EXPLANATORY MEMORANDUM TO

The Waste (Fees and Charges) (Amendment) Regulations (Northern Ireland) 2023

SR 2023 No. 211

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 paragraph 7(2) of Schedule 4 of the European Union (Withdrawal) Act 2018 (EUWA) and by Articles 39(1),(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) 2023 increase fees and charges in relation to the processing of applications for the registration of brokers, dealers and carriers of waste 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 with the approval of the Chief Executive of NIEA.

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 2023,

the Department is also required to update the relevant legislation to give effect to the increases.

3.3 The existing NIEA Regulatory Charging Policy (April 2021 to 31 March 2023) has been extended for another year to allow a new fees and charging policy and scheme to be developed. This extension started on 1 April 2023 and supports the implementation of a new Environment Regulatory System that will be provided for under the new Environmental Permitting Regulations.

3.4 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 2023.

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 18 January 2021 and closed on 15 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 £5 for a mixture of fees which are applied annually or tri-annually dependent on the activity. For example, there are increases from £79 to £82 p.a. for certain applications and registrations.

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 The Statutory Rule will help the Department to comply with the requirements of retained domestic law associated with the Waste Framework Directive (2008/98/EC) and in particular the polluter-pays principle.

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.