

ENVIRONMENTAL PROTECTION

**WASTE MANAGEMENT LICENSING
REGULATIONS (NORTHERN IRELAND)
2003**

**CONSULTATION ON AMENDING SCHEDULE 2,
PART 1: EXEMPTIONS FROM WASTE
MANAGEMENT LICENSING**

**The Waste Management Licensing
(Amendment No.2) Regulations (Northern
Ireland) 2015**

June 2015



Department of the
Environment
www.doeni.gov.uk

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General information, timing and responses to this consultation

This consultation document is issued by:

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Information about this publication and further copies are available from the above address.

This document and the draft Regulations accompanying this document are available on the DOE website.

Under Section 75 of the Northern Ireland Act 1998, the Department is required to have due regard for the need to ensure equality. Accordingly, an equality screening exercise was undertaken to ascertain if the policies contained in this document require a full equality impact assessment.

Rural screening and a partial Regulatory Impact Assessment were also carried out.

All of the above documents are available at:

http://www.doeni.gov.uk/index/protect_the_environment/waste/waste_framework_directive.htm

Timing

This consultation will commence on 15th June 2015 and close on 25th September 2015.

How to respond to this consultation

Responses can be sent:

By email to: wdr@doeni.gov.uk

By post to: Waste & Radioactivity Team
Department of the Environment
Environmental Policy Division
Goodwood House
44-58 May Street
Town Parks

Belfast
BT1 4NN

By fax to: 028 9025 4875

When responding, please state whether you are responding as an individual or representing the views of an organisation. If you are representing an organisation, please make it clear which organisation you represent and, where applicable, how the views were assembled.

Enquiries

Enquiries regarding the content of this consultation paper, or requests for further copies, should be made to Ethna Walker (email: ethna.walker@doeni.gov.uk; telephone: 028 9025 4875). Information and additional copies of the document can also be requested by text phone (028 9054 0642).

Confidentiality

The Department will publish a summary of the responses received on its website shortly after the consultation period has ended. It may also wish to publish individual responses to this consultation document. If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request.

You should also be aware that there may be circumstances in which the Department will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

Geographical coverage

The proposed legislative changes that are the subject of this consultation relate to Northern Ireland only.

Published by the Department of the Environment

1. PURPOSE

- 1.1 The purpose of this document is to consult upon the proposed Waste Management Licensing (Amendment No. 2) Regulations (Northern Ireland) 2015, which apply only to Part 1, paragraphs 12, 15, 17, 18, 19, 27 and 45 of Schedule 2 to the Waste Management Licensing Regulations (Northern Ireland) 2003 (hereafter referred to as “the 2003 Regulations”).

2. INTRODUCTION

- 2.1 The Department of the Environment is undertaking a review of exemptions from waste management licensing. The full list of exemptions is in Part 1 of Schedule 2 to the 2003 Regulations. This phase of the review focuses on the exemptions listed in paragraph 1.1 above.
- 2.2 Exemptions were introduced with the aim of regulating waste management activities in Northern Ireland in a proportionate way. Certain activities were deemed to be small-scale and to have a low risk of adverse impact on the environment, human health and animal welfare, and were thus made exempt from the need for a licence.
- 2.3 More than a decade after the 2003 Regulations came into operation, it is now necessary to review Part 1 of Schedule 2 to ensure that the exemptions regime is:
- up to date
 - fit for purpose
 - risk-based
 - consistent
 - transparent
- 2.4 The Department’s vision is of a future where proportionate risk-based waste management regulation will ensure protection for the environment and human and animal health, while encouraging the efficient use of resources. The aim of this review is to develop a more risk-based and proportionate approach to the regulation of waste recovery and disposal operations.
- 2.5 This review does not affect the position elsewhere in the UK.
- 2.6 The main drivers for change are:
- The need to ensure that Northern Ireland’s waste management licensing regime is up to date and reflects the legal, technological and other changes which have occurred since the 2003 Regulations were made
 - The need to ensure full compliance with European Union legislation

- An opportunity to provide incentives for lower risk recycling and recovery operations via exemptions
- An opportunity to reduce criminality and the abuse of exemptions
- The need to simplify regulation and remove anomalies
- The need to ensure parity, where appropriate, with other parts of the UK
- The need for legislative reform as a result of the Environment Committee's 2013 report on Used Tyre Disposal
- The need to ensure that regulation is proportionate to risk
- The forthcoming development of a new Integrated Permitting regime, which will replace the current licensing system

3. CHALLENGES

Environmental crime

- 3.1 It is important to note the context in which this review is taking place. The Department recognises that criminal activity is a problem within the waste sector in Northern Ireland¹. Such activity presents significant risks to the environment, human health, animal welfare and the economic viability of the legitimate waste industry.
- 3.2 Once granted an exemption, operators benefit from limited inspection. The exemptions included in this phase of the review relate to commercial activities that have the potential to make significant profit. This makes the waste industry attractive to criminals, and their involvement in illegal waste activity puts legitimate operators at a disadvantage.
- 3.3 As profit can be made by evading regulatory control, some unscrupulous operators have sought to take advantage of the current exemptions regime. So, while a largely compliant sector would be capable of being managed via a light touch system, parts of the sector in Northern Ireland are not.

Inspection/Practicalities

- 3.4 Weight limits and storage time limits for waste materials are, in practical terms, difficult to inspect and enforce. It is not easy to quantify exactly the weight of a pile of waste. Surveying is difficult and costly, and open to dispute over precise figures. The storage time limits are of limited use – it can be impossible to tell if a pile of waste has been added to, removed or replaced between visits.
- 3.5 This makes it difficult both for the operator, to ensure that their activities are within the terms of their exemption, and for the regulator, seeking to assess compliance effectively.

¹ <https://www.europol.europa.eu/content/threat-assessment-2013-environmental-crime-eu>

Lack of consistency

- 3.6 The current exemptions cover a wide range of activities in terms of scale and risk. Those at the higher end have the potential to cause significant pollution and harm to human and animal health, which creates inconsistency and an unacceptable level of risk to the environment.

4. PROPOSALS

- 4.1 The Department proposes to encourage sustainable waste management by retaining exemptions for a range of small-scale waste operations which pose a low risk to the environment, human health and animal welfare.
- 4.2 The Department proposes that exemptions be based on a set of criteria which will identify the risk posed by a given operation and thus determine the level of regulatory control required. These criteria will allow exemptions to be introduced in a consistent and transparent way.
- 4.3 The Department proposes to make it simple for legitimate waste operators to comply with the new exemptions regime. Exemptions will be presented clearly, waste types will be easily identifiable and limits will be measured by volume.

5. CRITERIA

- 5.1 The Department has developed a set of criteria against which it proposes to assess all current and future exemptions. The proposed criteria are as follows:
- Is this exemption fully compliant with European directives?
 - Is this exemption in conflict with other Northern Ireland or UK legislation?
 - Does this exemption provide for recycling or beneficial re-use of waste material and encourage moving waste up the waste hierarchy?
 - Does this exemption have an adverse impact on the environment, public health or animal welfare?
 - Does this exemption encourage or facilitate crime?
 - Does this exemption promote 'good business' and make it difficult to do 'bad business'?
 - What is the economic impact of this exemption?
 - Is there a public interest in amending this exemption?

6. OPTIONS

6.1 Option 1: Do nothing. This is not acceptable, for the reasons outlined in Section 3.

6.2 Option 2: Amend Part 1 of Schedule 2 to the 2003 Regulations as follows:-

- All paragraphs will have specific conditions attached.
- Waste types will be clearly identified by European Waste Catalogue (EWC) Codes.
- Limits will be measured in volume, rather than weight.
- Paragraph 12 will introduce reduced limits, particularly in respect of paper, cardboard and glass. It will incorporate storage of certain wastes (currently in paragraph 17), including oil (currently in paragraph 18).
- Paragraph 15 will introduce reduced limits. It will incorporate a new table listing the wastes which may be used to manufacture finished goods. "Finished goods" will be defined.
- Paragraph 17 will be revoked. Its provisions will move to paragraph 12, apart from those provisions relating to waste tyres, waste mammalian protein and waste mammalian tallow, which will no longer be covered by the exemption regime.
- Paragraph 18 will be revoked. Its provisions on waste oil will move to paragraph 12.
- Paragraph 19 will allow unlimited amounts of certain types of waste, as specified in Table 8 and intended for relevant work, to be stored on site for up to 12 months. Certain wastes will be removed from Table 8. "Drainage" will be defined.
- Paragraph 27 will introduce a 200m³ limit on the quantity of waste to be processed or stored.
- Paragraph 45 will permit only the storage of scrap metal and depolluted end-of-life vehicles at a quayside prior to loading a vessel. "Vessel" will be defined.

6.3 Option 3: Revoke all exemptions and make all waste management activities subject to licence. This is not a viable option; exemptions are intended to encourage small-scale operators to move waste up the waste hierarchy, as set out in Article 4 of the WFD².

6.4 The Department has chosen Option 2.

Question 1: Do you agree that Option 2 provides the best option for bringing the exemptions regime up to date? Please give reasons for your answer.

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:312:0003:0030:en:PDF>

7. IMPACT

- 7.1 The new lower limits may require an increase in the number of operators needing to obtain a waste management licence.
- 7.2 The change from weight limits to volume limits will make it easier for operators to adhere to the terms of their exemptions, and will facilitate inspections.
- 7.3 The changes will have an overall positive impact on the environment and human health by reducing noise pollution, water pollution, air pollution and fire risks.
- 7.4 The changes do not have an impact on the human rights of waste operators.

Question 2: Do you agree with these impact statements? If not, please give reasons for your answer.

Question 3: Please indicate if you think that there are further impacts that have not been considered.

8. PROPOSED NEW LEGISLATION

- 8.1 The draft Waste Management Licensing (Amendment No.2) Regulations (Northern Ireland) 2015 are published at:
http://www.doeni.gov.uk/index/protect_the_environment/waste/waste_framework_directive.htm.

Question 4: Do you think that the Regulations:

- (a) fully reflect the changes necessary to ensure that the subject exemptions are fit for purpose under the legislation? Please give reasons for your answer.***
- (b) will help to reduce criminality in the waste industry? Please give reasons for your answer.***
- (c) will protect the needs of legitimate operators? Please give reasons for your answer.***