2014 No. 137, S.R. 2014 No.253, S.R. 2016 No.95 and S.R. 2018 No.200. Regulation 1(3) and Schedule 3 are prospectively amended from IP completion day by S.I. 2019/289

(c) OJ No. L266, 26.9.2006, p. 1–14

(d) OJ No. L150, 14.6.2018, p. 93–99

“(1) Subject to any requirements to keep records under regulation 19 and sub-paragraph (2), an establishment or undertaking which carries out the disposal or recovery of controlled waste shall—

- (a) if the operation does not involve the treatment of hazardous waste—
  - (i) keep a chronological record for a period of 2 years of the quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method of any waste which is disposed of or recovered; and
  - (ii) make that information available, on request, to the competent authority.
- (b) if the operation involves the treatment of hazardous waste—
  - (i) keep a chronological record for a period of 3 years of the quantity, nature, origin of the waste and the quantity of products and materials resulting from preparing for re-use, recycling or other recovery operations and, where relevant, the destination, frequency of collection, mode of transport and treatment method of any waste which is disposed of or recovered;
  - (ii) during that period, provide those records to the competent authority in such form and manner as the competent authority specifies; and
  - (iii) make that information available, on request, to a previous holder; and for this purpose “holder”, in respect of any such waste, means the producer or the person in possession of it.”.
- (ii) in sub-paragraph (4) for “46 or 47A” substitute “46, 47A or 49”;
- (c) in Part III, in the table in the second column of row 1, for “Waste Framework Directive as amended by the Commission Directive (EU) 2015/1127” substitute “Directive”;
- (d) in Part IV, paragraph 5(1), at the end insert “as last amended by Directive (EU) 2018/850(a)”;
- (e) in Part IV, paragraph 5(3), in the definition of “landfill” after “1999/31/EC” insert “on the landfill of waste, as last amended by Directive (EU) 2018/850,”.

### **Amendment of the Landfill Regulations (Northern Ireland) 2003**

**5.—**(1) The Landfill Regulations (Northern Ireland) 2003(b) are amended as follows.

(2) In regulation 2(2)—

- (a) in the definition of “the Directive” for “as amended by Council Directive 2011/97/EU of the 5<sup>th</sup> December 2011 as regards specific criteria for the storage of metallic mercury considered as waste” substitute “as last amended by Directive (EU) 2018/850(c)”;
- (b) in the definition of “waste” for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
- (c) in the definition of “waste battery or accumulator” for “2006/12/EC of the European Parliament and of the Council on Waste as last amended by Directive (EU) 2017/997” substitute “2008/98/EC of the European Parliament and of the Council on waste as last amended by Directive (EU) 2018/851”.

(3) In regulation 7(2) at the end insert “as last amended by Directive (EU) 2018/851”.

(4) After regulation 9 insert—

“**9A.—**(1) Every landfill permit is deemed to contain the following condition, unless such a condition in the same terms as that condition is included in the permit.

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(a) OJ No. L150, 14.6.2018, p. 100–108

(b) S.R. 2003 No. 496; relevant amending Regulations are S.R. 2005 No.300, S.R. 2009 No.159, S.R. 2011 No.127, S.R. 2013 No.161, S.R. 2015 No.14 and S.R. 2018 No.200. Regulation 2(2) is prospectively amended from IP completion day by S.I. 2019/289

(c) OJ No. L150, 14.6.2018, p. 100–108

- (2) The condition is that the operator must not accept—
- (a) any waste paper, metal, plastic or glass for landfill if that waste has been separately collected for the purpose of preparing for re-use or recycling; and
  - (b) subject to paragraph (3), any waste for landfill that results from the treatment of waste referred to in paragraph (a), unless landfill of that waste delivers the best environmental outcome in accordance with regulation 17 of the Waste Regulations (Northern Ireland) 2011.
- (3) The treatment referred to in paragraph (2)(b), must not be treatment that contravenes sub-paragraph (2)(a) or paragraph 4 of Schedule 11 to the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(a).”

#### **Amendment to the Landfill Allowances Scheme (Northern Ireland) Regulations 2004**

6.—(1) The Landfill Allowances Scheme (Northern Ireland) Regulations 2004(b) are amended as follows.

- (2) In regulation 2(2)—
- (a) in the definition of “disposal” for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”; and
  - (b) in the definition of “recovery” for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”.
- (3) In regulation 19—
- (a) in sub-paragraph (3) after “the landfill of waste” insert “as last amended by Directive (EU) 2018/850”; and
  - (b) in sub-paragraph (4) after “the landfill of waste” insert “as last amended by Directive (EU) 2018/850”.

#### **Amendment of the Hazardous Waste Regulations (Northern Ireland) 2005**

7.—(1) The Hazardous Waste Regulations (Northern Ireland) 2005(c) are amended as follows.

- (2) In regulation 2(1)—
- (a) omit the definition of “Commission Directive (EU) 2015/1127”;
  - (b) in the definition of “recovery” for “Annex II to the Directive, as amended by Commission Directive (EU) 2015/1127” substitute “Annex II to the Waste Directive”;
  - (c) in the definition of “waste battery or accumulator” for “Directive 2008/98/EC of the European Parliament and of the Council on waste as last amended by Directive (EU) 2017/997” substitute “the Waste Directive”; and
  - (d) in the definition of “management”, after “recovery” insert “(including sorting)”.
- (3) In regulation 3(1)(a) for “(EU) 2017/997” substitute “(EU) 2018/851”.
- (4) In regulation 19(4) for “and repealing Directive 91/157/EEC” substitute “as last amended by Directive (EU) 2018/849”.
- (5) For regulation 19(5) substitute—
- “(5) Paragraph (1) applies to the mixing of waste oils only where such mixing would impede the regeneration or another recycling operation delivering an equivalent or a better overall environment outcome than regeneration.”.

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(a) S.R. 2013 No.160; relevant amending Regulations are S.R. 2015 No.14, S.R. 2016 No.95, S.R. 2018 No.33  
(b) S.R. 2004 No. 416 as amended by S.R. 2005 No.588, S.R. 2011 No.127, S.R. 2011 No.373 and S.R. 2018 No.200. Regulation 2 is prospectively amended by S.I. 2019/289  
(c) S.R. 2005 No. 300; relevant amending Regulations are S.R. 2009 No. 159, S.R. 2011 No. 127, S.R. 2015 No.288, S.R. 2016 No.95 and S.R. 2018 No. 200. Regulations 2 and 3 are prospectively amended by S.I. 2019/289 and S.I. 2019/271 and regulation 19 is prospectively amended by S.I. 2019/289

- (6) In regulation 20(1)(c)(i) omit “and economically”.
- (7) In regulation 23(2)(a)(ii) for “List of Waste Regulations (Northern Ireland) 2005” substitute “List of Wastes”.
- (8) In regulation 24(2)(c)—
- (a) for “Annex I of Directive 2008/98/EC of the European Parliament and of the Council” substitute “Annex I to the Waste Directive”; and
  - (b) for “Annex II of that Directive as amended by Commission Directive (EU) 2015/1127.” substitute “Annex II to the Waste Directive”.
- (9) In regulation 37—
- (a) for sub-paragraph (3A) substitute  
“(3A) Carriers, dealers and brokers of hazardous waste shall keep for three years a chronological record of the quantity, nature, origin and the quantity of products and materials resulting from preparing for re-use, recycling or other recovery operations and, where relevant, the destination, frequency of collection, mode of transport and treatment method of the waste in a register at their principal place of business.”;
  - (b) for sub-paragraph (5) substitute—  
“(5) Any register kept or retained under this regulation shall be provided to the Department in such form and manner as the Department specifies.”; and
  - (c) in sub-paragraph (6) omit “as amended by Commission Directive (EU) 2015/1127”.
- (10) In regulation 38—
- (a) for sub-paragraph (1) substitute—  
“(1) A producer or holder of hazardous waste, and where different from the producer, a consignor or broker of, or dealer in hazardous waste, shall keep a record of the quantity, nature, origin and the quantity of products and materials resulting from preparing for re-use, recycling or other recovery operations and, where relevant, the destination, frequency of collection, mode of transport and treatment method of the waste.”; and
  - (b) for sub-paragraph (7) substitute—  
“(7) Any register kept and retained under this regulation shall be provided to the Department in such form and manner as the Department specifies.”.
- (11) For regulation 40(3)(a) substitute—  
“(a) the quantity, nature, origin of the waste and the quantity of products and materials resulting from preparing for re-use, recycling or other recovery operations;”.

**Amendment of the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007**

**8.**—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007(a) are amended as follows.

- (2) In regulation 2(1)—
- (a) omit the definition of “Commission Directive (EU) 2015/1127”;
  - (b) for the definition of “the Packaging Waste Directive” substitute—  
““the Packaging Waste Directive” means Council Directive 94/62/EC on packaging and packaging waste as last amended by Directive (EU) 2018/852;” and
  - (c) In the definition of “the Waste Directive” for “as amended by Commission Directive (EU) 2015/1127” substitute “as last amended by Directive (EU) 2018/851”.

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(a) S.R. 2007 No. 198; relevant amending Regulations are S.R. 2008 No.77, S.R. 2008 No.373, S.R. 2010 No.396, S.R. 2011 No.127, S.R. 2016 No.79, S.R. 2016 No.95 and S.R. 2018 No.200. Regulation 2 is prospectively amended by S.I. 2019/271

(3) In regulation 2(2), for the definition of “recovery” for “Annex II to the Directive, as amended by Commission Directive (EU) 2015/1127” substitute “Annex II to the Waste Directive”.

### **Amendment of the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009**

**9.**—(1) The Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009(a) are amended as follows.

(2) In Schedule 2, paragraph 2(1) at the end insert “, as last amended by Directive (EU) 2018/851”.

(3) In Schedule 3—

- (a) in paragraph 2(1) at the end insert “, as last amended by Directive (EU) 2018/851”;
- (b) in paragraph 2(2) at the end insert “, as last amended by Directive (EU) 2018/851”; and
- (c) in paragraph 3 at the end insert “, as last amended by Directive (EU) 2018/850”.

### **Amendment of the Waste Regulations (Northern Ireland) 2011**

**10.**—(1) The Waste Regulations (Northern Ireland) 2011(b) are amended as follows.

(2) In regulation 9—

- (a) omit the definition of “Commission Directive (EU) 2015/1127”;
- (b) for the definition of “municipal waste” substitute—
  - ““municipal waste” means—
  - (a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture; and
  - (b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households;but does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or waste generated by construction and demolition activities;”;
- (c) in the definition of “recovery” for “Annex II to the Directive, as amended by Commission Directive (EU) 2015/1127,” substitute “Annex II to the Waste Framework Directive”;
- (d) in the definition of “the Waste Framework Directive” for “(EU) 2017/997” substitute “(EU) 2018/851”; and
- (e) in the definition of “prevention”, in paragraph (g), for “harmful” substitute “hazardous”.

(3) In regulation 10, in sub-paragraph (1)(a) for “Annex IV of the Waste Framework Directive” substitute “the Schedule”.

(4) In regulation 11(1)—

- (a) after sub-paragraph (a), insert—
  - “(aa) includes one of more programmes of food waste prevention measures;”;
- (b) in sub-paragraph (c) for “waste prevention measures; and” substitute “waste prevention measures and their contribution to waste prevention;”;
- (c) in sub-paragraph (d) for “.” substitute “;” and
- (d) after sub-paragraph (d) insert—

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(a) S.R. 2009 No. 252; relevant amending Regulations are S.R. 2011 No.127, S.R. 2011 No.210 and S.R. 2018 No.200

(b) S.R. 2011 No.127; relevant amending Regulations are S.R. 2016 No.95 and S.R. 2018 No.200

- “(e) sets out at least the waste prevention measures in the Schedule; and
- (f) where relevant, describes the contribution of instruments listed in Part 4 of Schedule 3 to the Waste and Contaminated Land (Northern Ireland) Order 1997(a).”.

(5) For regulation 12(1)(a) substitute—

- “(a) establish appropriate qualitative and quantitative indicators and targets, such as on the quantity of waste that is generated, against which to monitor and assess the implementation of the waste prevention measures; and”

(6) In regulation 18—

(a) in paragraph (1)—

- (i) omit “, from 1<sup>st</sup> January 2015”;
- (ii) omit “and are—” and insert “.”; and
- (iii) omit sub-paragraphs (a) and (b).

(b) in paragraph (2) omit “, from 1<sup>st</sup> January 2015,”; and

(c) for paragraph (3) substitute—

“(3) The duties in this regulation apply where separate collection is necessary to ensure that waste undergoes preparing for re-use, recycling or other recovery operations in accordance with the waste hierarchy and the protection of human health and the environment and to facilitate or improve preparing for re-use, recycling or recovery, unless one of the following conditions is met—

- (a) collecting the waste paper, metal, plastic or glass together results in output from those operations which is of comparable quality to that achieved through separate collection;
- (b) separate collection of the waste does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;
- (c) separate collection of the waste is not technically feasible taking into consideration good practices in waste collection; or
- (d) separate collection of the waste would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility.”.

(7) In regulation 19, for paragraphs (1) and (2), substitute—

“(1) Subject to paragraph (2), a district council which collects, transports or receives waste must ensure that where that waste has been separately collected it is not mixed with other material with different properties.

(2) The duty in paragraph (1) applies where keeping waste separate is necessary to ensure that waste undergoes preparing for re-use, recycling or other recovery operations in accordance with the waste hierarchy and the protection of human health and the environment and to facilitate or improve preparing for re-use, recycling or recovery, unless one of the following conditions is met—

- (a) mixing certain types of waste together results in output from those operations which is of comparable quality to that achieved through keeping waste separate;
- (b) keeping waste separate does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;

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(a) S.I. 1997/2778 (N.I. 19)

- (c) keeping waste separate is not technically feasible taking into consideration good practices in waste collection; or
- (d) keeping waste separate would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility.”.

(8) Add the Schedule—

## “SCHEDULE

Regulation 10(1)(a)

### WASTE PREVENTION MEASURES

The waste prevention measures are measures to at least—

- (a) promote and support sustainable production and consumption models;
- (b) encourage the design, manufacturing and use of products that are resource-efficient, durable (including in terms of life span and absence of planned obsolescence), repairable, re-usable and upgradable;
- (c) target products containing critical raw materials to prevent those materials becoming waste;
- (d) encourage the re-use of products and the setting up of systems promoting repair and re-use activities, including in particular for electrical and electronic equipment, textiles and furniture, as well as packaging and construction materials and products;
- (e) encourage, as appropriate and without prejudice to intellectual property rights, the availability of spare parts, instruction manuals, technical information, or other instruments, equipment or software enabling the repair and re-use of products without compromising their quality and safety;
- (f) reduce waste generation in processes related to industrial production, extraction of minerals, manufacturing, construction and demolition, taking into account best available techniques;
- (g) reduce the generation of food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households;
- (h) encourage food donation and other redistribution for human consumption, prioritising human use over animal feed and the reprocessing into non-food products;
- (i) promote the reduction of the content of hazardous substances in materials and products;
- (j) reduce the generation of waste, in particular waste that is not suitable for preparing for re-use or recycling;
- (k) identify products that are the main sources of littering and take appropriate measures to prevent and reduce litter from such products;
- (l) aim to halt the generation of marine litter; and
- (m) develop and support information campaigns to raise awareness about waste prevention and littering.”.

## **Amendment of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013**

**11.**—(1) The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(a) are amended as follows.

(2) In regulation 2(1)—

(a) omit the definition of “Commission Directive (EU) 2015/1127”;

(b) insert in the appropriate place—

““the Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste as last amended by Directive (EU) 2018/851(b);”;

(c) in the definition of “hazardous waste” for “Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives” substitute “the Directive”;

(d) in the definition of “recovery” for “Directive 2008/98/EC, as amended by Commission Directive (EU) 2015/1127” substitute “the Directive”; and

(e) in the definition of “waste” for “Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste” substitute “the Directive”.

(3) For regulation 11(3)(b) substitute—

“(b) waste production is avoided in accordance with the Directive; and, where waste is produced, it is in order of priority and in accordance with the Directive, prepared for re-use, recycled, recovered, or where that is technically and economically impossible, it is disposed of while avoiding or reducing any adverse impact on the environment;”.

(4) In regulation 13(10) for “Directive 2008/98/EC” substitute “the Directive”.

(5) In Schedule 11—

(a) in paragraph 3(3) at the end insert “as last amended by Directive 2018/849(c)”; and

(b) after paragraph 3 insert—

### **“Waste separately collected for preparing for re-use and recycling not to be incinerated**

**4.**—(1) Every environmental permit which authorises a waste co-incineration plant or a waste incineration plant is deemed to contain the following condition, unless such a condition in the same terms as that condition is included in the permit.

(2) The condition is that the operator must not accept—

(a) any waste paper, metal, plastic or glass for incineration if that waste has been separately collected for the purpose of preparing for re-use or recycling; and

(b) subject to sub-paragraph (3), any waste for incineration that results from the treatment of waste referred to in paragraph (a), unless incineration of that waste delivers the best environmental outcome in accordance with regulation 17 of the Waste Regulations (Northern Ireland) 2011.

(3) The treatment referred to in sub-paragraph (2)(b) must not be treatment that contravenes sub-paragraph (2)(a) or regulation 9A(2)(a) of the Landfill Regulations (Northern Ireland) 2003(d).”.

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(a) S.R. 2013 No.160; relevant amending Regulations are S.R. 2016 No.95 and S.R. 2018 No.200.

(b) OJ No. L150, 14.6.2018, p. 109–140

(c) OJ No. L150, 14.6.2018, p. 93–99

(d) S.R. 2003 No. 496; relevant amending Regulations are S.R. 2004 No.297, S.R. 2005 No.300, S.R. 2006 No.280, S.R. 2007 No.179, S.R. 2007 No.258, S.R. 2009 No.159, S.R. 2011 No.101, S.R. 2015 No.14, S.R. 2015 No.85 and S.R. 2018 No.200

### **Amendment of the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013**

12. In paragraph 1(1) of the Schedule to the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013(a) in the definition of “the Waste Directive” at the end insert “, as last amended by Directive (EU) 2018/851(b)”.

#### **Waste management plans: transitional provision**

13.—(1) This regulation applies to a waste management plan that is adopted on or before 18th December 2020.

(2) Notwithstanding the amendment of Article 19 of, and Schedule 3 to, the Waste and Contaminated Land (Northern Ireland) Order 1997 by regulation 2, a waste management plan to which this regulation applies—

- (a) is not required—
  - (i) to include a statement of the Department’s policies for attaining the objectives specified in paragraph 1 or paragraph 2(3) of Schedule 3 (as substituted by regulation 2(5));
  - (ii) to include the matters set out in Part 2 of Schedule 3 as substituted by regulation 2(5); or
  - (iii) to comply with Article 19(4)(d); but,
- (b) must include—
  - (i) a statement of the Department’s policies for attaining the objectives specified in Part 1 of Schedule 3; and
  - (ii) the matters set out in Part 2 of Schedule 3, as they applied immediately before regulation 2 came into operation.

#### **Waste prevention programmes: transitional provision**

14.—(1) This regulation applies to a waste prevention programme that is adopted on or before 18th December 2020.

(2) Notwithstanding the amendment of regulations 10, 11 and 12 of and the insertion of the Schedule to the Waste Regulations (Northern Ireland) 2011 by regulation 10, a waste prevention programme to which this regulation applies—

- (a) is not required to include the matters set out in regulations 10,11 and 12 as amended by regulation 10; but,
- (b) must comply with the requirements of regulations 10, 11 and 12, as they applied immediately before regulation 10 came into operation.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 26th November 2020



*Owen Lyttle*

A senior officer of the Department of Agriculture, Environment and Rural Affairs

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(a) S.R. 2013 No. 255 as amended by S.I. 2014/117 and S.R. 2018 No.200  
(b) OJ No. L150, 14.6.2018, p. 109–140

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations transpose the EU Circular Economy Package for Northern Ireland. The EU Circular Economy Package consists of four amending EU Directives in the field of waste, namely Directive (EU) 2018/849 (OJ No L 150, 14.6.2018, p. 93), Directive (EU) 2018/850 (OJ No L150, 14.6.2018, p. 100), Directive (EU) 2018/851 (OJ No L150, 14.6.2018, p. 109), Directive (EU) 2018/852 (OJ No L150, 14.6.2018, p. 141) (“the amending Directives”).

The amending Directives amend 6 EU Directives; European Parliament and Council Directive 94/62/EC on packaging and packaging waste (OJ No L365, 31.12.1994, p. 10), Council Directive 1999/31/EC on the landfill of waste (OJ No L182, 16.7.1999, p. 1) (“the Landfill Directive”), Directive 2000/53/EC of the European Parliament and of the Council on end-of life vehicles (OJ No L269, 21.10.2000, p. 34), Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators (OJ No L266, 26.9.2006, p. 1), Directive 2008/98/EC of the European Parliament and of the Council on waste (OJ No L312, 22.11.2008, p. 3) (“the Waste Framework Directive”) and Directive 2012/19/EC of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (OJ No L197, 24.7.2012, p. 38) (“the relevant Directives”).

Part 2 of these Regulations amends primary legislation, the Waste and Contaminated Land (Northern Ireland) Order 1997, to update references to the Waste Framework Directive, and reflect definitions from Article 3 of the Waste Framework Directive. It also replaces Schedule 3 to that Order with a new Schedule, to update the requirements in terms of the content and objectives of waste management plans in order to take account of amendments made to the Waste Framework Directive.

Part 3 of these Regulations amends subordinate legislation. Regulation 4 amends the Waste Management Licensing Regulations (Northern Ireland) 2003, as amended, which deal with applications for waste management licences. Regulation 5 amends the Landfill Regulations (Northern Ireland) 2003, as amended, which partially implement the Landfill Directive in Northern Ireland. Regulation 7 amends the Hazardous Waste Regulations (Northern Ireland) 2005, as amended, which implement hazardous waste requirements in the Waste Framework Directive in Northern Ireland. Regulation 10 amends the Waste Regulations (Northern Ireland) 2011, as amended, which partially implement the Waste Framework Directive in Northern Ireland and regulation 14 contains transitional provision in relation to some of those amendments. Regulation 11 amends the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013, as amended, to update requirements around waste incineration.

The remainder of the Regulations update references to the relevant Directives in the Landfill Allowances Scheme Regulations (Northern Ireland) 2004, the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007, the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009, the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011 and the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013.

An impact assessment has been produced for this Statutory Rule. Copies can be obtained from Environmental Policy Division, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast, BT7 2JA or by emailing [WasteFramework@daera-ni.gov.uk](mailto:WasteFramework@daera-ni.gov.uk).

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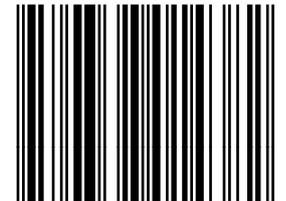


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NI202011261020 12/2020 19585

<http://www.legislation.gov.uk/id/nisr/2020/285>

ISBN 978-0-33-801438-2



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