EXPLANATORY MEMORANDUM TO

The Landfill Allowances Scheme (Amendment) Regulations (Northern Ireland) 2011

S.R. 2011 No. 373

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of the Environment to accompany SR 2011 No. 373 which is laid before the Northern Ireland Assembly.

1.2 The statutory rule is made under sections 6, 10 to 12, 15 and 26 of the Waste and Emissions Trading Act 2003 and is subject to the negative resolution procedure.

1.3 The rule is due to come into operation on 22 November 2011.

2. Purpose and Background

2.1 The Regulations amend the Northern Ireland Landfill Allowances Regulations to take account of changes to the interpretation of "municipal waste" and in particular introduce the term "local authority collected municipal waste". They make consequential changes to reflect the revised interpretation of municipal waste.

2.2 The Landfill Directive (1999/31/EC) set challenging targets for Member States to reduce the amount of biodegradable municipal waste sent to landfill – the "landfill diversion targets". Defra, on behalf of the UK, was in discussion with the European Commission in relation to the approach to reporting against the Landfill Directive diversion targets. The Commission raised serious concerns about the manner in which the UK interpreted the definition of municipal waste in relation to these targets. As a result, and in agreement with the Devolved Administrations, the UK's approach to meeting these targets was revised.

2.3 The revised interpretation, which brings the UK more closely into line with the approach understood to be taken by other Member States, means that much more commercial and industrial waste than previously falls within the scope of the term 'municipal waste'.

2.4 As municipal waste will now relate to the subset of waste that is relevant to the Landfill Directive targets it can no longer be used as the term to cover the subset of waste that is covered by the Northern Ireland Landfill Allowance Scheme (NILAS). An alternative term was required and it has been agreed that the subset of waste to which NILAS applies is referred to as local authority collected municipal waste.

2.5 Regulation 2 makes the consequential changes.

3. Matters of special interest to the Environment Committee

3.1 None. At its meeting on 2 June 2011 the Environment Committee considered the associated SL1. The Committee was content with the policy proposals.

4. Consultation

4.1 The Department completed a three month consultation on the implications of changing the UK's approach to meeting EU landfill diversion targets on 8 October 2010. The Department received eighteen responses to the consultation. In response to a specific question the majority of respondents were clearly of the view that a term was needed to differentiate between the municipal waste collected by District Councils and that collected by the private sector and offered a number of suggestions. The agreed term is the term also being used in GB.

5. Position in Great Britain (if appropriate)

5.1 The Regulations are comparable to Part 3 of the Waste and Emissions Trading Act 2003 (Amendment) Regulations 2011 (SI 2011 No. 2499).

6. Equality Impact

6.1 The Department carried out an equality screening exercise. There are no equality impacts arising from this legislation. The Regulations are considered compatible with the Human Rights Act 1998 and Section 75 of the Northern Ireland Act 1998.

7. Regulatory Impact

7.1 The Regulations will have a negligible impact on business or any other particular stakeholder group as it simply introduces a term to differentiate between the municipal waste collected by District Councils and that collected by the private sector. As they place no additional administrative burdens or costs on business or any other stakeholder group a regulatory impact assessment was not considered necessary.

8. Financial Implications

8.1 None

9. EU Implications (where appropriate)

9.1 None

10. Section 24 of the Northern Ireland Act 1998

10.1 The regulations are compatible with section 24 of the Northern Ireland Act.

11. Additional Information

11.1 Not applicable.