

EXPLANATORY MEMORANDUM TO
THE ENVIRONMENTAL TARGETS (RESIDUAL WASTE) (ENGLAND)
REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to create a legally binding target in the area of resource efficiency and waste reduction, which will ensure that by the end of 31st December 2042 the total mass of residual waste for the calendar year 2042 does not exceed 287 kilograms per head of population in England. This equates to a 50% reduction from 2019 levels.
- 2.2 The target satisfies the requirement at section 1(2) of the Environment Act 2021 (“the Environment Act”) for the Secretary of State to set at least one target in the priority area of resource efficiency and waste reduction.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument, along with the other 5 environmental target instruments, sets legally binding targets on the Secretary of State. The instrument does not, in itself, set specific policies or new legislation that sectors must follow nor does it directly impose or require immediate changes of behaviour by others. Given the importance of setting targets without delay, the instrument will come into force at the earliest date after approval (one day after the day it is made).
- 3.2 Under the Environment Act 2021 the statutory deadline to lay this instrument was 31 October 2022. As stated by Dr Thérèse Coffey MP Secretary of State for Environment, Food and Rural Affairs in a Written Ministerial Statement on 28 October 2022: “We received over 180,000 responses [to the environmental targets consultation], which all needed to be analysed and carefully considered. In light of the volume of material and the significant public response we will not be able to publish targets by 31st October, as required by the Act.”

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 Trudy Harrison MP, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs has made the following statement regarding Human Rights:

“In my view the provisions of the Environmental Targets (Residual waste) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 1 (2) of the Environment Act requires the Secretary of State to set a long-term target in respect of at least one matter with each of four priority areas including resource efficiency and waste reduction.
- 6.2 This instrument will fulfil that duty and is part of a group of instruments that will set targets in air quality, water, resource efficiency and waste reduction, tree and woodland cover and biodiversity.

7. Policy background

What is being done and why?

- 7.1 Government wants to incentivise a more circular economy by setting a target to cut residual waste to no more than 287 kilograms per person by 2042. This would be a 50% reduction from 2019 levels, which is estimated to be approximately 574 kilograms per capita. The target can be delivered both by recycling more and preventing waste from occurring in the first place.
- 7.2 The target excludes major mineral wastes. These are largely inert waste categories from construction, demolition, excavation and mining activities. This focuses attention where environmental impact per tonne of waste treatment is greatest and where our evidence is strongest.
- 7.3 A target to reduce residual waste will take a holistic approach to reduce all waste (except major mineral wastes), including plastics. This approach will help avoid other more environmentally harmful materials being used in place of plastics.
- 7.4 The target builds on the Resources and Waste Strategy commitments to achieve a 65% municipal recycling rate and send less than 10% of municipal waste to landfill by 2035. It supports the government’s commitment to eliminate avoidable plastic waste by 2042 and contributes to Net Zero through reduced emissions from landfill and incineration, and could save 32 Mt of CO₂ by 2042, beyond the savings seen from the Collection and Packaging reforms.
- 7.5 Government undertook significant research to understand how policies can reduce raw material consumption and increase resource efficiency. However, the research indicated that setting a resource efficiency target would be premature at this stage.

Monitoring Residual Waste

- 7.6 Government will measure residual waste tonnages at the end-point of waste management to include the treatments that are typically associated with mixed residual waste. This will capture waste that originated in England that is sent to landfill, put through incineration or used in energy recovery within the United Kingdom or sent overseas for energy recovery. The per capita amount of residual

waste will be calculated using the Office for National Statistics annual mid-year population estimates.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument does not amend another instrument and therefore consolidation is not applicable.

10. Consultation outcome

- 10.1 The Department for Environment, Food and Rural Affairs consulted on the level of ambition, scope and metric of the resource efficiency and waste reduction target through the public consultation on environmental targets held from 16th March 2022 to 27th June 2022. There were 149,552 answers to the resource efficiency and waste reduction target questions from a wide range of individuals and organisations, of which 145,185 answers were from campaigns.
- 10.2 Overall, most answers (99%) disagreed with the scope of the residual waste reduction target. Campaign responses called for a separate plastics target and ending plastic waste exports; however, government already has a commitment to work towards eliminating avoidable plastic waste by 2042. Another area of disagreement in the scope was due to major mineral wastes being excluded. Government excluded these to focus on reducing waste that is more environmentally harmful.
- 10.3 44% of answers agreed with the proposed approach to measure residual waste and 22% disagreed. These answers mainly disagreed with the treatment-based definition of residual waste and the per capita units used. Overall, 91% of answers disagreed with the level of ambition proposed for the waste target, mainly calling for greater ambition; however, the target ambition has been set at the upper limits of achievability based on our available evidence, satisfying the Environment Act requirements.
- 10.4 Following the consultation, ferrous metals removed from bottom ash, where it has been put through incineration or used in energy recovery and then sent for recycling, have been excluded from the target scope. The target scope has also been amended to include waste sent out of England for treatment to ensure that the target cannot be met by sending waste elsewhere, and exclude wastes sent into England to avoid missing the target due to waste outside of England's control.
- 10.5 A complete summary of how consultation feedback has been considered is available in the Government Response document.

11. Guidance

- 11.1 The target in the instrument will be legally binding on government. The government will need to take measures to ensure the relevant sectors take the actions required to meet the target through making regulations, issuing guidance and advice separately. The target does not, in itself, set specific policies or new legislation that sectors must follow.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is dependent on policy pathways not prescribed in this instrument but illustrative pathways are set out in the Impact Assessment.
- 12.2 The impact on the public sector is dependent on policy pathways not prescribed by this instrument but illustrative pathways are set out in the Impact Assessment.
- 12.3 The setting of a legislative target to reduce residual waste places no direct costs onto society. However, it will require the future setting of policy interventions to meet the target, which will impose costs. The costs of these policies will be subject to future consultation and corresponding economic assessment of costs.
- 12.4 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 Progress towards achieving the target set by this instrument will be monitored through the statutory cycle of monitoring, planning and reporting set out in the Environment Act.
- 14.2 The instrument does not include a statutory review clause as the legal obligations in this regard under the Small Business, Enterprise and Employment Act 2015 do not apply.

15. Contact

- 15.1 Tom Murray at the Department for the Environment, Food and Rural Affairs
Telephone: 0208 026 4223 or email: Tom.Murray@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Chris Preston, Deputy Director for Resources and Waste, at the Department for the Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Trudy Harrison MP, Parliamentary Under Secretary of State at the Department for Environment, can confirm that this Explanatory Memorandum meets the required standard.