



Chapter 15

Resources and Waste



Appendix 15.1

Legislation, Policy and Guidance

Legislation

European Legislation

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Text with EEA relevance)

Directive 2008/98/EC, known as the “Waste Framework Directive” came into force on 12th December 2008, and Ireland had two years from this date to implement it into national law. It provides for a general framework of waste management requirements and sets the basic waste management definitions for the EU.

The Directive lays down the five-step hierarchy of waste management options, with waste prevention as the preferred option, followed by re-use, recycling, recovery and safe disposal, in descending order. In addition, the Directive also deals with the issue of ‘end of waste’ and clarifies the definitions of recovery, disposal and by-product. The directive states that, “*The recovery of waste and the use of recovered material as raw materials should be encouraged in order to conserve natural resources.*”

Directive 2008/98/EC amending Directive 2008/98/EC on waste

This Directive amends the Waste Framework Directive or Directive 2008/98/EC. It provides a number of updated waste management definitions. The Directive allows Member States to use economic instruments including taxes and levies as an incentive for the application of the waste hierarchy. The Directive was transposed into national law in August 2020 - S.I. No. 322 of 2020.

The Directive sets targets for the preparing for re-use and the recycling of municipal waste as follows:

- By 2025, at a minimum 55% (by weight) will be prepared for re-use or recycling.
- By 2030, at a minimum 60% (by weight) will be prepared for re-use or recycling.
- By 2035, at a minimum 65% (by weight) will be prepared for re-use or recycling.

With regards construction and demolition waste, Member States must take measures to promote selective demolition in order to enable removal and safe handling of hazardous substances, facilitate re-use and high-quality recycling. It obligates Member States to take measures to prevent waste generation including reduction of waste generation in processes related to construction and demolition, taking into account best available techniques.

Commission Decision of 18 December 2014, amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC of the European parliament and of the Council (2014/955/EEC) and Commission Regulation (EU) No 1357/2014 of 18 December 2014, replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives.

This decision (referred to as ‘the List of Waste’ (LoW)) and regulation consolidate the legislation relating to waste classification and allow the generators of waste to classify the waste as hazardous or non-hazardous and in the process assign the correct List of Waste entry codes. Each list of waste entry is a six digit code which is closely linked to the list of the main characteristics which render waste hazardous contained in Annex III to the Waste Framework Directive. It is noted that Council Regulation (EU) 2017/997 of 8 June 2017 amending Annex 111 to Directive 2008/98//EC of the European parliament and of the Council as regards the hazardous property HP 14 ‘Ecotoxic’ provides additional criteria in relation to determining whether the ecotoxicity of wastes would result in a hazardous classification.

National Legislation

Circular Economy and Miscellaneous Provisions Act 2022

The Circular Economy and Miscellaneous Provisions Act 2022 aims to place the Whole-of-Government Circular Economy Strategy 2022-2023, and the commitment to a circular economy, on a clear statutory footing.

This Act places the Strategy and the commitment to a circular economy on a clear statutory footing. It underpins Ireland's shift from a "take-make-waste" linear model to a more sustainable pattern of production and consumption, that retains the value of resources in our economy for as long as possible and that will to significantly reduce our greenhouse gas emissions. The Act is a key step in the successful transition of Ireland's economy to a circular economy and is evidence of Government's commitment to the achievement of that goal.

Waste Management Acts, 1996, as amended and Regulations Made under the Acts

The Waste Management Act, 1996 was enacted in May 1996 and sets out the responsibilities and functions of various persons in relation to waste. This was subsequently amended by a number of subsequent acts including the Waste Management (Amendment) Act 2001 and the Protection of the Environment Act 2003. The Act:

- Prohibits any person from holding, transporting, recovering or disposing of waste in a manner which causes or is likely to cause environmental pollution.
- Requires any person who carries on activities of an agricultural, commercial or industrial nature to take all such reasonable steps as are necessary to prevent or minimise the production of waste.
- Prohibits the transfer of waste to any person other than an authorised person (i.e. a holder of a waste collection permit or a local authority).
- Requires the Environmental Protection Agency (EPA) to make a national plan in relation to hazardous waste.
- Requires local authorities to make waste management plans in relation to non-hazardous waste.
- Imposes certain obligations on local authorities to ensure that a service is provided for collection of household waste and to provide facilities for the recovery and disposal of such waste.
- Enables the Minister for the Environment and Local Government to make Regulations for various purposes to promote better waste management.
- Provides for substantial penalties for offences including fines, imprisonment and/or liability for clean-up measures.

Waste Management (Collection Permit) Regulations, 2007, S.I. No 820 of 2008, as amended

Waste from the proposed development may only be collected by the holder of a waste collection permit or a local authority. Waste collection permits are granted in accordance with the Waste Management (Collection Permit) Regulations, 2007 as amended. Waste storage and collection areas on site should be designed to prevent environmental pollution. These regulations were amended and updated in 2008, 2012 and 2019.

Waste Management (Shipments of Waste) Regulations 2007, S.I. No. 419 of 2007

Where waste from the proposed development is exported outside of Ireland for recovery or disposal the National Transfrontier Shipment (TFS) Office within Dublin City Council must be notified. Certain financial guarantees must be in place and a certificate issued by the National TFS Office prior to the waste movement taking place.

S.I. No. 323/2020 - European Union (Waste Directive) Regulations 2020 amending European Communities (Waste Directive) Regulations 2011, S.I. No.0126 of 2011

The amended regulations which were adopted in 2011 significantly changed the provisions of the Waste Management Acts, 1996 to 2008.

The 2011 regulations are now amended by S.I. No. 323/2020 - European Union (Waste Directive) Regulations 2020 giving effect to Directive 2018/8511 of the European Parliament and of the Council of 30 May 2018 on waste as per the above. This amends definition of “waste” and “non-hazardous waste.”

The Regulations define “waste disposal” and “waste recovery” as well as setting out tests which must be complied with in order for material to be described as a “by-product” or achieve “end of waste” status.

The Regulations formally set out the following waste hierarchy which shall apply as a priority order in waste prevention and management legislation and policy:

- (a) prevention;
- (b) preparation for re-use;
- (c) recycling;
- (d) other recovery (including energy recovery); and
- (e) disposal.

The Regulations require that all waste management plans and hazardous waste management plans in existence at the commencement of the Regulations shall be evaluated by 31 December 2012 and where appropriate be revised to be brought into line with Directive 2006/12/EC on Waste.

The Regulations also require the Environment Agency to establish a waste prevention programme by December 2013.

European Union (Waste Directive) Regulations 2020 S.I. No. 323/2020

These regulations give effect to Directive 2018/8511 of the European Parliament and of the Council of 30 May 2018 on waste as per the above.

This provides new definitions for a number of key terms including “waste” and “non-hazardous waste”, “bio-waste”, “waste management”, “waste prevention”, “backfilling” and “construction and demolition waste”.

Policy

European Policy

7th Environmental Action Programme, European Commission (2014)

The 7th Environmental Action Programme came into force in January 2014 and will guide European environment policy until 2020. A key objective of the programme is to turn the Union into a resource-efficient, green and competitive low carbon economy. There is a special focus on turning waste into a resource, with more prevention, re-use and recycling, and phasing out wasteful and damaging practices like landfilling. By 2020 the European Union and member states are to ensure that:

- The environment and human health are protected by preventing or reducing the adverse impacts of the generation and management of waste.
- Per capita waste generation and waste generation in absolute terms are reducing.
- Landfilling is phased out for recyclables and recoverable wastes and limiting energy recovery to non-recyclable materials.

The European Commission published a proposal for an 8th Environmental Action Programme on 14th October 2020. The proposal supports the environment and climate action objectives of the European Green Deal and will form the EU's basis for achieving the United Nation's 2030 Agenda and its Sustainable Development Goals. It is expected that the 8th Environmental Action Programme will be adopted in 2021 – however, a date is yet to be confirmed.

European Commission Circular Economy Strategy (2015; 2018; 2020)

In December 2015, the European Commission adopted an ambitious Circular Economy Package, which includes revised legislative proposals on waste to stimulate Europe's transition towards a circular economy.

The Circular Economy Package consists of an EU Action Plan for the Circular Economy that establishes a programme of action, with measures covering the whole cycle: from production and consumption to waste management and the market for secondary raw materials. The annex to the action plan sets out the timeline when the actions will be completed.

The proposed actions will contribute to "closing the loop" of product lifecycles through greater recycling and re-use and bring benefits for both the environment and the economy.

The revised legislative proposals on waste set clear targets for reduction of waste and establish an ambitious and credible long-term path for waste management and recycling. Key elements of the revised waste proposal include:

- An EU target for recycling 65% of municipal waste by 2030;
- An EU target for recycling 75% of packaging waste by 2030;
- A target to reduce landfill to maximum of 10% of all waste by 2030;
- A ban on landfilling of separately collected waste;
- Promotion of economic instruments to discourage landfilling;
- Simplified, improved definitions and harmonised calculation methods for recycling rates throughout the EU;
- Concrete measures to promote re-use and stimulate industrial symbiosis - turning one industry's by-product into another industry's raw material;
- Economic incentives for producers to put greener products on the market and support recovery and recycling schemes (e.g. for packaging, batteries, electric and electronic equipment, vehicles).

The Circular Economy Package was updated in 2018 to comprise a new set of measures including:

- A Europe-wide EU Strategy for Plastics in the Circular Economy;
- A Communication on options to address the interface between chemical, product and waste legislation;
- A Monitoring Framework on progress towards a circular economy at EU and national level; and
- A Report on Critical Raw Materials and the circular economy.

Key legislative measures adopted to date under the plan include:

- Directive (EU) 2018/851 amending Directive 2008/98/EC on waste;
- Directive (EU) 2018/850 amending Directive 1999/31/EC on the landfill of waste;
- Directive (EU) 2018/852 amending Directive 94/62/EC on packaging and packaging waste; and
- Directive (EU) 2018/849 amending Directives 2000/53/EC on end-of-life vehicles, Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and Directive 2012/19/EU on waste electrical and electronic equipment.

European Commission, 2020. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A new Circular Economy Action Plan For a cleaner and more competitive Europe. COM (2020).

The European Commission has adopted a new Circular Economy Action Plan, which is one of the main blocks of the European Green Deal, Europe’s new agenda for sustainable growth.

The new Action Plan announces initiatives along the entire life cycle of products, targeting for example their design, promoting circular economy processes, fostering sustainable consumption, and aiming to ensure that the resources used are kept in the EU economy for as long as possible.

The new Action Plan introduces legislative and non-legislative measures targeting areas where action at the EU level brings real added value.

The new Circular Economy Action Plan presents measures to:

- Make sustainable products the norm in the EU;
- Empower consumers and public buyers;
- Focus on the sectors that use most resources and where the potential for circularity is high such as: electronics and ICT; batteries and vehicles; packaging; plastics; textiles; construction and buildings; food; water and nutrients;
- Ensure less waste;
- Make circularity work for people, regions and cities; and
- Lead global efforts on circular economy.

European Commission (2019) European Green Deal

The European Green Deal, published by the European Commission in December 2019, provides an action plan to boost the efficient use of resources by moving to a clean, circular economy while cutting pollution and restoring biodiversity.

The plan outlines investments needed and financing tools available. It explains how to ensure a just and inclusive transition.

National Policy

Introduction

The first national waste policy statement was published by the Department of Environment and Local Government in 1998. A number of statements have been published since, each of which builds on the objectives of the previous plans to improve how waste is managed in Ireland, move waste away from landfill and towards a more sustainable option. The statements published to date include:

- Department of the Environment and Local Government (1998). ‘Waste Management - Changing Our Ways’ – A Policy Statement.
- Department of the Environment and Local Government (2002). Preventing and Recycling Waste – Delivering Change – A Policy Statement.
- Department of the Environment, Heritage and Local Government (2004). Waste Management - Taking Stock and Moving Forward.
- Department of the Environment, Heritage and Local Government (2006). National Strategy on Biodegradable Waste Management.
- Department of the Environment, Heritage and Local Government (2012). A Resource Opportunity- Waste Management Policy in Ireland.

More recent policy documents and reports are summarised below.

EPA National Waste Statistics and Bulletins

The EPA publishes national statistics and bulletins relating to waste generation, management and disposal in Ireland. The published data provides information on key statistics and trends in waste as well as information on Ireland’s progress in meeting EU waste collection, recovery and disposal targets. Key topics include municipal waste generation and management; packaging waste, waste electronic and electrical equipment, end of life vehicles, tyres, hazardous waste, construction and demolition waste and waste infrastructure. The data is available on the EPA website at <http://www.epa.ie/nationalwastestatistics/>.

EPA (2014) National Municipal Waste Recovery Capacity. An Assessment for the Department of the Environment, Community and Local Government

In 2012 the EPA were tasked by the Department of the Environment, Community and Local Government (DoECLG) to undertake an assessment of municipal waste recovery infrastructural capacities in the State. This report documents the outcome of that assessment. This task was articulated in the DoECLG publication ‘A Resource Opportunity – Waste Management Policy in Ireland’ (2012) (see above).

The EPA assessment, undertaken during 2013, has yielded an electronic register holding estimated municipal waste recovery capacity figures for authorised waste activities. The Capacity Register comprises different worksheets containing capacity data on:

- EPA waste licences;
- EPA IPPC licences;
- Sites authorised under an EPA Certificate of Registration;
- Local Authority issued Waste Facility Permits; and
- Local Authority issued Certificates of Registration.

The data in this study reflects a snapshot in time – May 2013 when there was an estimated 5,800 to 6,000 ‘live’ waste facility authorisations in the state. This assessment report presents a synthesis of the Capacity Register information.

Environmental Protection Agency (2021). National Hazardous Waste Management Plan, 2021 – 2027

An updated National Hazardous Waste Management Plan was published by the Environmental Protection Agency in 2021.

This Plan sets out objectives to be met over the six year life of the plan as follows:

- Support and drive priority prevention actions by industry and the public to reduce the generation of hazardous waste;
- Support the identification of adequate and appropriate collection infrastructure for all hazardous wastes with a view to mitigating environmental and health impacts;
- Endorse the proximity principle such that hazardous wastes are treated as close to the point of production as possible – including within Ireland, taking into account the need for specialised installations for certain types of waste;
- Support effective regulation of the movement and management of hazardous wastes in line with national policy priorities; and
- Promotion of safe reuse and recycling pathways in support of the circular economy.

The plan also includes a range of targets and indicators which provide a means of measuring progress towards the plan objectives.

EPA (2019) Waste Classification – List of Waste and Determining if Waste is hazardous or Non-Hazardous.

Waste classification is based on:

- Commission Decision of 18 December 2014, amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC of the European parliament and of the Council (2014/955/EEC);
- Commission Regulation (EU) No 1357/2014 of 18 December 2014, replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives; and
- Council Regulation (EU) 2017/997 of 8 June 2017 amending Annex 111 to Directive 2008/98/EC of the European parliament and of the Council as regards the hazardous property HP 14 ‘Ecotoxic’.

This waste classification system applies across the EU and is the basis for all national and international waste reporting obligations. This document consolidates the Decision and Regulations and provides guidance on how to follow them.

There are two main elements:

- List of Waste (LoW) (Appendix 1); and
- Determining if waste is hazardous or non-hazardous (Appendix 2).

Government of Ireland (2020) A Waste Action Plan for a Circular Economy Ireland’s National Waste Policy 2020-2025.

The ‘Waste Action Plan for a Circular Economy’ is an action focused plan that reflects the 2020 Circular Economy Action Plan ‘For a cleaner and more competitive Europe’ from the European Commission (see above).

The overarching objectives of this action plan are to:

- Shift the focus away from waste disposal and treatment to ensure that materials and products remain in productive use for longer thereby preventing waste and supporting reuse through a policy framework that discourages the wasting of resources and rewards circularity;
- Make producers who manufacture and sell disposable goods for profit environmentally accountable for the products they place on the market;
- Ensure that measures support sustainable economic models (for example by supporting the use of recycled over virgin materials);

- Harness the reach and influence of all sectors including the voluntary sector, R&D, producers / manufacturers, regulatory bodies, civic society; and
- Support clear and robust institutional arrangements for the waste sector, including through a strengthened role for Local Authorities (LAs).

The plan identifies opportunities for the application of circular economy principles across a range of areas in Ireland including:

- Municipal waste;
- Consumer Protection;
- Food waste;
- Plastic and packaging waste;
- Construction and demolition waste;
- Textiles; and
- Procurement.

Department of the Environment, Climate and Communications (2023) Climate Action Plan

The Climate Action Plan 2023 was published on the 21 December 2022 and represented the second annual update to the Climate Action Plan 2019. The Plan sets out the actions the Government intends to take to address climate breakdown across sectors such as electricity, transport, built environment, industry and agriculture.

The Plan provides that the Government will lead the transformation from waste management to circular economy practice through delivery of a new national policy. The implementation plan for actions by Government and other actors in relation to waste and the circular economy are as follows:

- Publish a Whole-of-Government Circular Economy Strategy and promote the Circular Economy;
- Establish a Circular Economy Innovation Scheme;
- Reduce demand for virgin raw materials and support re-use, by keeping material out of waste streams through streamlined end-of-waste and by-product decision-making processes and national end-of-waste decisions for specific construction and demolition waste streams;
- Continue to drive the rollout of CirculEire, the national programme for circular manufacturing and innovation;
- Develop a Food Waste Prevention Roadmap that sets out a series of actions to deliver the reductions necessary to halve our food waste by 2030 and promote our transition to a circular economy;
- Enhance food waste segregation, collection and treatment (anaerobic digestion and composting);
- Develop and implement a new Regional Waste Management Plans that will guide our transition to a circular economy;
- Develop new and expanded environmental levies to encourage reduced resource consumption and incentivise higher levels of re-use and recycling;
- Begin work on consumer information actions to inform consumer choice aimed at driving improvements in the environmental sustainability of the electronic communications sector;
- Implement Regulation (EU) No 517/2014 on F-Gases; and
- Separate collection obligations extended to include bio-waste by end of 2023.

Department of the Environment, Climate and Communications (2020) Waste Strategy for a Circular Economy

The Waste Action Plan for a Circular Economy fulfils the commitment in the Programme for Government (2020) to publish and start implementing a new National Waste Action Plan. This new national waste policy will inform and give direction to waste planning and management in Ireland over the coming years. It will be followed later this year by an All of Government Circular Economy Strategy.

The previous national waste policy, A Resource Opportunity – Waste management policy in Ireland, drove delivery on national targets under EU legislation, but the Irish and international waste context has changed in the years since its launch. The need to embed climate action in all strands of public policy aligns with the goals of the European Green Deal.

The policy document shifts focus away from waste disposal and moves it back up the production chain. To support the policy, regulation is already being used (Circular Economy Legislative Package) or in the pipeline (Single Use Plastics Directive). The policy document contains over 200 measures across various waste areas including Circular Economy, Municipal Waste, Consumer Protection and Citizen Engagement, Plastics and Packaging, Construction and Demolition, Textiles, Green Public Procurement and Waste Enforcement.

Regional Policy

The Southern Region Waste Management Plan 2015 - 2021

For the purposes of waste management planning, Ireland is now divided into three regions: Southern, Eastern-Midlands, Connacht-Ulster. The Southern Region Includes Cork City Council.

The Southern Region Waste Management Plan 2015 - 2021 was launched in 2015. The strategic approach of the plan places a stronger emphasis on preventing wastes and material reuse activities. Three strategic targets have been set in the plan which include:

- 1% reduction per annum in the quantity of household waste generated per capita over the period of the plan;
- Achieve a recycling rate of 50% of managed municipal waste by 2020; and
- Reduce to 0% the direct disposal of unprocessed residual municipal waste to landfill in favour of higher value pre-treatment processes and indigenous recovery practices.

The plan looks to 2030 and includes a goal of reaching a recycling rate of 60%. Note that the Southern Region Waste Management Plan 2015 - 2021 is currently out of date – however, an updated version of this Plan has not yet been published.

Cork County Development Plan 2022-2028

The Cork County Development Plan 2022-2028 (Cork County Council, 2022) sets out Cork County Council's policies and objectives for the development of the County over the Plan period.

The Council includes a number of waste prevention and management objectives as part of Chapter 15 Biodiversity and Environment. Objectives relevant to the proposed development include the following:

“Objective BE 15-14: Waste Prevention and Management:

a) Support the policy measures and actions outline in

- ‘A Waste Action Plan for a Circular Economy Ireland’s National Waste Policy 2020-2025’, and

- Southern Region Waste Management Plan 2015 – 2021, or any successor plans

b) Support circular and climate resilient economy principles and associated strategic infrastructure, prioritising prevention, reuse, recycling and recovery, and to sustainably manage all types of waste by ensuring the provision of adequate waste recovery, recycling and disposal facilities for the county.”

“Objective BE 15-17: Waste Prevention and Management:

a)

b) ...

c) Construction and Environmental Management Plans (CEMPs)/ Construction and Demolition Management Plans shall be prepared for larger scale projects as set out in paragraph 15.12.24 and this requirement shall be assessed on a case-by-case basis as part of the development management process.

d) Support the implementation of the recommendations and policies of the National Hazardous Waste Management Plan 2014-2020.”

Sections 15.12.23 to Section 15.12.25 of the Cork County Council Development Plan 2022-2028 also outline specific considerations for Construction and Demolition (C&D) waste.

RPS (2020) Construction and Demolition Waste Soil and Stone Recovery/Disposal Capacity Eastern Midlands Region / Connacht Ulster Region / Southern Region Waste Management Plans 2015 – 2021.

This report was undertaken on behalf of the Irish regional waste management offices to analyse the national waste capacity market for safe treatment of waste soils. A review was undertaken of soil waste generation and available capacity to accept soil waste in authorised facilities within the three waste regions.

The report identifies that the future authorised capacity available to recover soil and stones is an issue in each waste region in the context of likely strong construction activity. Possible options recommended include expanding capacities at existing sites and the use of Article 27 By-Product notifications.

Guidance

EPA (2021) Best Practice Guidelines for the Preparation of Resource Management Plans for Construction and Demolition Projects

These guidelines supersede the ‘Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Waste Projects’ which were published by the Government in July 2006. The replacement guidelines reflect current waste legislation and policy including ‘A Waste Action Plan for a Circular Economy Ireland’s National Waste Policy 2020-2025’ published in September 2020. Since the publication of the 2006 guidelines, waste management legislation and policy have evolved towards prioritising waste prevention and life-cycle thinking as follows:

- An increased emphasis on waste prevention, in line with the waste hierarchy, through established principles such as designing out waste and the use of green procurement.
- The guidelines have also been prepared to promote more circular design and construction principles in line with the EU Circular Economy Action Plan under the EU Green Deal. The circular economy model tries to avoid using unnecessary resources in the first place and keep resources ‘in flow’ by means of effective and smart reuse and recycling strategies reducing the use of virgin materials.

The guidelines provide a practical and informed mechanism to document the prevention and management of C&D wastes and resources from design to construction or demolition of a project. They provide clients,

developers, designers, practitioners, contractors, sub-contractors and competent authorities with a common approach to preparing and determining Resource and Waste Management Plans (RWMP) for the construction and demolition sector in Ireland.

The guidelines address the best practice approach for the following phases of a project:

- Prior to Construction – including the stages of design, planning and procurement in advance of works on site; and
- During Construction – relating to the effective management of resources and wastes during construction or demolition operations.

European Commission (2016) EU Construction & Demolition Waste Management Protocol

This protocol was published by the European Commission in September 2016.

The overall aim of the protocol is to increase confidence in the C&D waste management process and the trust in the quality of C&D recycled materials. This will be achieved by:

- a) Improved waste identification, source separation and collection;
- b) Improved waste logistics;
- c) Improved waste processing;
- d) Quality management; and
- e) Appropriate policy and framework conditions.

EPA (2019) Guidance on Soil and Stone By-products in the context of Article 27 of the European Communities (Waste Directive) Regulations 2011

Article 27 of the European Communities (Waste Directive) Regulations, 2011, as substituted by Reg. 15 S.I. No. 323 of 2020, states the following:

‘Economic operators may decide, in accordance with the following conditions of article 27, that their substance or object is a by-product:

- (a) further use of the substance or object is certain;
- (b) the substance or object can be used directly without any further processing other than normal industrial practice;
- (c) the substance or object is produced as an integral part of a production process; and
- (d) further use is lawful in that the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.’

Decisions made by economic operators under article 27 must be notified to the Environmental Protection Agency. Conditions a) to d) must be satisfied for an Article 27 notification to be successful.

The purpose of the guidance is to inform economic operators how to prevent waste soil and stone by classifying it as a by-product in accordance with the legislation and the EPA’s regulatory approach to determinations on soil and stone by-products. This guidance document covers soil and stone only.

It is aimed at local authorities, developers, the construction sector, the waste management sector and consultants.

Its environmental objective is by making certain that excess uncontaminated soil and stone is beneficially used with no overall adverse impacts on the environment or human health, a material producer will ensure that the material is regarded as a by-product rather than a waste.

EPA (2020) By Product - Guidance Note. A guide to by-products and submitting a by-product notification under Article 27 of the European Communities (Waste Directive) Regulations, 2011

This guidance note published in 2020 applies to all other sectors and materials apart from soil and stones. It aims to inform economic operators how to prevent waste by classifying it as a by-product in accordance with the applicable Regulations.

EPA (2020) Draft End of Waste Guidance Part 1 and Part 2

Part 1: describes the context and benefits and introducing the end-of-waste test to potential under Article 28.
Part 2: provides guidance for applicants on how to address the requirements of the end-of-waste test under Article 28 of the European Communities (Waste Directive) Regulations, 2011.