EXPLANATORY MEMORANDUM TO

The Waste Management Licensing (Amendment No.2) Regulations (Northern Ireland) 2015

SR 2015 No. 386

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of the Environment (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 3(3)(a) 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 Department has introduced the Waste Management Licensing (Amendment No. 2) Regulations (Northern Ireland) 2015, which amend the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 (the 1999 Regulations) and the Waste Management Licensing Regulations (Northern Ireland) 2003 (the 2003 Regulations). The purpose of the Regulations is to update and broaden the prescribed offences element of the waste Fit and Proper Person test to include 'reputational' convictions and remove regulations that are no longer extant.

3. Background

3.1. The current list of prescribed offences in Schedule 1 to the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 and Regulation 2 of the Waste Management Licensing Regulations (Northern Ireland) 2003 is out of date and focuses heavily on environmental offences. The Regulations broaden the spectrum to include other offences and criminal activities. The rationale for doing so is to reflect the importance of a fit and proper person's reputation.

3.2. Under the amended Regulations, anyone convicted of an offence in the amended list will be denied a licence or have an existing licence revoked. The Department has created a new Schedule 6 to the 2003 Regulations and attracted the Schedule to the 1999 Regulations to provide for offences to be inserted by amending regulations if necessary in the future.

4. Consultation

4.1. The Department issued a consultation document on 23rd July 2015. The purpose of the consultation, which ran until 22nd October 2015, was to seek views on the proposals to broaden the list of prescribed offences to include 'reputational' convictions and to remove regulations that are no longer extant. There were seven responses to the consultation. All respondents supported the overall policy.

5. Equality Impact

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

6. Regulatory Impact

6.1. An Impact Assessment was carried out and concluded that introduction of these Regulations would have no major impact.

7. Financial Implications

7.1. For most operators there are no financial implications. However, it is hoped that tighter controls on those involved in the waste industry will reduce the potential for costly criminal activity.

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. Introduction of the Regulations ensures better compliance with the requirements of the Waste Framework Directive.

10. Parity or Replicatory Measure

10.1. The Regulations governing waste management in England and Wales are the Environmental Permitting (England and Wales) Regulations 2007 (as amended), the Waste (England and Wales) Regulations 2011 and Hazardous waste is covered by the Hazardous Waste (England and Wales) Regulations (as amended) 2005. The relevant Regulations in Scotland are the Pollution, Prevention and Control (Scotland) Regulations 2000 and the Waste Management Licensing (Scotland) Regulations 2011.

10.2. In December 2013, DEFRA released the Consultation on Alternatives to Waste Transfer Notes Arising from the Red Tape Challenge and Other Aspects of Waste Regulation. One of the proposals is to amend Regulation 29 of the Waste Regulations (England and Wales) Regulations 2011 which lists “Relevant Offences”. This list is the GB equivalent of Northern Ireland’s prescribed offences.

11. Additional Information

11.1. Not applicable.