

**EXPLANATORY MEMORANDUM TO**  
**THE WASTE (ENGLAND AND WALES) REGULATIONS 2011**

**2011 No. [XXXX]**

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The draft instrument transposes Directive 2008/98/EC on waste<sup>1</sup> (“the revised Waste Framework Directive”) in England and Wales. The revised Waste Framework Directive re-enacts, revises or repeals three predecessor Directives: (i) the Waste Framework Directive (2006/12/EC); (ii) the Waste Oils Directive (75/439/EEC as amended); and (iii) the Hazardous Waste Directive (91/698/EEC as amended). The laws, regulations and administrative provisions necessary to comply with these three predecessor Directives are in place. The draft instrument transposes the revised Waste Framework Directive by revising or repealing the legislation in place to transpose the three predecessor Directives in England and Wales; and by adding new freestanding provisions to the existing legislation to ensure compliance with the revised Directive.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 As indicated in paragraph 2.1 above, the revised Waste Framework Directive re-enacts, revises or repeals three predecessor Directives. For the most part, therefore, the transposition of the revised Waste Framework Directive by the draft instrument follows a similar legislative approach to the transposition of the predecessor Directives.

4.2 Prior to the draft instrument, most implementation of the predecessor Directives was dealt with by the following legislation:-

- The Environment Act 1990, particularly section 34 and the Environmental Protection (Duty of Care) Regulations 1991 (S.I. 1991 No. 2839 as amended), dealing with the “duty of care” on those responsible for waste and section 44A requiring a national waste strategy;
- The Control of Pollution (Amendment) Act 1989 and the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 (S.I. 1991 No. 1624 as amended), dealing with the registration of waste carriers;

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<sup>1</sup> Directive 2008/98/EC (OJ No L 312, 22.11.2008, p 3).

- The Waste Management Licensing Regulations 1994 (S.I. 1994 No. 1056), dealing further with the registration of waste carriers and with the registration of dealers and brokers of waste;
- The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010 No. 675 as amended), dealing with permitting of waste disposal and recovery operations;
- The Hazardous Waste (England and Wales) Regulations 2005 (S.I. 2005 No. 894 as amended) and the Hazardous Waste (Wales) Regulations 2005 (S.I. 2005 No. 1806 as amended) (W.138), dealing with hazardous waste; and
- The Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 and subordinate legislation made under those Acts, dealing with waste plans.

4.3 Implementation of the revised Waste Framework Directive continues to rely on most of this legislation, amended where necessary by the draft instrument. However, the draft instrument also takes the opportunity to reduce the fragmentation of waste legislation to some extent and so it streamlines and replaces some waste regulation, in particular the subordinate legislation relating to the registration of waste carriers and brokers and to the “duty of care”.

4.4 Finally, the draft instrument contains new provisions transposing those elements of the revised Waste Framework Directive which did not appear in its predecessors.

4.5 A transposition note is attached to this explanatory memorandum as Annex 1.

## **5. Territorial Extent and Application**

5.1 The draft instrument extends to England and Wales.

## **6. European Convention on Human Rights**

6.1 Lord Henley, Parliamentary Under Secretary of State, has made the following statement regarding Human Rights:-

“In my view the provisions of the Waste (England and Wales) Regulations 2011 are compatible with the Convention rights.”

## **7. Policy background**

### **• What is being done and why**

7.1 The Waste Framework Directive was originally adopted in 1975 as Directive 75/442/EEC. The focus of the Directive’s provisions at that stage was on ensuring the safe disposal of waste. The original Directive also enabled Member States to adopt their own national definitions of waste.

7.2 The Waste Framework Directive was the subject of substantial amendment in 1991 in Directive 91/156/EEC - taking account of the experience gained by Member States in the implementation of the original Directive. One of the major changes made in 1991 was to extend the scope of the Directive's objectives and controls from waste disposal also to cover waste recovery – with “recovery” including recycling, re-use of waste, reclamation and the use of waste as a source of energy. The amended Directive<sup>2</sup> also introduced an EU-wide definition of waste “in order to improve the efficiency of waste management in the Community”.

7.3 The predecessor Waste Framework Directive (2006/12/EC) contains provisions which have the aim of directing waste management policy and provisions which are regulatory in nature. The former includes the waste hierarchy and measures on waste prevention/reduction; the self-sufficiency and proximity principles; waste management planning; and the “polluter pays” principle. The latter includes a requirement for “establishments or undertakings” carrying out waste disposal operations or waste recovery operations to hold a permit or a registered permit exemption; a requirement for professional collectors and transporters of waste, and for dealers and brokers of waste, to be registered; and a requirement for “appropriate periodic inspection” of those carrying out waste management activities.

7.4 The Sixth Community Environment Action Programme<sup>3</sup>, adopted by the European Parliament and the Environment Council of Ministers on 22 July 2002, called for the development or revision of EU waste legislation. In response, the European Commission published on 21 December 2005 a Communication entitled “Taking sustainable use of resources forward: A Thematic Strategy on the prevention and recycling of waste”<sup>4</sup> (“the Waste Thematic Strategy”). The Waste Thematic Strategy was published by the Commission in association with a thematic strategy on the sustainable use of natural resources and proposed action in the following areas:-

- renewed emphasis on full implementation of existing legislation;
- introducing life-cycle thinking into waste policy;
- promotion of waste prevention policies;
- improving the knowledge base;
- fostering waste recycling; and
- simplification and modernisation of existing legislation.

7.5 The Commission also published a proposal for the revision of the Waste Framework Directive to give effect to the Waste Thematic Strategy. On conclusion of the co-decision process, the revised Waste Framework Directive was adopted by the European Parliament and the Council on 19 November 2008 and entered into force on 12 December 2008. Member States were required to transpose the Directive by 12 December 2010.

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<sup>2</sup> Subsequently codified/consolidated as Directive 2006/12/EC of the European Parliament and of the Council (OJ No L 114, 27.4.2006, p 9).

<sup>3</sup> Decision No 1600/2002/EC (OJ No L 242, 10.9.2002, p 1).

<sup>4</sup> Available at <http://ec.europa.eu/environment/waste/strategy.htm>.

7.6 The key objective of the revised Waste Framework Directive is to provide:-

“...measures to protect the environment and human health by preventing or reducing 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.”

7.7 In one way or another, the fulfilment of the Directive’s objectives is of interest to almost everyone – householders, local authorities, businesses (including small and medium enterprises (SMEs)), non-governmental organisations (NGOs) and consumer groups. Whilst measures are in place to comply with the three predecessor Directives listed in paragraph 2.1 above, the revised Waste Framework Directive also introduces several new provisions – some of which required the Government to take policy decisions before deciding on the necessary transposing legislation. The previous Government decided, therefore, to carry out a two-stage public consultation on the Directive’s transposition. The stage one public consultation ran from 16 July to 9 October 2009 and was essentially a policy debate on the following provisions:-

- The 5-step **waste hierarchy** and its application as a priority order in waste management legislation (Article 4);
- Discretionary provisions on **extended producer responsibility** (Article 8);
- A range of provisions on the **separate collection and the recovery/recycling of waste** – including the 50% recycling target for waste from households and the 70% recovery target for non-hazardous construction and demolition waste (Article 11);
- The extension of the **principles of self-sufficiency and proximity** from disposal installations to cover also installations for the recovery of mixed municipal waste (Article 16);
- The implementation of some changes on the management of **hazardous waste** (Articles 17-20);
- The implementation of some provisions on **waste oils** (Article 21);
- Measures on **biowaste** (Article 22);
- The implementation of changes on **waste management plans** (Article 28); and
- The need to establish **waste prevention programmes** (Article 29).

7.8 The stage two public consultation was carried out after the General Election by the Coalition Government. This consultation ran from 8 July to 16 September 2010 and included:-

- A summary of the key issues;
- A consultation paper covering:-
  - A draft of the Regulations to transpose the revised Waste Framework Directive in England and Wales;
  - Draft guidance for England on the application of the waste hierarchy;and

- An Impact Assessment.

7.9 The Department has also carried out informal consultations with key stakeholders throughout the negotiation and transposition phases of the revised Waste Framework Directive. The revised Directive Stakeholder Group comprises about 30 members and meets under the Department's chairmanship about four times a year. The Department has also held workshops with stakeholders, including trade bodies representing SMEs, on key aspects of the revised Directive (e.g. the waste hierarchy).

7.10 The draft instrument addresses one issue which is not related directly to the transposition of the revised Waste Framework Directive. The draft instrument gives effect to a judgment made by the European Court of Justice (ECJ) in 2005 on the interpretation of Article 12 of the existing Waste Framework Directive<sup>5</sup>. The ECJ found that the registration of professional waste carriers must include all those who "normally and regularly transport waste, whether that waste is produced by them or others". This is different to the existing national legislation, and the associated guidance, implementing Article 12 in England and Wales. It means that the Government is under an obligation to amend the list of those who are currently exempt from registration and bring into the system a range of businesses not previously registered with the Environment Agency, particularly those who "normally and regularly" carry waste they produced themselves.

7.11 The draft instrument makes provision for a registration system that complies with the ECJ's judgment but is as light as possible for businesses. Provision is made for a two tier system under which professional waste carriers in the higher tier will be subject to similar controls as now, and the vast majority of currently exempt businesses who carry waste "normally and regularly", and will be brought into the registration system for the first time, will be in a new lower tier (tier 2) requiring a one-off registration.

- **Consolidation**

7.12 The Department currently has no plans to consolidate the legislation amended by the draft instrument.

## **8. Consultation outcome**

8.1 There were 137 responses to the stage one consultation (see paragraph 7.7 above). The responses were submitted by a wide cross section of stakeholders, ranging from private individuals, public bodies, large waste management companies, small third sector organisations and campaign groups. Information about the stage one consultation, and the report summarising the responses to that consultation, are available at <http://webarchive.nationalarchives.gov.uk/20100505154859/http://www.defra.gov.uk/corporate/consult/waste-framework/index.htm>. The responses to the stage one consultation were considered and taken into account in the preparation of the stage two consultation proposals.

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<sup>5</sup> Case C-270/03 involving infraction proceedings by the European Commission against Italy.

8.2 There were 166 responses to the stage two consultation (see paragraph 7.8 above). The responses were submitted by a wide range of stakeholders, including businesses, public bodies and trade associations. The following Table sets out the number of responses received under each category:-

Category	Number of Responses	% of Responses
Business	40	24%
Trade Association	40	24%
Public Sector Body	63	38%
Third Sector	17	10%
Individual	6	4%
<b>Total</b>	<b>166</b>	<b>100%</b>

8.3 Information about the stage two consultation, and the report summarising the responses to that consultation, are available at <http://www.defra.gov.uk/corporate/consult/waste-framework-revised/index.htm>. The responses to the stage two consultation have been considered and taken into account in preparing the measures to transpose the revised Waste Framework Directive contained in the draft instrument.

## 9. Guidance

9.1 The Department consulted on draft guidance on the application of the waste hierarchy in England as part of the stage two consultation on the transposition of the revised Waste Framework Directive (see paragraph 7.8 above). In January 2010 the Department consulted on draft guidance on the interpretation of the definition of waste in the existing Waste Framework Directive<sup>6</sup> – which is re-enacted in the revised Directive.

9.2 The guidance which the Department proposes to make available, after any necessary consultation, to accompany the transposing Regulations in England includes:-

- Overarching guidance on the transposing Regulations – including a revision of the guidance on the existing Waste Framework Directive provided in the context of the Environmental Permitting system.
- An easy-to-follow guide for businesses on the transposing Regulations.
- A post-consultation version of the guidance on the definition of waste referred to in paragraph 9.1 above.
- Guidance on hazardous waste.
- Guidance on the registration of professional waste carriers and collectors, and dealers and brokers of waste.
- A revision of the duty of care code of practice provided under section 34 of the Environmental Protection Act 1990.
- A post-consultation version of the waste hierarchy guidance referred to in paragraphs 7.8 and 9.1 above.

<sup>6</sup> Available at <http://www.defra.gov.uk/corporate/consult/waste-definition/index.htm>

- Guidance on the separate collection provisions of the revised Directive and the transposing Regulations – including the implementation of the term “technically, environmentally and economically practicable”.
- Revision of the guidance provided in Planning Policy Statement No.10 to take account of the revised Directive’s transposition.

9.3 The European Commission has confirmed its intention to provide a range of guidance to assist Member States’ implementation of the revised Waste Framework Directive but to date none has been published. It is also likely that the Environment Agency, as the main “competent authority” responsible for the implementation of the transposing Regulations in England and Wales, will publish guidance to enable businesses to comply with the Directive’s waste management controls as transposed.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is limited because the revised Waste Framework Directive re-enacts existing waste management controls and there are no additional costs for businesses etc. in continuing to comply with these controls. Any additional costs will arise from the new or revised provisions introduced in the revised Directive and transposed in the draft instrument e.g. the application of the waste hierarchy as a priority order, hazardous waste and compliance with an ECJ judgment on the registration of professional waste carriers (see paragraphs 7.10-7.11 above). The total additional transition costs incurred by businesses etc. are estimated to be in the range of £27.8m to £50.2m and annual costs are expected to range from £1.2m-£4.6m pa.

10.2 The impact on the public sector is likely to arise from the revised Directive’s provisions on the application of the waste hierarchy and separate collection and is estimated to be £55,810 to £71,320 pa. Transition costs to the public sector are expected to range from £758,000 to £763,000 for implementation of waste management plans and other provisions.

10.3 An Impact Assessment is attached to this explanatory memorandum as Annex 2.

## **11. Regulating small business**

11.1 The legislation applies to small business. The revised Waste Framework Directive does not include provisions enabling Member States to exclude small businesses as such from its requirements.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to ensure that the requirements in the draft instrument are the minimum necessary to ensure full and effective transposition of the revised Waste Framework Directive. The revised Directive applies to all producers and holders of waste, and to “establishments or undertakings” engaged in waste management activities, irrespective of their size.

11.3 The basis for the final decision on what action to take to assist small businesses has been to ensure that, in transposing the requirements of the revised Waste Framework Directive, the requirements are the minimum necessary for proper transposition; to take full advantage of derogations available under the Directive; and to ensure that where regulatory controls are necessary they are applied in a manner that is proportionate to the risk to the environment and human health. The Department has engaged in regular discussions with the Federation of Small Businesses and other representatives of small businesses throughout the negotiation and transposition of the revised Waste Framework Directive to ensure that the concerns of small businesses, and the potential impacts on such businesses, are addressed and taken into account wherever possible.

## **12. Monitoring & review**

12.1 The effect of Article 37 of the revised Waste Framework Directive is to require Member States to submit reports on their implementation of the Directive to the European Commission every three years. The first report on the UK's implementation of the Directive will be submitted by 30 September 2013. The draft instrument will be monitored in order to prepare that report and will be reviewed in the light of the report that is submitted in compliance with Article 37.

## **13. Contact**

13.1 John MacIntyre at the Department for Environment, Food and Rural Affairs can answer any queries regarding the draft instrument. Tel: 020 7238 4353 or email: [john.macintyre@defra.gsi.gov.uk](mailto:john.macintyre@defra.gsi.gov.uk).



## ANNEX 1

### Revised Waste Framework Directive Transposition Note (England and Wales)

<u>Provision Of Directive</u>	<u>Provision Of Regulations</u>	<u>Comment</u>
<p><i>Article 1</i> <b>Subject matter and scope</b></p>	<ul style="list-style-type: none"> <li>• Regulation 5(a)</li> <li>• Regulation 8(2)(a)</li> <li>• Schedule 1 paragraph 1.</li> </ul>	<p>Article 1 is transposed in the provisions relating to waste management plans and waste prevention programmes, as required by Article 28(1) and Article 29(1).</p>
<p><i>Article 2</i> <b>Exclusions from the scope</b></p>	<p>Article 2(1) to (3)</p> <ul style="list-style-type: none"> <li>• Regulation 2</li> <li>• Regulation 47</li> <li>• Schedule 2 paragraph 1</li> <li>• Schedule 3 paragraphs 2, 4(2), 6 to 8, 13</li> <li>• Schedule 4 paragraphs 2 and 3(6).</li> </ul> <p>Article 2(4) does not need to be transposed.</p>	<p>The Regulations do not apply to waste that is excluded from the scope of the Directive under Article 2(1) to (3). The exception to this is certain radioactive waste which is exempt from the requirement for an environmental permit under a specified order. The effects of regulation 47 and the related amendments to other legislation are to ensure that such radioactive waste is treated as waste for the purposes of the Regulations and the other legislation that is amended in this way.</p> <p>The Regulations amend other legislation to give effect to the exclusions in Article 2(2) and (3).</p>
<p><i>Article 3</i> <b>Definitions</b></p>	<ul style="list-style-type: none"> <li>• Regulation 3(2)</li> <li>• Schedule 2 paragraphs 2(1) and 5(b)</li> <li>• Schedule 3 paragraphs 2(a) and 11 to 14</li> <li>• Schedule 4 paragraphs 2, 3(6), 8(a), 14(b), 15(b), 18(b), 21(a) and (b) and 22(b).</li> </ul>	<p>Unless specifically defined in the Regulations, the Directive’s definitions are imported into the Regulations by regulation 3(2).</p> <p>The Regulations make consequential amendments to definitions in other legislation to bring them into line with the Directive definitions.</p>
<p><i>Article 4</i> <b>Waste hierarchy</b></p>	<ul style="list-style-type: none"> <li>• Regulation 5(a)</li> <li>• Regulation 8(2)(a)</li> <li>• Regulation 12</li> <li>• Regulation 15</li> <li>• Regulation 22(b)(i)</li> <li>• Regulation 35(2)(d)</li> <li>• Schedule 1, Part 1, paragraph 2</li> <li>• Schedule 3 paragraph 9(a).</li> </ul>	<p>Article 4 is transposed through the existing planning system through:</p> <ul style="list-style-type: none"> <li>• amendments to Planning Policy Statement 10 in England and Technical Advice Note 21 (TAN 21) in Wales;</li> <li>• amendments to environmental permitting legislation;</li> <li>• a duty on appropriate authorities with regard to offshore licensing functions;</li> <li>• a duty on waste producers and other holders (see the entry for Article 15 for more detail on this).</li> </ul> <p>The Article is also transposed in the provisions</p>

		relating to waste management plans and waste prevention programmes as required by Articles 28 and 29.
<i>Article 5</i> <b>By-products</b>	Article 5(1) is transposed through the definition of waste. Article 5(2) does not need to be transposed.	In the Regulations, “waste” has the meaning it bears in the Directive, which is in Article 3(1). Article 5(1) operates to clarify the definition of waste in Article 3(1) and this therefore carries through to the Regulations. This also applies to other legislation where waste is given the meaning it bears in Article 3(1). Article 5(2) is a power for the Commission to adopt measures.
<i>Article 6</i> <b>End-of-waste status</b>	Article 6 does not need to be transposed.	Article 6(1) and (2) specifies the Commission’s power to develop end-of-waste criteria for certain waste streams. Article 6(3) describes the effect of adopted criteria on recovery and recycling targets in other Directives. Article 6(4) enables Member States to determine end-of-waste criteria where criteria have not been set at Community level under Article 6(1) and (2).
<i>Article 7</i> <b>List of waste</b>	Article 7(4)- <ul style="list-style-type: none"> <li>• Schedule 2 paragraph 7(b) and 8(a).</li> </ul> Article 7(7) does not need to be transposed.	With the exception of Article 7(4) and 7(7), this Article is transposed in England and Wales by the Hazardous Waste (England and Wales) Regulations 2005 and the Hazardous Waste (Wales) Regulations 2005.
<i>Article 8</i> <b>Extended producer responsibility</b>	Article 8 does not need to be transposed.	Article 8 confers a discretion on Member States in respect of extended producer responsibility measures.
<i>Article 9</i> <b>Prevention of waste</b>	Article 9 does not need to be transposed.	This Article requires the Commission to produce reports on waste prevention as described in the Article.
<i>Article 10</i> <b>Recovery</b>	Article 10(1)- <ul style="list-style-type: none"> <li>• see entries for transposition of Articles 4 and 13.</li> </ul> Article 10(2)- <ul style="list-style-type: none"> <li>• Regulation 13;</li> <li>• Regulation 14.</li> </ul> There is also a power in Regulation for the appropriate authority to give guidance on the discharge of the duties in regulations 13 and 14.	Article 10(1) is transposed by the same provisions of the Regulations implementing Article 4 and Article 13– see the entries for those Articles.  Article 10(2) contains a requirement for the separate collection of waste, which has to be read with paragraphs 2 and 3 of Article 11(1). It also prohibits the mixing of separately collected waste with other waste. These duties apply from 1 January 2015 as per paragraph 3 of Article 11(1).
<i>Article 11</i>	Article 11(1) first paragraph-	Article 11(1) and Article 11 (2) are transposed in

<p><b>Re-use and recycling</b></p>	<ul style="list-style-type: none"> <li>• Regulation 8(2)(b)</li> <li>• Schedule 1 paragraph 10</li> </ul> <p>Article 11(1) second and third paragraphs-</p> <ul style="list-style-type: none"> <li>• Regulation 8(2)(b)</li> <li>• Regulation 13</li> <li>• Schedule 1 paragraph 8.</li> </ul> <p>Article 11(2)-</p> <ul style="list-style-type: none"> <li>• Regulation 8(2)(b)</li> <li>• Schedule 1 paragraph 11.</li> </ul> <p>There is no need to transpose Article 11(3) to (5).</p>	<p>the Regulations in the provisions relating to separate collection and waste management plans.</p>
<p><i>Article 12</i> <b>Disposal</b></p>	<ul style="list-style-type: none"> <li>• See entry for transposition of Article 13.</li> </ul>	<p>Article 12 is transposed by the same provisions of the Regulations transposing Article 13 – see entry below.</p>
<p><i>Article 13</i> <b>Protection of human health and the environment</b></p>	<ul style="list-style-type: none"> <li>• Regulation 8(2)(a);</li> <li>• Regulation 18(a)</li> <li>• Regulation 22(c)</li> <li>• Schedule 1 paragraph 3</li> <li>• Schedule 3 paragraph 9(a)</li> <li>• Partly transposed by existing legislation.</li> </ul>	<p>The Regulations transpose the Article 13 requirement as follows:-</p> <ul style="list-style-type: none"> <li>• as an objective in waste management plans;</li> <li>• as a duty on planning authorities in the exercise of their planning functions;</li> <li>• as a duty on the “appropriate authority” in relation to deposits at sea and the exercise of offshore licensing functions;</li> <li>• as a duty on the environmental permitting regulator in the exercise of relevant functions by amending the Environmental Permitting (England and Wales) Regulations 2010.</li> </ul> <p>Article 13 is also transposed through existing legislation in section 33 of the Environmental Protection Act 1990.</p>
<p><i>Article 14</i> <b>Costs</b></p>	<p>There is no need to transpose Article 14.</p>	
<p><i>Article 15</i> <b>Responsibility for waste management</b></p>	<p>Article 15(1)-</p> <ul style="list-style-type: none"> <li>• Regulation 12</li> <li>• Regulation 35(2)(d).</li> </ul> <p>There is no need to transpose Article 15(2) and (3).</p>	<p>Article 15(1) is partly transposed by the existing duty of care provisions in section 34 of the Environmental Protection Act 1990. In addition to this, regulation 12 introduces a new duty on waste producers and other holders in relation to the waste hierarchy. Regulation 35(2)(d) requires a declaration on the waste transfer note confirming compliance with the regulation 12 duty.</p> <p>Article 15(4) is transposed by the existing duty of</p>

		care provisions in section 34 of the Environmental Protection Act 1990.
<i>Article 16</i> <b>Principles of self-sufficiency and proximity</b>	<ul style="list-style-type: none"> <li>• Regulation 8(2)(a)</li> <li>• Regulation 18(b) and (c)</li> <li>• Schedule 1 paragraph 4.</li> </ul> <p>The second paragraph of Article 16(1) does not need to be transposed.</p>	Article 16 is transposed through the requirements relating to waste management plans and the exercise of planning functions.
<i>Article 17</i> <b>Control of hazardous waste</b>		Article 17 is transposed by the existing Hazardous Waste (England and Wales) Regulations 2005, the Hazardous Waste (Wales) Regulations 2005 and the Environmental Permitting (England and Wales) Regulations 2010. The traceability requirement is transposed by Part 6 of the respective Hazardous Waste Regulations.
<i>Article 18</i> <b>Ban on the mixing of hazardous waste</b>	<p>Article 18(1)-</p> <ul style="list-style-type: none"> <li>• Schedule 2, paragraph 8(a).</li> </ul> <p>Article 18(2)-</p> <ul style="list-style-type: none"> <li>• Regulation 22(e)(i)</li> <li>• Schedule 3, paragraph 9.</li> </ul> <p>Article 18(3)</p> <ul style="list-style-type: none"> <li>• Schedule 2, paragraph 10(b).</li> </ul> <p>Also transposed by existing legislation.</p>	<p>The Regulations make the necessary amendments to the existing mixing ban and derogations included in the Hazardous Waste (England and Wales) Regulations 2005 and the Hazardous Waste (Wales) Regulations 2005 and the Environmental Permitting (England and Wales) 2010.</p> <p>There is also a duty in the Regulations relating to the exercise of off-shore licensing functions.</p>
<i>Article 19</i> <b>Labelling of hazardous waste</b>		This Article is transposed by the existing Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 and the Chemicals (Hazardous Information and Packaging for Supply) Regulations 2009.
<i>Article 20</i> <b>Hazardous waste produced by households</b>		<p>There is no need to transpose the first sentence of Article 20 as there is nothing in the existing legislation which applies Articles 17, 18, 19 and 35 to mixed waste produced by households.</p> <p>The second sentence of Article 20 is transposed by the Hazardous Waste (England and Wales) Regulations 2005 and Hazardous Waste (Wales) Regulations 2005.</p>
<i>Article 21</i> <b>Waste oils</b>	<p>Article 21(1)(a)-</p> <ul style="list-style-type: none"> <li>• Transposed by existing legislation.</li> </ul>	The Hazardous Waste (England and Wales) Regulations 2005 provide for the separate collection of hazardous waste the prohibition on

	<p>Article 21(1)(b)-</p> <ul style="list-style-type: none"> <li>• See entries above for transposition of Articles 4 and 13.</li> </ul> <p>Article 21(1)(c)-</p> <ul style="list-style-type: none"> <li>• Schedule 2, paragraph 9(c).</li> </ul> <p>There is no need to transpose Articles 21(2) and (3).</p>	<p>mixing.</p> <p>Articles 21(2) and (3) are discretionary.</p>
<p><i>Article 22</i> <b>Bio-waste</b></p>	<p>Article 22(a)-</p> <ul style="list-style-type: none"> <li>• Schedule 1 paragraph 9.</li> </ul> <p>Article 22(b) and (c)-</p> <ul style="list-style-type: none"> <li>• See entry above for transposition of Article 13.</li> </ul>	
<p><i>Article 23</i> <b>Issue of permits</b></p>	<p>Article 23(1)-</p> <ul style="list-style-type: none"> <li>• Regulation 22(d);</li> <li>• Schedule 3 paragraph 9.</li> </ul> <p>Article 23(2)-</p> <ul style="list-style-type: none"> <li>• Existing legislation permits this.</li> </ul> <p>Article 23(3) and (4)</p> <ul style="list-style-type: none"> <li>• Regulation 22(e)(ii)</li> <li>• Schedule 3 paragraph 9.</li> </ul> <p>Article 23(5)-</p> <ul style="list-style-type: none"> <li>• Existing legislation permits this.</li> </ul>	<p>The Environmental Permitting (England and Wales) Regulations 2010 provide for renewable and single-site permits.</p>
<p><i>Article 24</i> <b>Exemptions from permit requirements.</b></p>	<p>Transposed by existing legislation.</p>	<p>This Article is a discretionary provision enabling Member States to provide exemptions from the Article 23 permit requirement. The discretion available under Article 11 of Directive 2006/12/EC has been used to provide a range of permit exemptions for waste operations, which include general rules and conditions, in Schedules 2 and 3 to the Environmental Permitting (England and Wales) Regulations 2010. These provisions were notified to the Commission and will continue in force.</p>
<p><i>Article 25</i> <b>Conditions for exemptions</b></p>	<p>Article 25(1) and (2)-</p> <ul style="list-style-type: none"> <li>• Transposed by existing legislation.</li> </ul> <p>There is no need to transpose</p>	<p>See the previous entry. In relation to notification of general rules under Article 25(3), see final sentence of the previous entry.</p>

	Article 25(3).	
<i>Article 26</i> <b>Registration</b>	<p>Article 26(a)</p> <ul style="list-style-type: none"> <li>• Part 8.</li> </ul> <p>Article 26(b)</p> <ul style="list-style-type: none"> <li>• Part 8.</li> </ul> <p>Article 26(c).</p> <ul style="list-style-type: none"> <li>• Transposed by existing legislation.</li> </ul>	<p>In respect of Article 26(a) and (b), registration is required by section 1 of the Control of Pollution (Amendment) Act 1989 and supporting provisions are made by Part 8 of the Regulations.</p> <p>The requirement for registration under Article 26(c) is transposed in the Environmental Permitting (England and Wales) Regulations 2010, regulation 4 and Schedule 2.</p>
<i>Article 27</i> <b>Minimum standards</b>	There is no need to transpose Article 27.	
<i>Article 28</i> <b>Waste management plans</b>	<ul style="list-style-type: none"> <li>• Regulation 7.</li> <li>• Regulation 8.</li> <li>• Schedule 1 Parts 1, Part 2 (paragraphs 5 to 7) and Part 3.</li> </ul>	
<i>Article 29</i> <b>Waste prevention programmes</b>	<p>Article 29(1) to (3)-</p> <ul style="list-style-type: none"> <li>• Regulation 4</li> <li>• Regulation 5</li> <li>• Regulation 6</li> <li>• Schedule 1 Part 1.</li> </ul> <p>There is no need to transpose Article 29(4) and (5).</p>	
<i>Article 30</i> <b>Evaluation and review of plans and programmes</b>	<p>Article 30(1)-</p> <ul style="list-style-type: none"> <li>• Regulation 10(1).</li> </ul> <p>There is no need to transpose Article 30(2).</p>	
<i>Article 31</i> <b>Public participation</b>	<ul style="list-style-type: none"> <li>• Regulation 10(2).</li> <li>• Regulation 11.</li> <li>• Schedule 1, Part 4.</li> </ul>	
<i>Article 32</i> <b>Cooperation</b>	There is no need to transpose Article 32.	
<i>Article 33</i> <b>Information to be submitted to the Commission</b>	There is no need to transpose Article 33.	
<i>Article 34</i> <b>Inspections</b>	<p>Article 34(1)-</p> <ul style="list-style-type: none"> <li>• Partly transposed by existing legislation</li> <li>• Regulation 23</li> <li>• Regulation 34(1).</li> </ul>	<p>Regulation 34(2) of the Environmental Permitting (England and Wales) Regulations 2010 already provides for inspection of waste operations.</p> <p>Regulation 56 of the Hazardous Waste (England and Wales) Regulations 2005 and Hazardous</p>

	<p>Article 34(2)-</p> <ul style="list-style-type: none"> <li>• Regulation 34(2).</li> </ul> <p>There is no need to transpose Article 34(3).</p>	<p>Waste (Wales) Regulations 2005 requires the inspection of producers of hazardous waste.</p>
<p>Article 35 <b>Record keeping</b></p>	<p>Article 35(1)-</p> <ul style="list-style-type: none"> <li>• Regulation 22(e)(iii)</li> <li>• Schedule 2 paragraphs 19 and 20</li> <li>• Schedule 3 paragraph 9.</li> </ul> <p>Article 35(2)-</p> <ul style="list-style-type: none"> <li>• Transposed by existing legislation.</li> </ul> <p>There is no need to transpose Article 35(3).</p>	<p>Article 35(2) is transposed by the Hazardous Waste (England and Wales) Regulations 2005 and the Hazardous Waste (Wales) Regulations 2005, regulations 49 and 50.</p>
<p><i>Article 36</i> <b>Enforcement and penalties</b></p>	<p>Article 36(1)-</p> <ul style="list-style-type: none"> <li>• Transposed by existing legislation.</li> </ul> <p>Article 36(2)-</p> <ul style="list-style-type: none"> <li>• Partly transposed by existing legislation</li> <li>• Part 10.</li> </ul>	<p>Article 36(1) is transposed by section 33 of the Environmental Protection Act 1990 and regulation 12 of Environmental Permitting (England and Wales) Regulations 2010.</p> <p>Part 10 of the Regulations provides for enforcement of the duties in Part 5 and regulation 25.</p> <p>Article 36(2) is also transposed through section 1 of the Control of Pollution (Amendment) Act 1989, regulations 65, 69 and 70 of the Hazardous Waste (England and Wales) Regulations 2005 and Hazardous Waste (Wales) Regulations 2005, regulations 38 and 39 of the Environmental Permitting (England and Wales) Regulations 2010 and sections 9 and 21 of the Food and Environment Protection Act 1985.</p>
<p><i>Article 37</i> <b>Reporting and reviewing</b></p>	<p>There is no need to transpose Article 37.</p>	
<p><i>Article 38</i> <b>Interpretation and adaptation to technical progress</b></p>	<p>There is no need to transpose Article 38.</p>	
<p><i>Article 39</i> <b>Committee procedure</b></p>	<p>There is no need to transpose Article 39.</p>	
<p><i>Article 40</i> <b>Transposition</b></p>	<p>There is no need to transpose Article 40.</p>	

<i>Article 41</i> <b>Repeal and transitional provisions</b>	There is no need to transpose Article 41.	
<i>Article 42</i> <b>Entry into force</b>	There is no need to transpose Article 42.	
<i>Article 43</i> <b>Addressees</b>	There is no need to transpose Article 43.	



**ANNEX 2**

# **IMPACT ASSESSMENT**