**EXPLANATORY MEMORANDUM TO**

**The Waste (Fees and Charges) (Amendment) Regulations (Northern Ireland) 2021**

**SR 2021 No. 182**

## 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 paragraph 7(2) of Schedule 4 of the European Union (Withdrawal) Act 2018 (EUWA) 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) 2021 increase fees and charges in relation to the processing of applications for the registration of brokers, dealers and carriers of waste and the processing of applications for the registration of exemptions from waste management licensing which 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 purpose of the fees and charges is to recover the costs incurred by the Department in carrying out its functions in relation to processing applications for these registrations. Through this Statutory Rule, the relevant fees and charges highlighted above will be uplifted in line with the GDP deflator.

## 3. Background

3.1 In line with the polluter pays principle, the Northern Ireland Environment Agency (NIEA) recovers 100% of the costs it incurs as the regulator of waste activities in Northern Ireland. This is achieved largely through receipt of fees and charges set out in waste management charging schemes which are updated and published on an annual basis. The Chief Executive of NIEA will approve the Waste Management Charging (Northern Ireland) Scheme 2021 in June 2021.

3.2 Fees and charges in relation to the registration of brokers, dealers and carriers of waste and the processing of registrations for 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. While the updated fees and charges for these registrations are set out in the Waste Management Charging (Northern Ireland) Scheme 2021, the Department is also required to update the relevant legislation to give effect to the increases.

3.3 This Statutory Rule amends the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 and the Waste Management Licensing Regulations (Northern Ireland) 2003 to increase the relevant fees and charges associated with these registrations, ensuring that the fees and charges within these Regulations are consistent with those set out in the Waste Management Charging (Northern Ireland) Scheme 2021.

3.4 Domestic legislation that was derived from European Union law, as it had effect in domestic law immediately before exit day, was saved by the European Union (Withdrawal) Act 2018 and continues to have effect in domestic law as retained EU law. Paragraph 7(2) of Schedule 4 of that Act provides authority to make regulations altering the fees to be charged under regulations that form part of retained EU law.

## 4. Consultation

4.1 The increases made through this Statutory Rule are in line with the NIEA Regulatory Charging Policy 2021-2023. NIEA completed a Public Consultation for a two year extension of the existing NIEA Regulatory Charging Policy from 1 April 2021 to 31 March 2023'. The consultation opened on the 18th January 2021 and closed on the 15th March 2021. No significant issues were raised as part of the consultation process.

## 5. Equality Impact

5.1 It was determined at the time of the consultation on the extension of the NIEA Regulatory Charging Policy 2021-2023 that there were no equality issues. Therefore, the Department did not consider it necessary to complete a full Equality Impact Assessment.

## 6. Regulatory Impact

6.1 A regulatory impact assessment is not required in respect of changes to statutory fees by a predetermined formula such as the rate of inflation.

## 7. Financial Implications

7.1 The Regulations enable the Department to recover its costs as the regulator of waste activities in Northern Ireland. The Statutory Rule will introduce increases of between £1 to £17 for a mixture of fees which are applied annually or tri-annually dependent on the activity. For example, there are increases from £75 to £76 p.a. for certain applications and registrations. Fees for registrations in connection with certain exemptions currently range from £659-£909 and will increase by a maximum of £17.

## 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 European Communities Act 1972, the Human Rights Act 1998 or other statutory provisions listed in section 7 of the 1998 Act.

## 9. EU Implications

9.1 Not applicable.

## 10. Parity or Replicatory Measure

10.1 The Environmental Permitting (England and Wales) Regulations 2016 set out the waste management licensing requirements (as permits) for England and Wales, including the associated fees and charges. Waste permit fees and charges are also increased on an annual basis in England and Wales.

## 11. Additional Information

11.1 Not applicable.