EXPLANATORY MEMORANDUM TO

The Waste (Fees and Charges) (Amendment) Regulations (Northern Ireland) 2019

SR 2019 No. 83

1. Introduction

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

1.2. The Statutory Rule is made under powers conferred by Section 2(2) of the European Communities Act 1972 and by Articles 39(2) and (3) of the Waste and Contaminated Land (Northern Ireland) Order 1997 (the 1997 Order) and is subject to the negative resolution procedure.

2. Purpose

2.1. The Waste (Fees and Charges) (Amendment) Regulations (Northern Ireland) 2019 will amend the fees and charges for waste management licenses under the Waste Management Licensing Regulations (Northern Ireland) 2003 and the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 to ensure they are sufficient to recover the costs for the Department exercising its functions.

3. Background

3.1. In line with the polluter pays principle, the Northern Ireland Environment Agency (NIEA) recovers 100% of its costs in relation to its functions as regulator of waste activities. This is achieved largely through its Waste Management Charging Scheme. The Chief Executive of NIEA approved the Waste Management Charging (Northern Ireland) Scheme 2019 on 2nd April 2019.

3.2. Fees and charges in relation to the registration of brokers, dealers and carriers of waste and the processing of exemptions from waste management licensing are imposed directly via the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 and the Waste Management Licensing Regulations (Northern Ireland) 2003. The increases are set out in the Waste Management Charging (Northern Ireland) Scheme 2019 but, in the absence of a legal basis for doing so, are not implemented until regulations giving effect to the increases come into operation. The proposed Statutory Rule amends the relevant regulations to give effect to the relevant charges set out in the Waste Management Charging (Northern Ireland) Scheme 2019.

4. Consultation

4.1. NIEA consulted on its Regulatory Charging Policy 2016-2021 between 30 January 2016 and 24 March 2016 and details on the proposed uplift of these charges was included in that consultation.

5. Equality Impact

5.1. It was determined at the time of the original consultation that changes made by this Statutory Rule would have no impact in terms of Section 75 of the Northern Ireland Act 1998.There are therefore no equality issues associated with these Regulations.

6. Regulatory Impact

6.1. An Impact Assessment was carried out as part of the original consultation process and concluded that introduction of these Regulations would have no major impact.

7. Financial Implications

7.1. The Regulations enable the Department to recover its costs in relation to its functions as regulator of specific waste activities. The current proposal represents increases of between £1 to £12 applied annually and £16 applied tri-annually dependent on the activity. For example: there are increases from £74 to £75 p.a. for certain applications and registrations. Registrations in connection with certain exemptions are around £647-£909 and increase by £16.

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. This legislation does not directly transpose the Waste Framework Directive (2008/98/EC) but is required as a consequence of the Directive. Insufficient cost recovery would lead to the costs of regulation falling upon the taxpayer which is not compliant with the "polluter pays" principle required by the Waste Framework Directive. The proposed legislation does not go beyond the minimum necessary to comply with the Directive.

10. Parity or Replicatory Measure

10.1. The Environmental Permitting (England and Wales) Regulations 2010 set out waste management licensing requirements (as permits) including fees and charges for England and Wales. Waste permit fees and charges are also increased on an annual basis in England and Wales.

11. Additional Information

11.1. Not applicable.