EXPLANATORY MEMORANDUM TO

The Waste (Materials Facilities) Regulations (Northern Ireland) 2025

S.R. 2025 No. 18

1. Introduction

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

1.2. The Statutory Rule is made under Article 6(6) of the Waste and Contaminated Land (Northern Ireland) Order 1997 and Article 4(1) and (3) of the Environment (Northern Ireland) Order 2002 and is subject to the negative resolution procedure.

2. Purpose

2.1. These Regulations amend the Waste Management Licensing Regulations (Northern Ireland) 2003 ('the 2003 regulations') and the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 ('the 2013 regulations').

2.2. These changes will insert several key definitions into the 2003 regulations and, the 2013 regulations e.g. fibre-based composite material, materials facility, specified output material and waste material.

2.3. The amendments require the Department to ensure that appropriate conditions are included in waste management licences and PPC permits which authorise materials facilities so that the Code of Practice on Sampling and Reporting at Materials Facilities issued by the Department[1] is complied with. To that end, they insert various new definitions into both sets of Regulations.

2.4. This legislation and the Code of Practice on Sampling and Reporting at Materials Facilities will require in scope materials facilities to sample and report on their waste material.

2.5. This sampling and reporting will bring Northern Ireland into line with the rest of the UK.

3. Background

3.1. There are currently no statutory requirements for materials facilities to sample waste material in Northern Ireland. Sampling may be undertaken at some facilities (such as those handling waste from other jurisdictions) but there is no legislative requirement for this in NI. There has been sampling and reporting legislation in place in Scotland since 2015 and in England and Wales 2016.

3.2. In 2023 England and Wales updated their sampling and reporting legislation further to consider Extended Producer Responsibility for Packaging. Scotland followed with amending legislation in 2024.

[1] https://www.daera-ni.gov.uk/publications/code-practice-sampling-and-reporting-materials-facilities

3.3. New legislation is required in NI to require sampling and reporting, so that parity can be achieved across the UK and to ensure that adequate information will be available for extended producer responsibility for packaging (pEPR).

3.4. An objective of pEPR is to ensure packaging producers pay the cost of managing the packaging they place on the market. To support the delivery of pEPR, enhanced, granular data on the composition and quality of packaging waste collected, bulked, and sorted by materials facilities needs to be obtained in NI.

3.5. The materials facilities sampling and reporting requirements are detailed in the Code of Practice on Sampling and Reporting at Materials Facilities which is published on the Department's website.

3.6. All materials facilities will be required to comply with the regulations from 1st April 2025.

4. Consultation

4.1. The consultation on EPR for packaging ran for 10 weeks from 24th March to 4th June 2021[2]. This consultation sought views on specific policy proposals for the introduction of EPR for packaging. This was part of a joint consultation by the UK Government, the Welsh Government, the Scottish Government and DAERA.

4.2. The consultation received 1,241 responses from a wide range of stakeholders. The summary of responses and the Government response[3] to the 2021 consultation was published in March 2022. This response outlined our proposals to require producers to report their packaging data twice a year, in October and April, with each submission covering a 6-month period.

4.3. Question 56 in this consultation[4] asked, 'whether stakeholders agreed or disagreed with the proposal to introduce a sampling regime for packaging waste as an amendment to the MF Regulations in England, Wales and Scotland and incorporation into new or existing regulations in Northern Ireland?'. Of the 906 respondents, 74% agreed with the proposals, 3% disagreed, and 24% neither agreed nor disagreed.

4.4. The Department also completed a separate consultation on the proposed Code of Practice on Sampling and Reporting at Materials Facilities, the draft legislation, and the fees proposed for this new sampling and reporting regime. This consultation[5] ran for over 8 weeks (from 16th September to 12th November 2024) and sought stakeholder views.

---

[2] Extended Producer Responsibility for Packaging - Defra - Citizen Space
[3] EPR Consultation Government response template (daera-ni.gov.uk)
[4] Extended Producer Responsibility for Packaging: Summary of consultation responses
[5] https://www.daera-ni.gov.uk/consultations/consultation-proposed-new-code-practice-sampling-and-reporting-materials-facilities

4.5. The consultation received 10 responses from a variety of stakeholders. The summary of responses and the Government response to this consultation was published on the Department's website in January 2025[6].

5. Equality Impact

5.1. In accordance with the Department's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed. No adverse equality impacts have been identified under the Equality and Human Rights screening procedures. The Department considers the Regulations will not result in any equality differentials amongst Section 75 groups.

6. Regulatory Impact

6.1. An impact assessment for the introduction of EPR for packaging was published alongside the Government Response to the 2021 consultation.

6.2. The impact of these regulations on business is due to the additional data collection and reporting requirements and familiarisation with the new requirements. The amendments included in this rule are minimal and will not introduce any significant additional burden on businesses.

6.3. The department also completed a Regulatory Impact Assessment. This explored different options and a summary of costs for packaging waste sampling and reporting in relation to materials facilities.

6.4. There is no, or no significant, impact on charities or voluntary bodies.

6.5. These regulations will have no significant impact on the public sector.

7. Financial Implications

7.1. Implementation of the Code of Practice on Sampling and Reporting at Materials Facilities could generate ongoing regulatory costs for DAERA which will be cost recoverable with materials facilities fees paid to NIEA.

7.2. There will be financial implications for the in-scope materials facilities as they will be required to sample their waste material.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Regulations do not have any human rights implications, nor are they incompatible with EU law. The Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. There are no EU implications as the Waste (Materials Facilities) Regulations (Northern Ireland) 2025 relate to waste sampling and reporting from materials facilities.

10. Parity or Replicatory Measure

10.1. Producer responsibility is devolved, and the other regions of the United Kingdom have had similar legislation in place requiring sampling and

[6] https://www.daera-ni.gov.uk/consultations/consultation-proposed-new-code-practice-sampling-and-reporting-materials-facilities

reporting since 2015 (the Waste (Recyclate Quality) (Scotland) Regulations 2015) and 2016 (the Environmental Permitting (England and Wales) Regulations 2016).

10.2. This legislation has been recently updated in England (The Environmental Permitting (England and Wales) (Amendment) Regulations 2023) and in Scotland (The Waste (Materials Facilities) (Scotland) Regulations 2024). This statutory rule brings Northern Ireland legislation into line with the rest of the UK.

11. Contact

11.1. Laurence McCann at the Department of Agriculture, Environment and Rural Affairs, (Tel: 028 90569725 or email: Laurence.McCann@daera-ni.gov.uk) can be contacted with any queries around the regulation.