

EXPLANATORY MEMORANDUM TO

The Food Waste Regulations (Northern Ireland) 2015

SR 2015 No. 14

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972, Articles 4(1) and (3) of the Environment (Northern Ireland) Order 2002, and Article 6(6) of the Waste and Contaminated Land (Northern Ireland) Order 1997. The Rule is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule is to prevent food waste going to landfill by encouraging the source segregation and separate collection of food waste and subsequent banning of separately collected food waste from landfill. The Statutory Rule will ensure that the maximum value of food waste is realised and contribute to the delivery of the objectives contained in the NI Waste Management Strategy, *Delivering Resource Efficiency*, to increase resource efficiency and decrease greenhouse gas emissions. A commitment was given in the Strategy to bring forward food waste regulations.
- 2.2. The Statutory Rule will introduce a prohibition on the landfilling of separately collected food waste from 1 April 2015. It will also introduce a duty on businesses to ensure food waste is not deposited in a lateral drain or sewer from 1 April 2017.
- 2.3. The Statutory Rule will place a duty on food businesses (e.g. businesses involved in food preparation or the sale of food) to present food waste for separate collection. Food businesses that produce over 50kg of food waste per week will have to comply by 1 April 2016; and food businesses that produce over 5kg of food waste per week and Health and Social Care trusts, will have to comply by 1 April 2017. This duty does not apply to food businesses that produce less than 5 kilograms of food waste per week, or food waste that has arisen from international travel. The duty is deemed to be satisfied where on-site recovery of food waste takes place. Food waste may be mixed with other bio-waste providing that the amount of food waste collected is not substantially less than would be that case were the wastes not mixed.
- 2.4. The Statutory Rule will place an obligation on councils to provide receptacles for the separate collection of food waste from households by 1 April 2017. Where a council

is satisfied that the amount of food waste that will be collected is not substantially less than if collected separately, the food waste may be collected in a receptacle along with other bio-waste.

2.5. The Statutory Rule will amend the duty of care, waste management licensing and pollution prevention and control regimes to ensure that separately collected food waste is not mixed with other wastes during transport and is only mixed with other waste during treatment when such mixing will not hamper future recycling.

3. Background

3.1. The Food Waste Regulations will ensure that the maximum value of food waste is realised and contribute to the delivery of the objectives contained in the NI Waste Management Strategy, *Delivering Resource Efficiency*, to increase resource efficiency and decrease greenhouse gas emissions.

3.2. The Strategy moves the emphasis of waste management in NI from resource management to resource efficiency, using resources in the most effective way while minimising the impact of their use on the environment. It has a renewed focus on waste prevention, preparing for re-use and recycling in accordance with the waste hierarchy set out in the Waste Framework Directive. A commitment was given in the Strategy to bring forward food waste regulations.

4. Consultation

4.1. The Department consulted on the Statutory Rule between 10 September and 3 December 2013 and received 44 responses to the consultation. A number of key themes emerged in the responses to the consultation and as a result some minor changes were made to the Statutory Rule, as consulted.

4.2. The Statutory Rule has been amended so that the requirement on councils to provide receptacles for the separate collection of food waste from every domestic property has been moved back 1 year to 1 April 2017 to allow councils an extra year to prepare for the changes.

4.3. The provision relating to technically, environmentally or economically practicable (TEEP) has been removed since a similar provision already exists in the Waste and Contaminate Land Order 1997 that allows councils to not collect waste from very isolated or inaccessible dwellings.

4.4. The provision that required hospitals to be compliant with the Statutory Rule by 1 April 2017 has been widened so that all bodies in Health and Social Care trusts have to comply by this date.

4.5. A provision has been inserted to ensure that the duty on food businesses to present food waste separately for collection does not apply where food businesses recover food waste on-site.

5. Equality Impact

5.1. The Statutory Rule will have no differential impact on any of the groups specified in section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact and Financial Implications

6.1. A partial Regulatory Impact Assessment accompanied the Statutory Rule for consultation. It will be at the discretion of key stakeholders what systems they put in place to ensure they will comply with the Regulations. It is therefore not possible to provide figures for the benefits and costs of implementation of the Regulations. In general terms the benefits and costs are summarised below.

6.2. There are environmental benefits associated with the Statutory Rule including reduction in greenhouse gas emissions, increasing resource efficiency and mitigating risk of flooding, blockages, environmental pollution, odours and rodent infestations in sewers. The Rule will also ensure that the maximum value of food waste is realised and contribute to the delivery of the NI Waste Management Strategy, *Delivering Resource Efficiency*, in accordance with EU policy and legislation.

6.3. In terms of private sector benefits, there is the potential for food businesses that produce food waste to experience neutral or reduced collection costs. There is also the potential for increased collection revenue for waste management companies and councils. An increase in food waste tonnages diverted from landfill will result in reduced waste disposal costs, given increasing cost of landfilling and decreasing cost of treatment methods such as anaerobic digestion. There are also potential business opportunities given the increased certainty of food waste streams and increased demand for waste treatment facilities.

6.4. With respect to private sector costs, there may be increased separation and collection costs for a number of food businesses that produce food waste, and a loss of revenue for landfill operators given the increase in food waste tonnages diverted from landfill.

6.5. Regarding public sector benefits, ensuring operational efficiencies could result in net savings for councils, given increasing cost of landfilling and decreasing cost of treatment methods such as anaerobic digestion. Councils could increase revenue from collection of food waste from food businesses that present food waste, and could also potentially open and operate waste treatment facilities for food waste. There could also be reduced expenditure for NI Water from blocked and damaged sewers due to food waste.

6.6. With respect to public sector costs, there could be increased collection and operational costs for domestic food waste collections by councils and a reduction in the amount of landfill tax collected by Her Majesty's Revenue and Customs. To ensure the Statutory Rule is implemented effectively there may be increased regulatory and enforcement costs for the Department.

7. Section 24 of the Northern Ireland Act 1998

7.1. The Statutory Rule complies with the provisions set out in Section 24 of the Northern Ireland Act 1998.

8. EU Implications

8.1. Bringing forward this Statutory Rule honours a commitment given in the Department's Waste Management Strategy *Delivering Resource Efficiency*. The Strategy was developed in the context of relevant EU environmental directives, in particular the Waste Framework Directive and the Landfill Directive, and the current direction of EU policy towards life cycle thinking and a resource efficient Europe.

8.2. The Statutory Rule is in pursuance of Articles 11(1) (re-use and recycling) and 22 (bio waste), and in accordance with Articles 4(waste hierarchy) and 13 (protection of human health and the environment) of the Waste Framework Directive. The Department has not produced a Transposition Note for the Statutory Rule since the requirements of the Waste Framework Directive have been transposed into NI legislation through the Waste Regulations (Northern Ireland) 2011.

9. Parity or Replicatory Measure

9.1. No equivalent legislation exists in England and Wales, although the Welsh Assembly Government intends to bring forward proposals for a similar regime for food waste in due course.

9.2. The Statutory Rule is similar to some of the provisions contained in the Scottish Statutory Instrument the Waste (Scotland) Regulations 2012. However, the Scottish Statutory Instrument is broader in scope in that it also extends to metal, plastic, glass, paper and card, includes a restriction on the inputs to thermal treatment facilities, and a ban on waste disposed of to a landfill based on organic content.

10. Additional Information

10.1. Not applicable.