EXPLANATORY MEMORANDUM TO

THE CONTROLLED WASTE AND DUTY OF CARE (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2014

S.R. 2014 No. 117

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 Articles 2(3) and 5(7) of the Waste and Contaminated Land (Northern Ireland) Order 1997 and is subject to the negative resolution procedure.

2. Purpose

2.1. To amend the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013 in particular to Table 2 to the Schedule by providing clarity that waste which arises from the discharge by a district council or DRD of its duty to keep roads clean, where that waste is originally classified as household waste it will remain to be household waste and where it is originally classified as industrial waste, it will continue to be classified as industrial waste.

3. Background

3.1. Article 20(3) of the Waste and Contaminated Land (NI) Order 1997 establishes that district councils shall not charge for the collection of household waste except in prescribed cases. The Controlled Waste Regulations (Northern Ireland) 2002 (the 2002 Regulations) clarified which types of waste are treated as household waste, commercial waste, industrial waste or any other type of controlled waste for the purposes of Part II of the 1997 Order and to lay down which of those wastes the councils may recover a charge for. However, the 2002 Regulations were out of date, failed to recognise developments in the management of waste and no longer provided clarity on the classification of wastes, thus creating a 'loophole' in relation to charging for the collection and disposal of certain wastes, which was in contravention of the 'polluter pays principle' and created a distortion in the waste management market. Accordingly, the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013 (the 2013 Regulations) revoke and replace the 2002 Regulations.

3.2. The Examiner of Statutory Rules found that some of the provisions contained in the 2013 Regulations did not provide sufficient clarity. Accordingly, the Controlled Waste and Duty of Care (Amendment) Regulations (Northern Ireland) 2014 were developed to address those concerns.

4. Consultation

4.1. Although there is no change to the policy, which, as a result, did not require formal consultation, the Department decided to give sight of the

proposed amending Regulations to district councils, NI's three Waste Management Groups, NILGA and the Department for Regional Development (DRD) because the amendments to Table 2 specifically relate to activities carried out by them in carrying out their statutory duties to ensure roads are kept clean. All who responded indicated that they were content or had no comment on the proposed amendments.

5. Equality Impact

5.1. There are no equality issues associated with these Regulations.

6. Regulatory Impact

6.1. As no policy changes are being proposed a Regulatory Impact Assessment is not required.

7. Financial Implications

7.1. Not applicable.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Statutory Rule complies with the provisions set out in Section 24.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Not applicable.