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STATUTORY INSTRUMENTS

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**2020 No. 904**

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

**PART 3**

Amendments to secondary legislation

**The Waste (England and Wales) Regulations 2011**

- 15.**—(1) The Waste (England and Wales) Regulations 2011(1) are amended as follows.
- (2) In regulation 3(1)—
- (a) in the definition of “Waste Framework Directive”, for “Council Regulation (EU) 2017/997” substitute “Directive (EU) 2018/851”;
  - (b) after the definition of “waste management plan” insert—
    - ““waste prevention measures” 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 generated waste on the environment and human health; or
    - (c) the content of hazardous substances in materials and products;”.
- (3) In regulation 4—
- (a) in paragraph (1), omit “, not later than 12th December 2013”;
  - (b) omit paragraph (3).
- (4) In regulation 5—
- (a) after sub-paragraph (a) insert—
    - “(aa) includes one or more programmes of food waste prevention measures;”;
  - (b) in sub-paragraph (c)—
    - (i) in paragraph (i), after “waste prevention measures” insert “and their contribution to waste prevention”;
    - (ii) after paragraph (i) omit “and”;
    - (iii) after paragraph (ii) insert—
      - “(iii) sets out at least the waste prevention measures listed in Schedule 1, Part 5; and

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(1) [S.I. 2011/988](#). In regulation 3(1), the definition of “Waste Framework Directive” was substituted, in relation to England, by [S.I. 2016/738](#) and, in relation to Wales, by [S.I. 2016/691 \(W. 189\)](#) and was amended, in relation to England, by [S.I. 2018/575](#) and, in relation to Wales, by [S.I. 2018/721 \(W. 140\)](#) and is prospectively amended from IP completion day by [S.I. 2019/188](#). Regulations 13 and 14(2) were substituted by [S.I. 2012/1889](#). Regulation 20(1)(a) and (3) are prospectively amended from IP completion day by [S.I. 2019/188](#).

- (iv) where relevant, describes the contribution of instruments listed in Schedule 1, Part 6 to waste prevention.”.
- (5) For regulation 6(1) and (2) substitute—
- “(1) An appropriate authority must 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.
- (2) An appropriate authority must publish the indicators and targets it establishes.”.
- (6) In regulation 8(2)—
- (a) at the beginning, insert “Subject to Part 2A of Schedule 1, ”;
- (b) omit “(taken together)”;
- (c) after sub-paragraph (a) omit “and”;
- (d) for sub-paragraph (b) substitute—
- “**(b)** include the matters set out—
- (i) in relation to England, in paragraphs 5 to 10 and 11(a)(ii) and (b) of Part 2 of Schedule 1;
- (ii) in relation to Wales, in Part 2 of Schedule 1.”;
- (e) after sub-paragraph (b) insert—
- “**(c)** conform to the provisions in paragraph 5(1)(b) of Schedule 10 to the Environmental Permitting (England and Wales) Regulations 2016**(2)**; and
- (d)** for the purposes of litter prevention, conform to—
- (i) the programme of measures published pursuant to regulation 14(1) of the Marine Strategy Regulations 2010**(3)**; and
- (ii) each programme of measures proposed and approved under regulation 12(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**(4)**—
- (aa) in relation to England, for river basin districts that are wholly or partly in England;
- (bb) in relation to Wales, for river basin districts that are wholly or partly in Wales.”.
- (7) In regulation 13—
- (a) omit paragraph (1);
- (b) for paragraph (4) substitute—
- “**(4)** 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 Articles 4 and 13 of the Waste Framework Directive 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;

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(2) [S.I. 2016/1154](#), to which there are amendments not relevant to these Regulations.

(3) [S.I. 2010/1627](#), to which there are amendments not relevant to these Regulations.

(4) [S.I. 2017/407](#), to which there are amendment not relevant to these Regulations.

- (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.”.
- (8) In regulation 14, for paragraphs (1) and (2) substitute—
  - “(1) Subject to paragraph (2), an establishment or undertaking 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 Articles 4 and 13 of the Waste Framework Directive 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;
    - (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.”.
- (9) In regulation 20—
  - (a) in paragraph (1)(a), at the end insert “, as last amended by Directive (EU) 2018/850”;
  - (b) in paragraph (3), in the definition of “landfill”—
    - (i) after “[Directive 1999/31/EC](#)” insert “, as last amended by Directive (EU) 2018/850”;
    - (ii) at the end insert “or (3)”.
- (10) In Schedule 1—
  - (a) in Part 1—
    - (i) in paragraph 1, after “preventing or reducing” insert “the generation of waste and”;
    - (ii) in paragraph 2, at the end insert—
      - “(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 paragraph 17 or other appropriate instruments and measures.”;
  - (b) for Part 2 substitute—

## “PART 2

### Matters which must be included in waste management plans

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

5. An analysis of the current waste management situation in England or Wales, as the case may be, the measures to be taken to improve environmentally sound preparing for re-use, recycling, recovery and disposal of waste and an evaluation of how the plan will support the implementation of the objectives and provisions of the Waste Framework Directive.

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

6. As appropriate and taking into account the geographical level and geographical area to which the plan relates, provisions relating to—

- (a) the type, quantity and source of waste generated within the territory, the waste likely to be shipped from or to the United Kingdom, and an evaluation of the development of waste streams in the future;
- (b) existing major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste, waste containing significant amounts of critical raw materials or waste streams addressed by specific legislation;
- (c) 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;
- (d) an assessment of the investments and other financial means, including for local authorities, required to meet the needs identified following the assessment in sub-paragraph (c);
- (e) 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;
- (f) sufficient information on the location criteria for site identification and on the capacity of future disposal or major recovery installations, if necessary;
- (g) general waste management policies, including planned waste management technologies and methods, or policies for waste posing specific management problems;
- (h) measures to combat and prevent all forms of littering and to clean up litter;
- (i) 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. In pursuance of the objectives and measures in [Directive 94/62/EC](#) of the European Parliament and of the Council on packaging and packaging waste, a chapter on the management of packaging and packaging waste, including measures taken—

- (a) to prevent the formation of packaging waste in accordance with the Packaging (Essential Requirements) Regulations 2015(5);
- (b) that consist of national programmes and projects to introduce extended producer responsibility schemes to minimise the environmental impact of packaging;
- (c) that achieve a sustained reduction in the consumption of lightweight plastic carrier bags;
- (d) that actively encourage public information and awareness campaigns concerning the adverse environmental impact of the excessive consumption of lightweight plastic carrier bags;
- (e) that encourage the increase in the share of re-useable 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. Measures to promote high quality recycling including the setting up of separate collections of waste, subject to regulation 13.

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

9. As appropriate, measures, 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 re-use**

10. 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;
  - (e) the setting of quantitative objectives.

#### **Preparing for re-use and recycling targets and landfill reduction targets**

11. Measures to be taken to ensure that—
- (a) the preparing for re-use and the recycling of municipal waste is a minimum of—
    - (i) in relation to a national waste management plan relating to Wales—
      - (aa) 55% by weight by 2025;

- (bb) 60% by weight by 2030;
- (ii) in relation to any national waste management plan, 65% by weight by 2035; and
- (b) 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 2A

### Waste management plans: transitional provision

- 11A.**—(1) This Part applies to a waste management plan that—
- (a) is adopted before 1st October 2020; or
  - (b) is reviewed or modified under regulation 10, if the first formal preparatory act of that review or modification commenced before 1st October 2020.
- (2) A waste management plan to which this Part applies—
- (a) is not required—
    - (i) to include a statement of the appropriate authority’s policies for attaining the objectives specified in paragraphs 1 and 2(3) of Part 1 of this Schedule;
    - (ii) to include any of the matters set out in Part 2 of this Schedule; or
    - (iii) to comply with regulation 8(2)(c) or (d); but
  - (b) must include—
    - (i) a statement of the appropriate authority’s policies for attaining the objectives specified in Part 1 of this Schedule; and
    - (ii) the matters set out in Part 2 of this Schedule, as they applied immediately before 1st October 2020.”;
  - (c) after Part 4 insert—

## “Part 5

### Waste prevention measures referred to in regulation 5(c)(iii)

- 16.** The waste prevention measures referred to in regulation 5(c)(iii) are measures to—
- (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—
    - (i) electrical and electronic equipment;
    - (ii) textiles;
    - (iii) furniture

- (iv) packaging; and
- (v) 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.

## Part 6

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

17. The economic instruments and other measures referred to in paragraph 2(3) of this Schedule and regulation 5(c)(iv) 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 regional and local authorities, 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;
- (o) promoting continuous dialogue and cooperation between all stakeholders in waste management and encouraging voluntary agreements and company reporting on waste.”.