EXPLANATORY MEMORANDUM TO

THE WASTE REGULATIONS (NORTHERN IRELAND) 2011

2011 No. 127

1. Introduction

1.1. This explanatory memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule listed above which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1 The draft regulations transpose Directive 2008/98/EC on waste ("the revised Waste Framework Directive") in Northern Ireland. The revised Waste Framework Directive re-enacts, revises or repeals three predecessor Directives: (i) the Waste Framework Directive (2006/12/EC); (ii) the Waste Oils Directive (75/439/EEC as amended); and (iii) the Hazardous Waste Directive (91/698/EEC as amended). The laws, regulations and administrative provisions necessary to comply with these three predecessor Directives are in place. The draft regulations transposes the revised Waste Framework Directive by revising or repealing the legislation in place to transpose the three predecessor Directives in Northern Ireland; and by adding new freestanding provisions to the existing legislation to ensure compliance with the revised Directive.

3. Background

3.1 The Waste Framework Directive was originally adopted in 1975 as Directive 75/442/EEC. The focus of the Directive's provisions at that stage was on ensuring the safe disposal of waste. The original Directive also enabled Member States to adopt their own national definitions of waste.

3.2 The Waste Framework Directive was the subject of substantial amendment in 1991 in Directive 91/156/EEC - taking account of the experience gained by Member States in the implementation of the original Directive. One of the major changes made in 1991 was to extend the scope of the Directive's objectives and controls from waste disposal also to cover waste recovery – with "recovery" including recycling, re-use of waste, reclamation and the use of waste as a source of energy. The amended Directive also introduced an EU-wide definition of waste "in order to improve the efficiency of waste management in the Community".

3.3 The existing Waste Framework Directive (2006/12/EC) contains provisions which have the aim of directing waste management policy and provisions which are regulatory in nature. The former includes the waste hierarchy and measures on waste

prevention/reduction; the self-sufficiency and proximity principles; waste management planning; and the "polluter pays" principle. The latter includes a requirement for "establishments or undertakings" carrying out waste disposal and recovery operations to hold a permit or registered permit exemption; a requirement for professional collectors and transporters of waste, and for dealers and brokers of waste, to be registered; and a requirement for "appropriate periodic inspection" of those carrying out waste management activities.

3.4 The Sixth Community Environment Action Programme[1], adopted by the European Parliament and the Environment Council of Ministers on 22 July 2002, called for the development or revision of EU waste legislation. In response, the European Commission published on 21 December 2005 "A Thematic Strategy on the prevention and recycling of waste" ("the Waste Thematic Strategy"). The Waste Thematic Strategy was published by the Commission in association with a thematic strategy on the sustainable use of natural resources and proposed action in the following areas:-

- renewed emphasis on full implementation of existing legislation;
- introducing life-cycle thinking into waste policy;
- promotion of waste prevention policies;
- improving the knowledge base;
- fostering waste recycling; and
- simplification and modernisation of existing legislation.

3.5 The Commission also published a proposal for the revision of the Waste Framework Directive to give effect to the Waste Thematic Strategy. On conclusion of the co-decision process, the revised Waste Framework Directive was adopted by the European Parliament and the Council on 19 November 2008 and entered into force on 12 December 2008. Member States were required to transpose the Directive by 12 December 2010.

3.6 The key objective of the revised Waste Framework Directive is to provide:-

> "....measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use."

3.7 In one way or another, the fulfilment of the Directive's objectives is of interest to almost everyone – householders, district councils, businesses (including small and medium enterprises (SMEs)), non-governmental organisations (NGOs) and consumer groups. Whilst measures are in place to comply with the three existing Directives listed in paragraph 2.1 above the revised Waste Framework Directive also introduces several new provisions – some of which required the Department to take policy decisions before deciding on the necessary transposing legislation. The Department decided, therefore, to carry out a two-stage public consultation on the Directive's transposition. The stage one public consultation ran from 12 October 2009 to 4 January 2010 and was essentially a policy debate on the following provisions:-

[1] Decision 1600/2002/EEC, OJ L 242/1, 10.09.2002.

- The 5-step **waste hierarchy** and its application as a priority order in waste management legislation (Article 4);
- Discretionary provisions on **extended producer responsibility** (Article 8);
- A range of provisions on the **separate collection and the recovery/recycling of waste** – including the 50% recycling target for waste from households and the 70% recovery target for non-hazardous construction and demolition waste (Article 11);
- The extension of the **principles of self-sufficiency and proximity** from disposal installations to cover also installations for the recovery of mixed municipal waste (Article 16);
- The implementation of some changes on the management of **hazardous waste** (Articles 17-20);
- The implementation of some provisions on **waste oils** (Article 21);
- Measures on **biowaste** (Article 22);
- The implementation of changes on **waste management plans** (Article 28); and
- The need to establish **waste prevention programmes** (Article 29).

3.8 The stage two public consultation ran from 21 September 2010 to 16 November 2010 and included:-

- A summary of the key issues;
- A consultation paper covering:-
  - A draft of the Regulations to transpose the revised Waste Framework Directive in Northern Ireland;
  - Draft guidance on applying the waste hierarchy in Northern Ireland; and
  - An Impact Assessment.

3.9 The Department has also carried out informal consultations with key stakeholders throughout the negotiation and transposition phases of the revised Waste Framework Directive. The UK-wide revised Directive Stakeholder Group comprises about 30 members and meets under the Department for Environment, Food and Rural Affairs' chairmanship about four times a year and Northern Ireland is represented at these meetings. The Department has also held NI-specific stakeholder events which were attended by over 90 stakeholders representing those who work in the waste industry; private and public sectors, as well as the voluntary and community sector.

3.10 The draft regulations address one issue which is not related directly to the transposition of the revised Waste Framework Directive. The draft regulations give effect to a judgment made by the European Court of Justice (ECJ) in 2005 on the interpretation of Article 12 of Directive 75/442/EEC as amended by 91/156/EC (which was later consolidated bia2006/12?EC)[2]. The ECJ found that the registration of professional waste carriers must include all those who "normally and regularly transport waste, whether that waste is produced by them or others". This is different to the existing legislation, and the associated guidance, implementing Article 12 in Northern Ireland. It means that the Department is under an obligation to amend the

[2] Case C-270/03 involving infraction proceedings by the European Commission against Italy.

list of those who are currently exempt from registration and bring into the system persons not previously registered with the Department, particularly those who "normally and regularly" carry waste they produced themselves.

3.11 The draft regulations make provision for a registration system that complies with the ECJ's judgment but is as light as possible for businesses. Provision is made for a two tier system under which professional waste carriers in the higher tier will be subject to similar controls as now, and the vast majority of currently exempt businesses who carry waste "normally and regularly", and will be brought into the registration system for the first time, will be in a new lower tier (tier 2) requiring a one-off registration.

4. Consultation Outcome

4.1 There were eight responses to the stage one consultation (see paragraph 3.7 above). The responses were representative of Local Government, waste management groups, environmental lobby/representative groups and one response was from a private waste management company The responses to the stage one consultation were considered and taken into account in the preparation of the stage two consultation proposals.

4.2 There were 18 responses to the stage two consultation (see paragraph 3.8 above). The following table sets out the number of responses received under each category:-

Category	Number of Responses	% of Responses
Public Sector	11	61
Private Sector	4	22
Third Sector	3	17
TOTAL	**18**	**100**

4.3 The responses to the stage two consultation have been considered and taken into account in preparing the measures to transpose the revised Waste Framework Directive contained in the draft regulations.

5. Guidance

5.1 The Department consulted on draft guidance on the application of the waste hierarchy in Northern Ireland as part of the stage two consultation on the transposition of the revised Waste Framework Directive (see paragraph 3.8 above). In January 2010 the Department consulted on draft guidance on the interpretation of the definition of waste in the existing Waste Framework Directive[3] – which is re-enacted in the revised Directive.

5.2 The guidance which the Department proposes to make available, after any necessary consultation, to accompany the transposing regulations in Northern Ireland includes:-

[3] Available at http://www.defra.gov.uk/corporate/consult/waste-definition/index.htm

- Overarching guidance on the transposing Regulations – including a revision of the guidance on the existing Waste Framework Directive provided in the context of the Waste Management Licensing system.
- An easy-to-follow guide for businesses on the transposing Regulations.
- A post-consultation version of the guidance on the definition of waste referred to in paragraph 5.1 above.
- Guidance on hazardous waste.
- Guidance on the registration of professional waste carriers and collectors, and dealers and brokers of waste.
- A revision of the duty of care code of practice provided under Article 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997.
- A post-consultation version of the waste hierarchy guidance referred to in paragraphs 3.8 and 5.1 above.
- Guidance on the separate collection provisions of the revised Directive and the transposing Regulations – including the implementation of the term "technically, environmentally and economically practicable".
- Revision of the guidance provided in Planning Policy Statement No.11 to take account of the revised Directive's transposition.

5.3 The European Commission has confirmed its intention to provide a range of guidance to assist Member States' implementation of the revised Waste Framework Directive but to date none has been published. It is also likely that the Northern Ireland Environment Agency, as the main "competent authority" responsible for the implementation of the transposing Regulations in Northern Ireland, will publish guidance to enable businesses to comply with the Directive's waste management controls as transposed.

6. Equality Impact

6.1. An equality screening analysis has been carried out. No equality issues have been identified and accordingly an equality impact assessment is not considered necessary.

7. Regulatory Impact

7.1. The impact on business, charities or voluntary bodies is limited because the revised Waste Framework Directive re-enacts existing waste manangment controls and there are no additional costs for businesses etc. in continuing to comply with these controls. Any additional costs will arise from the new or revised provisions introduced in the revised Directive and transposed in the draft regulations e.g. the application of the waste hierarchy as a priority order, hazardous waste and compliance with an ECJ judgment on the registration of professional waste carriers (see paragraphs 3.10 and 3,11 above). The total additional transition costs incurred by businesses etc. are estimated to be in the region £55K.

7.2. The impact on the public sector is likely to arise from the revised Directive's provisions on the application of the waste hierarchy and separate collection and is estimated to be £50K.

8. Financial Implications

8.1. There are minimal financial implications.

9. Section 24 of the Northern Ireland Act 1998

9.1. The Department has considered the matter of Convention Rights and Community Law and is satisfied that there are no matters of concern.

10. EU Implications

10.1. These draft regulations are part of the implementation of the Directive 2008/98/EC on waste

11. Parity or replicatory measure

11.1. The draft legislation mirrors the provisions proposed by England, Wales and Scotland, whose transposing legislation will come into force on 31 March 2011.

12. Additional information

12.1. None

Impact Assessment of the Transposition of the Revised Waste Framework Directive (Directive 2008/98/EC)

Introduction

Background

1. At the Environment Council on 28 June 2007, the Council reached political agreement on a proposed revision of the Waste Framework Directive (WFD). The Presidency, acting on behalf of the Council, reached a compromise agreement with the Rapporteur on the European Parliament (EP)'s proposed amendments to the revised WFD, and the EP voted to adopt the compromise agreement at its plenary session on 17 June 2008. The text of the Common Position, as amended by the Parliament, was adopted when the Environment Council met on 20 October 2008.

2. The revised WFD (2008/98/EC) was published on 19 November 2008 and the effect of Article 42 is to provide that it enters into force on 12 December 2008. Article 40 requires Member States to "bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 12 December 2010."

Purpose and Intended Effect

3. The revised WFD re-enacts, repeals or revises three existing Directives:

   (i) the existing WFD[1];
   (ii) the Waste Oils Directive[2]; and
   (iii) the Hazardous Waste Directive[3].

   The UK already has in place the necessary laws etc to comply with these three Directives. However, the revised WFD also introduces several new provisions.

4. The main changes introduced by the revised WFD may be summarised as follows:-

   - Greater emphasis on resource efficiency and waste prevention as an objective of waste policy alongside protection of the environment and human health.

   - The "waste hierarchy" is now a "priority order" (prevention; preparing for re-use; recycling; recovery (eg energy recovery); and disposal) but Member States may depart from it if doing so results in a better environmental outcome.

   - Member States must put in place "waste prevention programmes" by the end of 2013. The Commission must report on progress in waste prevention by 2011 and by the end of 2014 has to set waste prevention and decoupling objectives for 2020.

   - Member States must achieve a target of re-using or recycling 50% of household waste (including paper, metal, plastic and glass) by 2020; and achieve a target of re-using, recycling or recovering 70% of construction and demolition waste by the same date.

   - Member States must set up separate collection for at least paper, metal, plastic and glass by 2015, "where technically environmentally and economically practicable and appropriate". (The UK has clarified that co-mingled collection can continue after 2015 where this is the best

[1] Directive 2006/12/EC available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:114:0009:0021:EN:PDF
[2] Directive 75/439/EEC (as amended) available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31975L0439:EN:HTML
[3] Directive 91/698/EEC (as amended) available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31991L0689:EN:HTML

means of increasing recycling rates in the local circumstances. Bring sites may also be classified as 'separate' collection).

Rationale for Government Intervention

5. The recovery and disposal of waste imposes externalities on UK society, ranging from the greenhouse gas impacts of landfilling waste to the potential health impacts of hazardous wastes. The rationale for Government waste policy is therefore to tackle such externalities and their adverse impacts, thereby improving environmental and health outcomes in the UK. This is done in particular through:

   - reducing the impact of waste on climate change; and

   - reducing risks to health and the environment from potentially harmful substances within waste.

Options

6. The WFD is already part of UK law. Not adopting the revisions to it into UK law would be illegal and would inevitably result in infraction proceedings by the European Commission against the UK and the consequential imposition of significant fines by the European Court of Justice (ECJ). This does not mean, however, that costs or benefits can be assumed and there still needs to be a full assessment of the costs and benefits associated with each option, including the status quo option of doing nothing, which might in some instances represent the preferred option. The purpose of this IA is to lay out all the evidence surrounding the options and to act as a basis for decision making.

7. The European Court of Justice (ECJ) is able to impose financial sanctions on any Member State which fails to implement a judgement from the ECJ establishing an infringement of Community law. The Commission has warned that it will usually recommend both a penalty for each day between the judgement of the Court that there has been an infringement and compliance with the Directive, together with a lump sum penalising the continuation of the infringement between the first judgement on non-compliance and the judgement delivered under Article 228 of the European Community (EC) Treaty. Annex 4 provides information on the potential size of these fines from infractions of other Directives.

8. DOE has considered the Specific Impact Tests (SITs) taking into account responses from the second stage consultation. Based on the responses received DOE does not consider there to be any major quantifiable impacts.

9. Article 1 of the revised WFD explains that the Directive's objective is to lay down measures:-

   "...to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use."

10. Within the framework set by this objective, the consultation paper invites views on the transposition in Northern Ireland of the following provisions:-

    - **Article 4: The waste hierarchy** and its application as a priority order in waste prevention, waste management and waste policy.

    - **Article 8: Extended producer responsibility** and whether the discretion available to Member States should be used to strengthen the re-use, prevention and recycling/recovery of waste.

    - **Article 11: Re-use, recycling and collection** – which introduces the following range of provisions:-

- **Article 11(1)**: The taking of measures, as appropriate, to promote the re-use of products and preparing for re-use activities, notably by encouraging the establishment and support of re-use and repair networks, the use of economic instruments, procurement criteria, quantitative objectives or other measures.

- **Article 11(1)**: The setting up of separate collections of waste where technically, environmentally and economically practicable and appropriate to meet the necessary quality standards for the relevant recycling sectors – including by 2015 separate collection for at least paper, metal, plastic and glass[4].

- **Article 11(2)(a)**: A household waste recycling target – the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly other origins as far as these waste streams are similar to waste from households, must be increased to a minimum of 50% by weight by 2020.

- **Article 11(2)(b)**: A construction and demolition waste recovery target – the preparing for re-use, recycling and other material recovery[5] of non-hazardous construction and demolition waste[6] must be increased to a minimum of 70% by weight by 2020.

- **Article 16: Principles of self-sufficiency and proximity**. These principles previously applied only to waste disposal installations, but Article 16 of the revised WFD extends them to apply also to installations for the recovery of mixed municipal waste collected from private households.

- **Articles 17-20: Hazardous Waste**. The revised WFD repeals and re-enacts the existing Hazardous Waste Directive. However, the revised WFD also makes some changes which could impact on the management of hazardous waste.

- **Article 21: Waste Oils**. The revised WFD repeals the Waste Oils Directive. However, some of the provisions of the Waste Oils Directive are re-enacted in the revised WFD.

- **Article 22: Bio-waste** and the taking of measures to encourage (a) the separate collection of bio-waste with a view to its composting and digestion; (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection; and (c) the use of environmentally safe materials produced from bio-waste.

- **Article 28: Waste management plans**. Article 28 revises the scope and content of waste management plans and it will be necessary to transpose these revised requirements.

- **Article 29: Waste prevention programmes**. Member States are required to establish waste prevention programmes not later than 12 December 2013. They should not only describe existing waste prevention measures but also evaluate the usefulness of 16 example measures set out in Annex IV to the revised WFD.

Costs and Benefits

11. The following sections describe the costs and benefits associated with the implementation of the revised WFD. Many of the Articles considered here, in Government's view, do not require additional action in terms of new policy, and there are therefore no costs and benefits associated with those Articles.

12. For the whole Impact Assessment (IA), it is challenging to analyse benefits in any quantifiable sense, as the impacts of the proposed policy actions are not certain. The benefits have therefore

[4] Subject to Article 10(2) of the revised WFD, which provides that, where necessary to ensure that waste undergoes recovery operations and to facilitate or improve recovery, waste shall be collected separately if technically, environmentally and economically practicable and shall not be mixed with other waste or other material with different properties.
[5] Including backfilling operations using waste to substitute other materials.
[6] Excluding naturally occurring material defined in category 17 05 04 of the European Waste Catalogue.

been analysed in a backwards fashion, ie in order that the costs are justified, what level of incentivisation up the waste hierarchy would we need to see. This analysis is summarised in the table below. Overall, the levels of benefits needed to justify the costs are deemed low, and, therefore, the IA deems the impacts as cost neutral at least[7].

13. There is good reason to believe that businesses will see financial benefits as a result of these regulations. For example when businesses consider other factors such as landfill costs, which are set to continue rising, and start thinking about ways to avoid waste e.g. through better procurement, planning and even simple things like double sided printing, it is entirely feasible that many will make financial savings. So even though there are likely to be costs there are also likely to be significant benefits resulting from low cost measures in waste prevention and recycling.

Table 1: Summary table presenting the preferred set of options (excluding those articles where there is no additional action)

ARTICLE	PREFERRED OPTION	COSTS	BENEFITS
Waste Hierarchy Stage 1: Applying the WH through existing strategies and frameworks	WH applied through the WMS, the 3 Waste Management Group Plans and PPS11.	Additional costs are estimated at around £50k per Waste Management Group	It is challenging to estimate the benefits of such a Directive, with many components cumulatively achieving incentivisation up the waste hierarchy. Non-monetised environmental benefits of the Revised WFD include reduced GHG emissions and reduced use of virgin materials.
Waste Hierarchy Stage 2: Applying WH through waste licensing/permitting regime	New condition for new or significantly varied environmental permits to ensure that businesses take appropriate measures to minimise the waste generated by the operation and to ensure, where waste is generated, that it is treated in accordance with the hierarchy	Annual costs of around £11,720 for businesses to use guidance and apply to the permitting regime. Costs to public sector expected to fall in same range as above.	
Waste Hierarchy Stage 3: Applying WH to individual waste producers and waste holders	Declaration in Waste Transfer Note	One-off cost to business of around £58,410 for reading and understanding the guidance	
Waste management plans	Waste management plans to include details of existing major disposal and recovery installations	Additional minimal costs on the Waste Management Groups	
Waste management plans	Waste management plans to include assessment of the need to close existing waste installations, using WMG plans	Additional minimal costs on the NIEA	

Article 4: The waste hierarchy

14. Article 4 of the Directive requires Member States to apply the new waste hierarchy set out below, as a priority order in waste prevention and management ***legislation*** and ***policy.***

(a) waste prevention

(b) preparing for re-use

(c) recycling

(d) other recovery, including energy recovery

(e) disposal

15. We are proposing to apply the waste hierarchy in ***policy*** through the Northern Ireland Waste Management Strategy (WMS), the Waste Management Plans (WMP) produced by Northern Ireland's three Waste Management Groups, PPS 11 and the waste prevention programme which is

[7] The analysis carried out by DEFRA on the costs and benefits of introducing the hierarchy was used as the basis for this conclusion. This is supported by the fact that the costs and benefits from introducing the hierarchy are not estimated to be significantly different in NI. The DEFRA conclusions were therefore felt to be equally applicable to NI.

required under Article 29 of the revised Directive. These activities will be subject to their own Impact Assessment and are not covered here.

'Business as usual' option

16. The 'business as usual' option would be to not transpose the new waste hierarchy. However, our existing legislation would not cover the requirements of the revised Directive and the UK would be exposed to a significant infraction risk. All options are appraised relative to this business as usual option.

Transposition proposals

17. To ensure that the waste hierarchy is transposed into ***legislation***, we are proposing a tiered approach:

Stage:-

1. Applying the hierarchy in Northern Ireland through the NI Waste Management Strategy, the Regional Development Strategy, and the regional Waste Management Plans as prepared by the three Northern Ireland Waste Management Groups and cascaded to district councils and also through PPS11.
2. Applying the hierarchy through the waste management licensing/permitting regime. (This would **only** apply to new permits or significant variations).
3. Application of the hierarchy by individual waste producers or waste holders, via Duty of Care.

18. The Department (in conjunction with Defra) has drafted guidance on the practical application of the waste hierarchy in Northern Ireland (see Chapter Four of the Stage-Two consultation - the waste hierarchy guidance document) which waste producers and holders in Northern Ireland would be required to read and understand to fulfil their legal obligations and which may also be useful to the other businesses and organisations involved in applying the hierarchy.

Stage 1 – Applying the hierarchy through the NI WMS, the 3 Waste Group WMPs, the Regional Development Strategy and PPS 11.

Option (a): Hierarchy is applied through the NI Waste Management Strategy, Waste Management Plans (3 Groups), Regional Development Strategy and through PPS 11.

19. At the moment this is our preferred option. The waste hierarchy under article 3(1) of the previous Directive forms the context of PPS 11 and is imbedded in the NI Waste Management Strategy and in the Waste Management Plans developed by the three NI Waste Management Groups, with reference to the Regional Development Strategy. This option would therefore not involve any additional burdens on businesses, though it could impose additional small costs on the public sector.

20. This option would impact on the management of 'Regional' Waste Management Plans which are put together by the three regional Waste Management Groups, viz arc21, SWaMP 2008 and the North West Region Waste Management Group (NWRWMG).

21. This option would require those dealing with planning applications to familiarise themselves with the new Regulations and/or updated PPS 11 and take cognisance of these in taking forward plans. We expect this additional burden to be minimal but would be grateful for respondent's views on this.

Second stage – This would involve applying the hierarchy through the waste management licensing/permitting regime.

22. On average NIEA deals with an average of 602 licences/exemptions a year. We are, therefore, using this figure (602) as our yardstick for estimating the costs.

23. It is proposed that the NIEA and introduces a permit/licence condition for new permits/licences or significant variations/modifications to existing permits/licences to reflect the hierarchy. This would require licence/permit holders to take appropriate measures to minimise the waste generated by their operation and to ensure that, where waste is generated, it is treated in accordance with the hierarchy.

24. Businesses will be able to adapt their operations - if necessary - during the licensing/permitting application process or in advance of a licence/permit review. In this way, they can take the hierarchy into account at least cost to them, eg by building any changes to processes or contracts into their normal operations over time. In terms of administrative burdens, we are assuming that it will take around 1 hour to digest the relevant guidance on applying the waste hierarchy, which would result in estimated costs of around £11,720 per year.

25. Administrative costs to the public sector are likely to be similar and as above we estimate these to be around £11,720 per year.

26. We not are currently proposing to impose conditions on activities covered by an exemption, as exemptions primarily deal with low risk waste recovery operations.

Third stage – This would involve application of the hierarchy by individual waste producers and waste holders.

Option (a) – **modifying Waste Transfer Notes (WTNs) to add a declaration and a narrative about how the waste hierarchy has been considered (alongside a duty in the Regulations to take the hierarchy into account in consigning decisions).**

27. Waste holders and producers who transfer waste would be required to:
    a) confirm they have read the relevant guidance on the waste hierarchy; and
    b) explain, in no more than 200 words, how they have made their choice of how the waste being consigned is being treated (eg recycling/composting, or other types of recovery, or disposal) in the context of the hierarchy.

28. For the purposes of this exercise, we are estimating a Northern Ireland average of 250 waste transfer notes per carrier, per year. There are approximately 3,000 registered waste carriers which would result in a total of 750,000 WTNs in Northern Ireland per annum (although many businesses take advantage of a "season ticket" approach, which allows them to fill in a Waste Transfer Notes at the start of a contract, and not every time waste is collected (as long as the content remains broadly constant), thus minimising the administrative burden.).

29. The estimated cost of filling in a WTN ranges from £0.70 to £1.22. The obligation to produce a waste transfer note rests as much on the producer of the waste as on the collector/carrier of that waste. In practice, waste contractors often handle the paperwork (sometimes for a fee) on behalf of the business producing the waste.

30. Costs to business would include a one-off cost of reading and understanding the guidance (1 hour) for each registered waste carrier (of which we believe there are 3,000 – see above for NI figure) – so the cost of this is estimated to be around £58,410. In addition, the cost of the time required to complete the narrative for each waste transfer note (10 minutes) is estimated as £2.4m. We anticipate that as waste holders and producers become familiar with the new WTNs, they would take much less time to complete with a corresponding decrease in this cost.

Option (b) – **duty in the Regulations to take the hierarchy into account in consigning decisions, backed up by a standard declaration certifying that waste holders and producers have done so included in Waste Transfer Notes.**

31. As with option (a), costs to business would include a one-off cost of reading and understanding the guidance for each registered waste carrier, however, for this option we expect that the additional time required to sign the declaration would be nil.

32. The cumulative costs of the preferred set of options include one-off costs of £58,410 , and annual costs around £23,440. These costs need to be appraised relative to the benefits, which are more difficult to gauge and were discussed in the opening sections. See Table 1 above.

Table 2: Summary Table of the tiered transposition proposals for Article 4 on the Waste Hierarchy (with implicit Do Nothing option)

STAGE	OPTIONS	COSTS	BENEFITS	ADDITIONAL NOTES
1. Applying the WH through existing strategies and frameworks	a. WH applied through WMS, Regional WMPs, PPS11	Additional costs are estimated at around £50k per Waste Management Group	It would be difficult to quantify the benefits of the individual stages of the proposed transposition system, because there will be a high degree of interaction. In addition, the relative benefits of each of the options within the three tiers of the proposed system would not be very different. However, transposing the waste hierarchy would underpin a whole host of other policies which aim to shift waste management up the hierarchy so that environmental benefits are maximised. The analysis of the benefits is discussed more in paragraphs 11 to 13 above.	This is the preferred option.
2. Applying WH through the waste management licensing/permitting regime	New condition for new or significantly varied licences/permits to ensure that businesses take appropriate measures to minimise the waste generated by the operation and to ensure, where waste is generated, that it is treated in accordance with the hierarchy.	Annual costs of around £11,720 for businesses to use guidance and apply to the permitting regime. Costs to public sector expected to fall in same range as above.		This is the preferred option.
3. Applying WH to individual waste producers and waste holders	a. declaration + narrative in WTNs	One-off cost to business of around £58,410 for businesses reading and understanding the guidance. Annual cost of £2,434,488 for completing the declaration and narrative.		
	b. Declaration in WTN (without a narrative)	One-off cost to business of around £58,410 for businesses reading and understanding the guidance.		This is the preferred option

[#] irrespective of the effect of other instruments such as the Landfill tax etc.

Article 8: Extended producer responsibility

33. The Department does not propose to take forward any additional PR schemes under Article 8 of the revised WFD at this time. Several of the waste streams suggested are already subject to PR schemes and working to strengthen and improve these schemes, as some respondents suggested, would enable lessons to be learned for the benefit of any future schemes. The EU Directive on Waste Electrical and Electronic Equipment (WEEE) is currently being renegotiated and will no doubt result in changes to NI's existing PR scheme for WEEE.

34. Several of the suggested waste schemes are also subject to voluntary action among industry, for example, waste clothing/textiles and paint, and it would be prudent to assess the success of these initiatives before considering the need for Regulation. There is also limited information on many of the waste streams suggested, and life cycle assessments, as well as research on the environmental and economic impacts of introducing PR for these streams, would need to be undertaken to assess whether this would be the right option.

35. The Department will also need to consider the outcomes from the consultation on the introduction of restrictions on the landfilling of certain wastes and for any wastes that may be restricted from landfill, whether PR schemes would be suitable.

36. Nevertheless, PR remains a valuable policy tool in reducing the impacts of waste products on the environment and the Department will keep the need for and suitability of additional PR schemes under review, or for extending existing PR schemes.

Article 11(1): Re-use and Preparing For Re-Use Activities

37. Article 11(1) requires Member States to 'take measures, as appropriate, to promote the re-use of products and preparing for re-use activities, notably by encouraging the establishment and support of re-use and repair networks, the use of economic instruments, procurement criteria, quantitative objectives or other measures.'

38. It is a key objective of the Department to put more emphasis on waste prevention and reuse and there are a number of measures currently being taken to promote the re-use of products and preparing for re-use activities. The Stage-One consultation set out the existing measures and the view that they are sufficient to comply with the requirements of this part of the Article and proposed no further measures at this stage. There was broad consensus with this approach from respondents. Following on from that, we, therefore, propose no further measures will be required to transpose the requirements of Article 11(1) covering reuse and preparing for reuse.

39. The Waste and Resources Action Programme (WRAP) is continuing to promote reuse and is working on a number of activities to realise the benefits of reuse and preparing for reuse. WRAP has an established programme of work to increase the third sector's capacity to operate in the waste and recycling sector and to strengthen the capacity and efficiency of the network and their enterprise culture.

Costs and Benefits

40. As no further action is proposed for transposing the requirements of Article 11(1) covering re-use and the preparing for re-use, there are no costs and benefits associated with this part of the Article.

Article 11(1): Separate Collections of Waste

41. In this section the options are focused on separate collection for different types of plastics, as it is assumed that separate collection will already be provided for paper, metal and glass by 2015. Plastics is defined as plastic bottles in option 1 and all plastics in option 2. Option 2 would include plastic bottles, other rigid plastics such as pots and tubs, and plastic films. A key assumption under the preferred option here is that present trends continue in relation to paper, metal, glass and plastic bottles.

Option One: Reserve judgement on requiring any additional separate collection by district councils above and beyond what is driven by other measures

42. This is the preferred option in this consultation as it allows for further development of the recycling market for mixed plastics and consideration of the respective costs and benefits before confirming the approach, including any additional regulations or costs. In Northern Ireland all district councils provide for the separate collection of paper, metal and glass, whether by kerbside collection or the provision of bring banks. All district councils also currently provide for separate collection of plastic bottles at kerbside. Prior to April 2009 the different types of plastics were not differentiated. From April 2009 onwards district councils can report on the seven types of plastics such as HDPE, PET etc in addition to plastics and mixed plastics.

43. It is assumed that those councils currently providing a separate collection will continue to provide this service through to 2015 and beyond and, if anything, will expand or improve on this service. It is likely that any council not providing such a service will need to be able to provide convincing evidence that this is not technically, environmentally and economically practicable and appropriate to meet the quality standards necessary for recycling.

Option Two: Require all district councils to provide for the separate collection of **all** plastics by 2015 where this is technically, environmentally and economically practicable.

44. This option would require all district councils to introduce separate collection of mixed plastics (rigid plastics and plastic films), in addition to plastic bottles, by 2015. The analysis presented below provides an initial analysis of the additional costs in requiring all district councils to provide separate collection of mixed plastics by 2015. Our current view is that it is unlikely to be technically, environmentally and economically practicable for all district councils to provide such a service by 2015. However, the collection, sorting and recycling of mixed plastics is still in the relatively early stages of development. The situation may have moved on considerably by 2015 and it can be

anticipated that other drivers on district councils to increase their levels of recycling will drive increased provision of separate collection for mixed plastics. Therefore, further work is needed on the relative costs and benefits of mixed plastics collection before this option can be pursued. The intention is to provide separate guidance on what is considered "technically, environmentally and economically practicable" in light of further information. The relative costs and benefits of the interpretation provided for in the guidance will need to subject to a more detailed impact assessment at the time. We are also looking into sorting requirements with respect to the landfill restrictions consultation which is being consulted on at the moment.

45. Costs vary between district councils according to many factors, including contract costs, vehicle efficiencies, mix of housing stock, infrastructure and gate fees for recyclates. The calculations in this section are based on the assumptions and findings of a WRAP project entitled *"the financial costs of collecting mixed plastics packaging* (June 2009)[8]". The costs of this option will also depend on the type of separate collection introduced:

    - Co-mingled collection (in which all recyclates are collected together and separated out for recycling later): between £3.36 and £4.92 per household per year

    - Two-stream collection (in which recyclates are separated into two broad streams by the householder, and fully separated for recycling later): between £1.45 and £3.81 per household per year

    - Kerbside sort (in which recyclates are separated by collection operatives before transportation):
        - Weekly collection: between £3.27 and £5.69 per household per year
        - Fortnightly collection: between £2.01 and £4.16 per household per year

46. At present none of the district councils have some provision to collect mixed plastics at the kerbside. The cost of this option is based on the additional costs of introducing mixed plastic collection across all 26 district councils. Calculations are made based on the costs for a 'generic' district council of 50,000 households, in line with the assumption made in the source report.

47. For simplicity, we have amalgamated co-mingled and two-stream collections, and both frequencies of kerbside sort. Figures are the total cost per year across Northern Ireland.

    - If all additional separate collection provided through a co-mingled collection: between £1.05m and £3.56m per year

    - If all additional separate collection provided through kerbside sort: between £1.45m and £4.11m per year

48. District Council provision is currently split approximately 75/25 between the two types of collection. Assuming that all district councils continue to use their current model of collection and add mixed plastics to this collection, the overall cost is estimated to be between **£1.15m and £3.7m per year**. This figure is purely the cost of the adding the separate collection of mixed plastics and does not account for the benefits of such a service.

49. In addition, separate collection through the adequate provision of bring banks is an acceptable approach to fulfilling the requirements of Option 2. The cost of bring bank provision is between £42.42 and £150.45 per tonne for mixed plastics (WRAP, 2009).

50. However, this impact assessment has not attempted to model the likely balance of provision of separate collection for mixed plastics from the kerbside as opposed to bring banks that district councils may choose to provide. Therefore, this aspect has not been included in the estimated Northern Ireland costs for comprehensive provision of separate collection for mixed plastics.

[8] http://www.wrap.org.uk/downloads/The_Financial_Costs_of_Collecting_Mixed_Plastics_Packaging.949434a8.7205.pdf

51. The key conclusion here is that option 1 is our preferred option at this time due to lack of data on the potential benefits of option 2, but we do not believe the additional benefits to be large enough to justify the costs associated with option 2.

Table 3: Summary table of the costs and benefits associated with the options relating to Article 11(1) on separate collections of waste

OPTION	COSTS	BENEFITS	ADDITIONAL NOTES
1. Reserve judgement on requiring any additional separate collection by DCs above and beyond what is driven by existing measures (DO NOTHING)	No additional costs	No additional benefits as this situation is expected to occur by 2015 anyway.	This is the preferred option. Separate collection is already (more or less) being done for paper, metal, glass and plastic bottles by 2015.
2. Require all DCs to provide for the separate collection of mixed plastics by 2015	Collection from households: £1.15m - £3.7m per year Collection via bring banks is likely to have significantly lower costs but we do not have the data to quantify these at this time.	The additional benefits of recycling mixed plastics, over and above plastic bottles would need to be greater than the cost range of £1.15m to £3.7m in order for this option to be preferable to option 1. Given that the net benefits of plastics recycling are deemed low this is not expected to be achievable and this option is inferior to option 1. It is assumed that the level of benefit derived from the provision of bring banks will be lower as the volume of recyclates collected will be lower. However, further work is needed to understand the relative benefits of the different approaches. There are environmental benefits from recycling mixed plastics. These include reduced GHG emissions, reduced use of virgin materials and reduced methane emissions from landfill.	

Article 11(2)(a): Household Waste Recycling Target

52. Article 11(2)(a) of the revised WFD sets out a household waste recycling target for the first time. Member states are required to take the necessary measures designed to achieve the following target:-

> *"(a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic, and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight."*

53. This IA covers Northern Ireland; however the Local Authority Waste Recycling Recovery and Disposal (LAWRRD) model covers only English authorities. For further information on the LAWRRD model please see Annex 2.

54. The NI Waste Management Strategy had set an aspirational target for recycling and composting of household waste of at least 35% by 2010, 40 % by 2015 and 45% by 2020.

55. Responses from the first stage consultation demonstrated there was agreement with the proposed approach of implementing the 50% target with no further measures in Northern Ireland.

56. The IA considers the additional cost of meeting the Article 11(2)(a) requirement. Recycling and composting of household waste in Northern Ireland has increased from 4.9% in 1998/99 to 34.4% in 2008/09. Recycling of packaging waste in the UK in 2008 was at 61%, up from 27% in 1998, and public awareness of recycling is at an all-time high. If the recycling rate continued to increase in a similar trend, the household recycling rate would well exceed the 50% target.

57. The modelling for this IA includes the most recent landfill tax rate announcements in the April 2009 Budget announcement to continue the £8/tonne per annum escalator to a rate of £72/tonne in 2013/14. The March 2010 Budget included an announcement to continue this to £80/tonne in 2014/15 but as this was not included in the accompanying Finance Bill (the rate is set each year in the Finance Bill) therefore this latest increase has not been included in the modelling. Please see Annex 2 for the remaining assumptions.

58. As stated previously in the Annex, the size of the recycling pressure factor makes recycling relatively cheaper than alternative options, and is set in order to best fit past data outcomes. This is because on a least cost optimisation basis alone, the recycling rate is under predicted by the model for 2001 – 2006 therefore it appears additional unquantified factors/preferences play some part in influencing district council's decisions.

59. The sensitivity scenarios were thus generated from varying the recycling pressure factor from the LAWRRD model. Scenario A is the baseline and assumes the effect of previous unquantified factors/preference towards recycling rates remain the same for future years. Scenario B, C and D assume such preferences towards recycling decline over time at varied rates, i.e. to 80%, 50% and for Scenario D to have no effect at all.

60. The recycling rates for the four scenarios are now as follows

    Scenario A: Recycling rate of 56% (default modelling assumptions).
    Scenario B: Recycling rate of 55%.
    Scenario C: Recycling rate of 52%.
    Scenario D: Recycling rate of 51%.

61. All modelling scenarios produce a recycling rate in excess of 50%. The sensitivity scenarios which were included to take into account modelling uncertainties also now meet the target.

62. Given the modelling results, Northern Ireland is not proposing to introduce any further measures at this time, though will keep household waste recycling rates under review going forward.

Article 11(2)(b): Recovery Target For Non-Hazardous Construction And Demolition Waste

63. Article 11(2)(b) of the revised WFD establishes, for the first time, a construction and demolition waste recovery target, as follows:

    "...(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight."

64. The proposal is to transpose this requirement directly into the WFD implementing regulations. It is accepted that insufficient data is available in relation to Construction, Demolition and Excavation Waste (CD&E) arisings in Northern Ireland. Accordingly, the Department is considering commissioning research to collect further data which would be used as a benchmark on which to base future progress towards Northern Ireland meeting this target.

65. The position will be reviewed regularly, at least every three years as required under Article 11(5) of the revised WFD, and further consideration given at these points as to whether additional policy measures are required.

Article 16: Principles of self-sufficiency and proximity

66. Article 16(1) includes the requirement from the original WFD for Member States to create an integrated and adequate network of waste disposal installations but extends the requirement to installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers (hereafter referred to as mixed MW). Article 16(2) requires that the network shall be designed to enable the European Community (EC) as a whole to become self sufficient in waste disposal and in the recovery of mixed MW and for Member States to move towards that aim individually.

67. As all exports of waste for disposal from the EC are prohibited by the EC Waste Shipments Regulation (1013/2006/EC) (WSR), and all imports and exports of waste for disposal to and from the UK are generally prohibited by the UK Plan for Shipments of Waste, no further domestic transposition of this provision is required. Furthermore, Article 3(5) of the WSR requires that shipments of mixed MW for recovery shall be subject to the same provisions as shipments for disposal.

68. In Northern Ireland, the waste planning system already requires district councils to plan for an adequate network of facilities for managing waste at all steps in the hierarchy. The proximity principle is recognised through an objective in waste planning guidance that communities take more responsibility for their own waste and enable sufficient and timely provision of waste management facilities to meet the needs of their communities, although this objective must be balanced against other considerations.

69. Overall, the Department considers that current policy already implements requirements of Article 16.

Costs and benefits

70. As no further action will be required to transpose the requirements of Article 16 of the revised WFD, there are no costs and benefits associated with this Article.

Articles 17-20: Hazardous Waste

71. The requirements of the revised Waste Framework Directive are intended to ensure that movements of hazardous waste are fully tracked from cradle to grave. The Hazardous Waste Regulations (Northern Ireland) 2005 “the Regulations” require that where someone collects hazardous waste from multiple premises on a single journey, they must use the format of paperwork laid in Schedule 6 of the Regulations. NIEA is content that the system in operation under the Hazardous Waste Regulations fully meets the requirement of the revised Directive, therefore, no further measures are proposed and, accordingly, no costs and benefits are associated with these Articles.

Article 21: Waste Oils

72. The Department does not intend to propose any measures prescribing that waste oils must be regenerated if technically feasible. There are, therefore, no costs and benefits associated with this Article.

Article 22: Bio-waste

73. The Department does not intend to specifically propose any additional measures in the transposing Regulations but rather that any new measures to encourage the separate collection of bio-waste should be set out in our waste policies. Any additional measures will need to be considered in the context of, and consistent with, other initiatives being undertaken and on their own merits. The draft Regulations, therefore, consist of a requirement for the Department’s Waste Management Strategy and the respective Waste Management Plans of the three Waste Groups to set out measures, as appropriate, to encourage the separate collection of bio-waste. There are no costs and benefits associated with this provision in the Directive. Any future measures taken will be accompanied by their own individual impact assessments.

Article 28: Waste management plans

74. Article 28 of the revised Directive carries forward a number of provisions from Article 7 of the existing Directive. However, the new obligations imposed on Member States are more elaborate. It requires Member States to draw up one or more waste management plans that cover its entire geographical area. Waste management plans must contain the information listed in Article 28(3) and may contain the information listed in Article 28(4). Waste management plans must be made in accordance with the waste hierarchy; the protection of the environment and human health; and the principle of self-sufficiency and proximity.

75. Northern Ireland has already implemented the predecessor of Article 28 through a tiered system, including both national waste strategies and local plans. These include:

- The Northern Ireland Waste Management Strategy: *Towards Resource Management*
- Planning Policy Statement 11 (PPS 11)
- Local Government waste management plans as developed by the three Northern Ireland Waste Management Groups
- Regional Development Strategy

76. Where feasible we are adopting a similar, tiered approach to transposition of Article 28. This will use the mix of national, regional and local plans required under the spatial planning regime to meet our revised obligations. However, given the more elaborate requirements of Article 28, other forms of implementation will also be required. Throughout the text below the term "waste management plan" can therefore refer to any document depending on the method of implementation. We have tried to be clear which it refers to for each provision under discussion.

77. Furthermore, the Department proposes to set out in legislation the requirements to comply with Article 28 of the Directive. This is intended to increase the transparency of the transposition of the Article.

78. Articles 28(2) and 28(3) set out the specific requirements which must form part of the waste management plans. One advantage of adopting a tiered approach to implementing the requirement is that not every requirement will be needed at each level of waste management planning. Some elements will be best dealt with at a Northern Ireland level in, for example, the Waste Strategy while others will be best addressed in the three Waste Groups Waste Management Plans.

79. Taking each of the requirements and their impacts in turn:

Article 28(2) requires waste management plans to "set out an analysis of the current waste management situation in the geographical area concerned, as well as the measures to be taken to improve environmentally sound preparing for re-use, recycling, recovery and disposal of waste and an evaluation of how the plan will support the implementation of the objectives and provisions" of the Waste Directive.

In Northern Ireland we propose to satisfy this requirement through the NI Waste Management Strategy, which we regularly review, and other relevant documents such as PPS 11 and the regional Waste Management Plans. The three Waste Management Plans will be particularly important in setting out the required geographical analysis at regional level. We do not expect there to be additional costs with this provision.

Article 28(3)(a) requires waste management plans to include the type, quantity and source of waste generated, waste likely to be shipped from or to the national territory, and an evaluation of the development of waste streams in the future. Again, in Northern Ireland, we propose to satisfy this requirement primarily through the NI Waste Management Strategy and then through Waste Management Plans. We, therefore, do not expect there to be additional costs with this provision.

Article 28(3)(b) contains three particular requirements. Firstly, it requires waste management plans to include details of existing waste collection schemes. The NI Waste Management Strategy will cover collection mechanisms at a national level. We also expect this to be supported by an assessment at local level by the three Waste Management Groups in their municipal Waste Management Plans. We would expect the additional cost to be minimal but welcome further views as part of this consultation.

Secondly, it requires waste management plans to include details of existing major disposal and recovery installations. Local government already provides some of this information through of its three regional Waste Management Plans. However, Core Indicator W1 also asks for details of capacity of new waste management facilities granted throughout the year. Since neither central government nor local government currently maintains a comprehensive list of existing or new capacity at an NI-wide level, the Department will consult with local government on how best to meet this requirement.

Finally, Article 28(3)(b) requires waste management plans to also include special arrangements for waste oils, hazardous waste or waste streams addressed by specific Community legislation. The special arrangements for certain wastes are already made for in existing legislation, such as WEEE and the Hazardous Waste Regulations, or in waste management plans. As Northern Ireland has no hazardous waste sites per se, the forthcoming GB hazardous waste national policy statement will satisfy the special arrangements for larger hazardous waste facilities. We, therefore, do not expect there to be additional costs for this element of the provision.

Article 28(3)(c) also contains three specific requirements. Firstly, it requires waste management plans to include an assessment of the need for new collection schemes. The NI Waste Management Strategy will cover collection mechanisms at a NI-wide level. We also expect this to be supported by an assessment at local level by the three Waste Management Groups in their municipal Waste Management Plans. We would expect the additional cost to be minimal but welcome further views as part of this consultation.

Secondly, it requires waste management plans to include assessment of the need for the closure of existing waste installations. We anticipate that this could be done by placing a requirement on the NIEA to assess the need for closure. The Agency is a suitable candidate in that it is required to inspect a number of waste installations as part of the licensing/permitting regime and would be able to identify those facilities which might be suitable for closure either because, for example, it is aware that certain facilities might not be able to comply with the requirements of the licence/permit, or because it is able to keep track of capacity of landfill facilities. This option would place a burden on the Agency but not on businesses or district councils.

Finally, it requires waste management plans to include an assessment of the need for additional waste installation infrastructure, having particular reference to the need to comply with Article 16. This is something that is already required in current waste planning documentation, in particular the NI Waste Management Strategy and the three regional Waste Management Plans, so we do not anticipate any additional burden from this part of the provision.

Article 28(3)(d) requires waste management plans to include sufficient information on the location criteria for site identification and on the capacity of future disposal or major recovery installations. The three regional Waste Management Plans already include site selection criteria and indicative site locations. Where these require additional detail in order to be deemed ‘sufficient’ this will be addressed through the Plans being updated and amended as appropriate. Under the Waste Infrastructure Programme, the Department and local government have documented extensively Northern Ireland’s future capacity requirements for disposal and recovery. In addition, planned revisions to PPS 11 and the regional Waste Management Plans will further inform consideration of future need for waste management facilities. As these provisions are already required of the planning authorities by the existing PPS 11, there will be no additional burdens from this provision.

Article 28(3)(e) requires waste management plans to include general waste management policies, including planned waste management technologies and methods, or policies for waste posing specific management problems. These are issues best addressed at a Northern Ireland level and will be included in the NI Waste Management Strategy. There will, therefore, be no additional burdens from this provision.

Article 28(4) contains a number of aspects that waste management plans may contain: it does not *require* them to do so. We are not making any of these aspects mandatory. As such there will be no additional burden from this provision.

Article 28(5) continues the requirement of waste management plans containing certain provisions with respect to hazardous waste and packaging waste. We consider that these issues are capable of being addressed through the NI Waste Management Strategy and the Packaging Strategy for packaging waste. We see no additional burden from this provision.

Costs

80. There will be an increased burden on the Department and possibly on Waste Collection and Disposal Authorities, as they revise their existing waste plans to comply with the new, additional requirements of Article 28. Those costs will arise from new requirements to include:

- details of existing waste collection schemes in their areas
- an assessment of the need for new collection schemes

Benefits

81. The new approaches outlined above serve to reinforce the need for sustainable waste management - through measures to protect human health and the environment, including more reduction, preparing for re-use, recycling and recovery of waste - using the disposal of waste as a last resort - and ensuring the timely delivery of new waste infrastructure to deliver the desired outcomes.

82. Up-to-date waste plans, along with sound monitoring arrangements, provide significant financial and environmental benefits. These plans are critical in providing clarity for investment decisions in waste facilities: they help integrate waste management with the wider need to cut greenhouse gas emissions and are an essential component in meeting our legal requirements under European law.

83. The approaches lined up above will facilitate a step-change in the way waste is handled and significant new investment in modern waste management facilities. Positive planning provides the framework for new waste management facilities of the right type, in the right place and at the right time. They will ensure that there is a clear vision and plan in place to facilitate effective co-ordination between planning and waste management and reduce barriers to attracting capital investment in new facilities and should lead to a reduction in the amount of landfill tax paid out.

84. There are also strong environmental benefits, as up-to-date waste plans can make a significant contribution to tackling climate change and giving proper consideration to the provision and siting of such facilities through waste planning will deliver sound climate change benefits.

85. Having up-to-date information on existing collection schemes and assessments on whether new schemes are needed in any given area will promote more environmentally beneficial treatment of waste by encouraging the recycling, recovery and beneficial uses of waste. It will help divert waste from landfill and potentially reduce greenhouse gas emissions from landfill sites.

Table 5: Summary table of costs and benefits associated with the options around waste management plans (excluding those with no additional requirements)

ARTICLE	REQUIREMENT	COSTS	BENEFITS	ADDITIONAL NOTES
28(3)(b)	1. WMPs to include details of existing waste	Minimal as Local Government already has municipal waste	Helps put the right collection mechanisms in place thereby promoting more	

	collection schemes	management plans in place.	environmentally beneficial treatment of waste. Lead to increased recycling and recovery rates and divert more waste from landfill.	
	2. WMPs to include details of existing major disposal and recovery installations	Minmal as local government does not currently have any major disposal and recovery installations under its jurisdiction, and private sector facilities are also limited. .	Contributes to positive waste planning arrangements by setting a framework of existing waste management facilities, so as to enable consideration of the need for future facilities of the right type, in the right place and at the right time. Provides clarity for investment decisions in waste facilities.	
28(3)(c)	1. WMPs to include an assessment of the need for new collection schemes	Local government in Northern Ireland already has Waste Management Plans in place. Any costs arising will be with regard to evaluation of need for upgrading to support meeting WFD targets.	Helps put the right collection mechanisms in place thereby promoting more environmentally beneficial treatment of waste. Lead to increased recycling and recovery rates and divert more waste from landfill.	
	2. WMPs to include assessment of the need to close existing waste installations	Minimal in short term since no major waste facilities in place. Costs to be factored into future revisions to waste Management Plans.	Provide clarity for investment decisions in waste facilities. Contributes to positive waste planning arrangements by setting a framework of existing waste management facilities, so as to enable consideration of the need for future facilities of the right type, in the right place and at the right time.	

Article 29: Waste Prevention Programmes

92. Article 29(1) requires Member States to establish waste prevention programmes by December 2013.

93. The costs and benefits of such programmes will depend on the objectives and policy measures proposed, and will be subject to a separate Impact Assessment.

Summary and Recommendations

What is the problem under consideration and why is government intervention necessary?

The recovery and disposal of waste has the potential to harm the environment and human health if unregulated. The revised European Waste Framework Directive (WFD) seeks to tackle the environmental/health externalities that result from certain types of waste management across the EU (such as the greenhouse gas impacts of landfilling relative to recycling) by requiring Member States by law to intervene to reduce the adverse impacts of waste generation and management. The revised WFD re-enacts, repeals or revises three existing Directives - the existing WFD, the Waste Oils Directive and the Hazardous Waste Directive - but also introduces several new provisions which potentially will have an impact both on the way waste is managed in Northern Ireland and on the costs involved in doing so.

What are the policy objectives and the intended effects?

The objectives are to reduce the adverse impacts of the generation of waste and the overall impacts of resource use by:(1) introducing a household waste recycling target and construction and demolition recovery target, (2) to ensure where the four materials are collected separately by 2015, (3) taking measures as appropriate to promote the re-use of products and preparing for re-use activities; (4) applying the waste hierarchy as a priority order in waste prevention, waste management and waste policy, (5) extending the self-sufficiency & proximity principles to apply to installations for recovery of mixed municipal waste from households, (6) revising the scope and content of waste management plans and (7) establishing waste prevention programmes.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

This second stage consultation and impact assessment covers 10 provisions of the revised WFD. The policy options considered are extensively covered in the Evidence Base. Where additional actions are taken, the costs and benefits of the options are appraised relative to the implicit do nothing baseline, and are presented in the summary tables throughout the document. Table 1 above covers the set of preferred options. The total Net Present Cost of the preferred options over 10 years at a discount rate of 3.5% is £572,538 under the low cost scenario and £832,799 under the high cost scenario.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; The basis of the review is to review the transposing legislation on the revised WFD by December 2012, to tie in with the Commission‘s timetable for review of the implementation of the revised WFD.
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] To ensure that the transposing legislation is compliant with the revised WFD
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The review approach is expected to monitor/evaluate the transposing Regulations to ensure compliance with the revised WFD
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The baseline for the review is the provisions for Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] The objectives are to reduce the adverse impacts of the generation of waste and the overall impacts of resource use by:(1) introducing a household waste recycling target and construction and demolition recovery target, (2) to ensure where the four materials are collected separately by 2015, (3) taking measures as appropriate to promote the re-use of products and preparing for re-use activities; (4) applying the waste hierarchy as a priority order in waste prevention, waste management and waste policy, (5) extending the self-sufficiency & proximity principles to apply to installations for recovery of mixed municipal waste from households, (6) revising the scope and content of waste management plans and (7) establishing waste prevention programmes. Success will show achievement of these objectives.
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review] Monitoring will be carried out as part of the waste management strategy operations.
Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here] N/A

Annex 2: Additional Assumptions for Household Waste Recycling Target

(i) The rate of waste growth (and therefore the level of waste arisings) is assumed to be the same across the different recycling scenarios. The underlying assumption here is that the level of recycling that is occurring does not impact on the level of waste arisings. This may be a slight simplification, although in the absence of strong evidence on the relationship between recycling rates and waste arisings growth it is a reasonable assumption.

(ii) As in the England Waste Strategy 2007 central case, the rate of waste growth is assumed to be 0.75% per annum. Although, on average, household waste arisings have decreased by -0.88% in the last 5 years, and by -2.85% in the last 2 years, this is attributable in part to external drivers such as macro factors and behavioural change, all of which may differ in future years. In the absence of more robust forecasts of household waste arisings we take a more conservative approach around this parameter. In any case, the recycling rate does not appear to be particularly dependent upon the level of arisings.

(iii) Targets on diverting biodegradable municipal waste from landfill (from the Landfill Directive) are met, via the Landfill Allowance Trading Scheme. This is set as a constraint in our modelling.

(iv) We take as our base the most recent recyclate prices and apply inflationary increases in future years.

(v) The LAWRRD model runs only to 2020, which is the target year for this Article.

(vi) Although the model considers the possibility of delays in planning, and allows for the possibility of an increase in the cost of facilities as demand for facilities begins to stretch supply, it does not specifically consider the possibility of a lack of infrastructure delivery in order to meet Landfill Directive targets in 2010, 2013 and 2020 (ie it does not include the impact of short-term factors such as current credit market conditions).

Revised Waste Framework Directive Transposition Note (Northern Ireland)

The Waste Regulations (Northern Ireland) 2011 – (SR 2011 No. 127)

The draft Regulations transpose Directive 2008/98/EC on waste ("the revised Waste Framework Directive") in Northern Ireland.

THE DIRECTIVES

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives is known as the revised Waste Framework Directive.

The revised Waste Framework Directive re-enacts, revises or repeals three predecessor Directives:

(i) the Waste Framework Directive (2006/12/EC);
(ii) the Waste Oils Directive (75/439/EEC as amended); and
(iii) the Hazardous Waste Directive (91/698/EEC as amended).

The laws, regulations and administrative provisions necessary to comply with these three predecessor Directives are in place. The Waste Regulations (Northern Ireland) 2011 transpose the revised Waste Framework Directive by revising or repealing the legislation in place to transpose the three predecessor Directives in Northern Ireland; and by adding new freestanding provisions to the existing legislation to ensure compliance with the revised Directive.

TRANSPOSITION MEASURES

The Waste Regulations (Northern Ireland) 2011:-

- provide for the exclusion of certain wastes from the scope of the Directive (Article 2) with the exception of radioactive waste in certain circumstances;
- amend definitions as reflected in the revised Waste Framework Directive (Article 3);
- introduce the 5-step **waste hierarchy** and its application as a priority order in waste management legislation (Article 4);
- require that, from 1st January 2015, where it is environmentally, economically and technically feasible to do so, at least waste paper, metal, plastic and glass should be **collected separately** and prohibit the mixing of those wastes once separately collected (Article 11(1));
- establish a **50% recycling target** for waste from households and the **70% recovery target** for non-hazardous construction and demolition waste (Article 11(2));
- extend the duty of care requirements and the requirement to register with the competent authority to **dealers** of waste (Articles 15 and 26);
- extend the **principles of self-sufficiency and proximity** to cover installations for the recovery of mixed municipal waste (Article 16);
- implement changes on the management of **hazardous waste** (Articles 17-20);
- implement provisions on the control **waste oils** including its separate collection (Article 21);
- encourage the separate collection of **bio-waste** (Article 22);

- update the requirements for the **Waste Management Strategy** (Article 28);
- establish **waste prevention programmes** and include provision for **public participation** in their preparation and revision (Article 29 and Article 31);
- introduce new offences to ensure that the provisions of the Directive are implemented (Article 36);
- provide for **incineration facilities** dedicated to the processing of municipal solid waste only where their energy efficiency is equal to or greater than (i) 0.60 for installations in operation and permitted in accordance with applicable Community legislation before 1st January 2009; or (ii) 0.65 for other installations to be classified as recovery operations (Annex II);
- revoke,with effect from 1st January 2014, exemption from registering as a carrier of waste under the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 for those who were previously exempt from registration but who 'normally and regularly' carry waste.

Provision Of Directive	**Provision Of Regulations**	**Comment**
Article 1 **Subject matter and scope**	Article 1 • Regulation 8 • Regulations 10-13 • Regulation 40.	Article 1 is transposed in the provisions relating to waste management strategies/plans and waste prevention programmes, as required by Article 28(1) and Article 29(1).
Article 2 **Exclusions from the scope**	Article 2(1) to (3) • Regulation 9(2) • Regulation 36(c) • Regulation 38 • Regulation 46 Article 2(4) does not need to be transposed.	The Regulations do not apply to waste that is excluded from the scope of the Directive under Article 2(1) to (3). The exception to this is certain radioactive waste which is exempt from the requirement for an environmental permit under a specified order. The effects of regulation 25 and the related amendments to other legislation are to ensure that such radioactive waste is treated as waste for the purposes of the Regulations and the other legislation that is amended in this way. The Regulations amend other legislation to give effect to the exclusions in Article 2(2) and (3).
Article 3 **Definitions**	• Regulation 3 • Regulation 9 • Regulation 28 • Regulation 36 • Regulation 40 • Regulation 41 • Regulation 45	Unless specifically defined in the Regulations, the Directive's definitions are imported into the Regulations by regulation 3(2). The Regulations make consequential amendments to definitions in other legislation to bring them into line with the Directive definitions.
Article 4 **Waste hierarchy**	• Regulation 8 • Regulation 17	Article 4 is transposed through the existing planning system through: • amendments to Planning Policy Statement 11 in Northern Ireland;

		• amendments to waste management legislation; • a duty on waste producers and other holders (see the entry for Article 15 for more detail on this). The Article is also transposed in the provisions relating to waste management strategies/plans and waste prevention programmes as required by Articles 28 and 29.
Article 5 By-products	Article 5(1) is transposed through the definition of waste. Article 5(2) does not need to be transposed.	In the Regulations, "waste" has the meaning it bears in the Directive, which is listed in Article 3(1). Article 5(1) operates to clarify the definition of waste in Article 3(1) and this therefore carries through to the Regulations. This also applies to other legislation where waste is given the meaning it bears in Article 3(1). Article 5(2) is a power for the Commission to adopt measures.
Article 6 End-of-waste status	Article 6 does not need to be transposed.	Article 6(1) and (2) specifies the Commission's power to develop end-of-waste criteria for certain waste streams. Article 6(3) describes the effect of adopted criteria on recovery and recycling targets in other Directives. Article 6(4) enables Member States to determine end-of-waste criteria where criteria have not been set at Community level under Article 6(1) and (2).
Article 7 List of waste	Article 7(4)- • Regulation 51(2) Article 7(7) does not need to be transposed.	With the exception of Article 7(4) and 7(7), this Article is transposed in Northern Ireland by the Hazardous Waste Regulations (Northern Ireland) 2005.
Article 8 Extended producer responsibility	Article 8 does not need to be transposed.	Article 8 confers discretion on Member States in respect of extended producer responsibility measures.
Article 9 Prevention of waste	Article 9 does not need to be transposed.	This Article requires the Commission to produce reports on waste prevention as described in the Article.
Article 10 Recovery	Article 10(1)- • see entries for transposition of Articles 4 and 13. Article 10(2)- • Regulations 18-20	Article 10(1) is transposed by the same provisions of the Regulations implementing Article 4 and Article 13– see the entries for those Articles. Article 10(2) contains a requirement for the separate collection of waste, which has to be read with paragraphs 2 and 3 of Article 11(1). It also prohibits the mixing of separately collected waste with other waste. These duties apply from 1 January 2015 as per paragraph 3 of Article 11(1).
Article 11	Article 11(1)	Article 11(1) and Article 11 (2) are transposed in the

Re-use and recycling	• Regulations 18-20 Article 11(2)- • Regulation 8 There is no need to transpose Article 11(3) to (5).	Regulations in the provisions relating to separate collection and waste management strategies plans.
Article 12 Disposal	• See entry for transposition of Article 13.	Article 12 is transposed by the same provisions of the Regulations transposing Article 13 – see entry below.
Article 13 Protection of human health and the environment	• Regulation 8 • Regulation 40 • Regulation 46 (Part 1 5(2)(f)) • Regulation 46 (Part IV .4(a)) • Schedule 3 paragraph 9(a) • Partly transposed by existing legislation	The Regulations transpose the Article 13 requirement as follows:- • as an objective in waste management strategies plans (regulation 8); • as a duty on planning authorities in the exercise of their planning functions (regulation 40 – Part IV of substituted Schedule 3); • as a duty on the "appropriate authority" in relation to deposits at sea and the exercise of offshore licensing functions; • as a duty on the competent authority in the exercise of relevant functions by amending Schedule 3 to the Waste Management Licensing Regulations (Northern Ireland) 2003. Article 13 is also transposed through existing legislation in Article 4 of the Waste and Contaminated Land (Northern Ireland) Order 1997
Article 14 Costs	There is no need to transpose Article 14.	
Article 15 Responsibility for waste management	Article 15(1)- • Regulation 17 • Regulation 33 There is no need to transpose Article 15(2) and (3).	Article 15(1) is partly transposed by the existing duty of care provisions in Article 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997. In addition to this, regulation 17 introduces a new duty on waste producers and other holders in relation to the waste hierarchy. Regulation 33 requires a declaration on the waste transfer note confirming compliance with the duty. Article 15(4) is transposed by the existing duty of care provisions in Article 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997.
Article 16 Principles of self-sufficiency and proximity	• Regulation 8 • Regulation 40 The second paragraph of Article 16(1) does not need to be transposed.	Article 16 is transposed through the requirements relating to waste management strategies/plans in regulation 8, in amending Part 1 of Schedule 3 to the Waste Management Licensing Regulations (Northern Ireland) 2003 (regulation 40) and the exercise of planning functions in Part 4 of Schedule 3 of the Waste Management Licensing Regulations (Northern Ireland) 2003 by way of regulations 40.
Article 17		Article 17 is transposed by the existing Hazardous

Control of hazardous waste		Waste Regulations (Northern Ireland) 2005, and the Waste Management Licensing Regulations (Northern Ireland) 2003.
Article 18 Ban on the mixing of hazardous waste	Article 18(1)- • Regulation 53 Also transposed by existing legislation.	The Regulations make the necessary amendments to the existing mixing ban and derogations included in the Hazardous Waste (Northern Ireland) Regulations 2005. There is also a duty in the Regulations relating to the exercise of off-shore licensing functions.
Article 19 Labelling of hazardous waste	Article 19	This Article is transposed by Part 5 of Hazardous Waste Regulations (Northern Ireland) 2005
Article 20 Hazardous waste produced by households		There is no need to transpose the first sentence of Article 20 as there is nothing in the existing legislation which applies Articles 17, 18, 19 and 35 to mixed waste produced by households. The second sentence of Article 20 is transposed by the Hazardous Waste Regulations (Northern Ireland) 2005.
Article 21 Waste oils	Article 21(1)(a)- • Transposed by existing legislation. Article 21(1)(b)- • See entries above for transposition of Articles 4 and 13. Article 21(1)(c)- • Regulation 64 (1) Schedule 2, paragraph 9(c). There is no need to transpose Articles 21(2) and (3).	The Hazardous Waste Regulations (Northern Ireland) 2005 provide for the separate collection of hazardous waste and the prohibition on mixing. Articles 21(2) and (3) are discretionary.
Article 22 Bio-waste	Article 22(a)- • Regulation 8 Article 22(b) and (c)- • See entry above for transposition of Article 13.	Article 22 is transposed through the requirements relating to waste management strategies/plans. Regulation 8 amending Schedule 3 to the Waste and Contaminated Land (Northern Ireland) Order 1997.
Article 23 Issue of permits	• Article 23	The Waste Management Licensing Regulations (Northern Ireland), the Hazardous Waste Regulations (Northern Ireland) 2005 and the Pollution Prevention and Control Regulations (Northern Ireland) 2003 already provide for the

		issue of permits/licences.
Article 24 Exemptions from permit requirements.	Transposed by existing legislation.	This Article is a discretionary provision enabling Member States to provide exemptions from the Article 23 permit requirement. The discretion available under Article 11 of Directive 2006/12/EC has been used to provide a range of permit exemptions for waste operations, which include general rules and conditions, in Schedules 2 and 3 to the Waste Management Licensing Regulations (Northern Ireland) 2003. These provisions were notified to the Commission and will continue in operation.
Article 25 Conditions for exemptions	Article 25(1) and (2)- • Transposed by existing legislation. There is no need to transpose Article 25(3).	See the previous entry. In relation to notification of general rules under Article 25(3), see final sentence of the previous entry.
Article 26 Registration	Article 26(a) • Regulation 28. Article 26(b) • Regulation 41. Article 26(c). • Transposed by existing legislation.	In respect of Article 26(a), registration is required by section 1 of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 and supporting provisions are made by way of regulation 28. In respect of Article 26(b), registration is required by Schedule 4 to the Waste management Licensing Regulations (Northern Ireland) 2003 and supporting provisions are made by way of regulation 41. The requirement for registration under Article 26(c) is transposed by way of regulation 18 of the Waste Management Licensing Regulations (Northern Ireland) 2003.
Article 27 Minimum standards	There is no need to transpose Article 27.	
Article 28 Waste management plans	• Regulation 8.	Article 28 is already transposed by way of Article 19 of the Waste and Contaminated Land (Northern Ireland) Order 1997 – as set out in Schedule 3 to hat Order which has been amended by way of regulation 8.
Article 29 Waste prevention programmes	Article 29(1) to (3)- • Regulations 10-13. There is no need to transpose Article 29(4) and (5).	This provision has been transposed by way of regulations 10-13 inclusive. The public participation requirements have been attracted to the preparation of waste prevention programmes by way of regulations 14-16.
Article 30 Evaluation and review of	Article 30 • Regulations 5 and 13	

plans and programmes	There is no need to transpose Article 30(2).	
Article 31 Public participation	• Regulations 14-16	See above. The public participation requirements in relation to waste management strategies/plans are already in place by way of Articles 19A-19C of the Waste and Contaminated Land (Northern Ireland) Order 1997. Regulations 14-16 apply them to waste prevention programmes.
Article 32 Cooperation	There is no need to transpose Article 32.	
Article 33 Information to be submitted to the Commission	There is no need to transpose Article 33.	
Article 34 Inspections	Article 34(1) and (2)- • Partly transposed by existing legislation • Regulation 40 There is no need to transpose Article 34(3).	Paragraph 13, of Schedule 3 to the Waste Management Licensing Regulations (Northern Ireland) 2003 already provides for inspection of waste operations. Regulation 40 amends this requirement to reflect the requirements of the revised Directive. Regulation 42 of the Hazardous Waste Regulations (Northern Ireland) 2005 requires the inspection of producers of hazardous waste.
Article 35 **Record keeping**	Article 35(1)- • Regulations 55-57 Article 35(2)- • Transposed by existing legislation. There is no need to transpose Article 35(3).	Article 35(2) is transposed by Part 6 of the Hazardous Waste Regulations (Northern Ireland) 2005, regulations 55-57.
Article 36 **Enforcement and penalties**	Article 36(1)- • Partly transposed by existing legislation. Article 36(2)- • Partly transposed by existing legislation	Article 36(1) is transposed by Articles 4 and 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997 and the Waste Management Licensing Regulations (Northern Ireland) 2003. New requirements transposed by way of regulation 24 Article 36(2) is also transposed through the Waste Management Licensing Regulations (Northern Ireland) 2003, Part 7 of the Hazardous Waste Regulations (Northern Ireland) 2005, sections 9 and 21 of the Food and Environment Protection Act 1985 and regulation 25.
Article 37 **Reporting and reviewing**	There is no need to transpose Article 37.	
Article 38	There is no need to	

Interpretation and adaptation to technical progress	transpose Article 38.	
Article 39 **Committee procedure**	There is no need to transpose Article 39.	
Article 40 **Transposition**	There is no need to transpose Article 40.	
Article 41 **Repeal and transitional provisions**	There is no need to transpose Article 41.	
Article 42 **Entry into force**	There is no need to transpose Article 42.	
Article 43 **Addressees**	There is no need to transpose Article 43.	