EXPLANATORY MEMORANDUM TO

THE WASTE (AMENDMENT) (EU EXIT) REGULATIONS (NORTHERN IRELAND) 2020

S.R. 2020 No. 284

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under sections 11 and 22 of, and paragraph 1 of Part 1 and paragraph 11M of Part 1C of Schedule 2 and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Statutory Rule makes minor and technical amendments to the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011 and to two existing EU Exit SIs (the Environmental Protection (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 and the Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019) to ensure that the legislation amended by those instruments will continue to operate effectively at the end of the Transition Period. It also includes a small number of minor technical amendments to the Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 that are needed in consequence of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement ("the Protocol").

3. Background

3.1. EU Exit legislation in relation to waste passed through the UK Parliament in 2019 in preparation for a 'no deal' exit. This included the instruments highlighted in section 2.1 which both amended waste legislation in Northern Ireland to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. However, as a result of the UK having to continue to meet its responsibilities as a Member State during the Transition Period, updates are required to those EU Exit amendments to take account of changes to EU and domestic waste legislation in the period since the original amendments were made.

3.2. This includes changes which have come into force as part of the EU Circular Economy Package. The Statutory Rule will make the necessary amendments to earlier EU Exit instruments to ensure that Northern Ireland has an operable statute book after Implementation Period (IP) completion day. The Statutory Rule amends cross-references which existing EU Exit SIs insert into legislation, where the cross-references have become out of date due to recent legislative changes. It also amends provisions of existing EU Exit SIs which amend legislation to provide for EU Directives to be read with modifications, for the purpose of interpreting references to those

Directives in that legislation. In most cases this is being done because the modifications as originally drafted no longer work because the Directives have been amended by the Circular Economy Package. The Regulations also amend references to 'exit day' in existing EU Exit SIs, to refer instead to "IP completion day". Minor updates to previous EU Exit amendments made to the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007 (by the Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019) are also necessary in consequence of the Protocol.

3.3. In addition, the Regulations take into account and in some cases replicate changes which have been made by Defra through the Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020.

3.4. The Statutory Rule also makes minor amendments to the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011 to update the definitions of "waste" and "the Waste Framework Directive" in order to ensure operability of those definitions.

4. Consultation

4.1. The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 make minor and technical amendments to subordinate legislation in order to ensure operability of waste legislation in Northern Ireland. A consultation is therefore not considered necessary.

5. Equality Impact

5.1. The Department completed a preliminary screening exercise on this Statutory Rule which has shown no evidence of any impact on equality issues. Therefore, the Department did not consider it necessary to complete a full Equality Impact Assessment.

6. Regulatory Impact

6.1. The Statutory Rule makes minor, technical amendments to Northern Ireland legislation, relating to waste. The Statutory Rule does not introduce any new policies but simply ensures that the legislation continues to operate in the same way after IP completion day as it does now.

7. Financial Implications

7.1. This instrument makes amendments to the relevant pieces of domestic legislation to allow them to operate properly at the end of the Transition Period. There are no financial implications.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Statutory Rule complies with the provisions set out in Section 24. The Rule does not discriminate on grounds of religious belief or political opinion nor does it modify the Human Rights Act 1998 or other statutory provisions listed in section 7 of the 1998 Act.

9. EU Implications

9.1. The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 make amendments to relevant pieces of domestic legislation to allow them

to operate properly after IP completion day. Some amendments also ensure that Northern Ireland will meet its requirements under the Protocol.

10. Parity or Replicatory Measure

10.1. Similar amendments have been taken forward for England and Wales through the Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) EU Exit) Regulations 2020.

11. Additional Information

11.1. Not applicable.