

Appendix 14.1

Resource and Waste Management Legislation and Policy Review

Legislation

European Legislation

European Union (2019) Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste (Text with EEA relevance)

Directive (EU) 2018/851 came into force on the 30th May 2018 and amends Directive 2008/98/EC. Directive 2008/98/EC 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 (EU) 2018/851 requires Member States to improve their waste management systems into the management of sustainable material, to improve the efficiency of resource use, and to ensure that waste is valued as a resource.

European Union (2008) 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 came into force on 12th December 2008, and Ireland has two years from this date to implement it into national law. 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.”

National Legislation

Government of Ireland (2011) European Communities (Waste Directive) Regulations 2011, S.I. No.126 of 2011

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

Government of Ireland (2011) Waste Management Acts, 1996 to 2011, 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.

Government of Ireland (2007) 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.

Government of Ireland (2007) 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.

Policy

European Policy

European Commission (2018; 2015) Circular Economy Strategy

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).

Legislative proposals on waste adopted include a Proposed Directives on Waste, Packaging Waste, Landfill and Electrical and Electronic Waste, on End-of-Life Vehicles, and Batteries and Accumulators.

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, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment.

European Commission (2014) 7th Environmental Action Programme

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.

European Commission (2011) Roadmap to a Resource Efficient Europe

The Roadmap to a Resource Efficient Europe outlines a “roadmap” to transform Europe's economy into a sustainable one by 2050.

It proposes ways to increase resource productivity and decouple economic growth from resource use and its environmental impact. The roadmap aims to address resource inefficiency in the sectors that are responsible for the greatest share of environmental

impacts - namely food, buildings and mobility, whose combined effects account for 70-80 % of all environmental impacts.

Measures are set out aimed at transforming production and consumption, with incentives for investors to promote green innovation, and a greater role for eco-design, eco-labelling, and greener spending by public bodies.

Governments are invited to shift taxation away from labour towards pollution and resources, and to provide fresh incentives to push consumers towards resource-efficient products. The roadmap also recommends adapting prices to reflect the real costs of resource use, especially on environment and health.

European Commission (2010) Europe 2020 Strategy

Europe 2020 is the European Union's ten-year growth strategy published in 2010. A key focus of the strategy is to support the shift towards a resource-efficient, low-carbon economy by decoupling economic growth from resource use and reducing the resource intensity of what we use and consume.

Directive 2008/98/EC on Waste (Waste Framework Directive)

Directive 2008/98/EC sets the basic concepts and definitions related to waste management, such as definitions of waste, recycling, recovery. It explains when waste ceases to be waste and becomes a secondary raw material (so called end-of-waste criteria), and how to distinguish between waste and by-products. The Directive lays down some basic waste management principles: it requires that waste be managed without endangering human health and harming the environment, and in particular without risk to water, air, soil, plants or animals, without causing a nuisance through noise or odours, and without adversely affecting the countryside or places of special interest. Waste legislation and policy of EU Member States shall apply as a priority order the following waste management hierarchy:

- Prevention
- Preparing for Re-Use
- Recycling
- Recovery
- Disposal

The Directive introduces the "polluter pays principle" and the "extended producer responsibility". It incorporates provisions on hazardous waste and waste oils (old Directives on hazardous waste and waste oils being repealed with the effect from 12 December 2010), and includes two new recycling and recovery targets to be achieved by 2020: 50% preparing for re-use and recycling of certain waste materials from households and other origins similar to households, and 70% preparing for re-use, recycling and other recovery of construction and demolition waste. The Directive requires that EU Member States adopt waste management plans and waste prevention programmes.

The Directive excludes "uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will

be used for the purposes of construction in its natural state on the site from which it was excavated”.

The provisions regarding by-products and the provisions covering end-of-waste status are set out in Articles 5 and 6 of the Directive respectively.

National Policy

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.

From 2012 a number of policy documents and reports have been published which are summarised in the sections 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 (2015) Waste Classification - List of Waste and Determining if Waste is hazardous or Non-Hazardous

This document was published by the Environmental Protection Agency in 2015. From 1 June 2015, 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.

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 Regulation and provides guidance on how to follow them.

This document replaces:

- The 2002 European Waste Catalogue and the Hazardous Waste List
- Hazardous Waste Classification Tool
- Hazardous Waste Classification Worksheet.

There are two main elements,

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

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.

EPA (2014) National Hazardous Waste Management Plan, 2014-2020

The Third National Hazardous Waste Management Plan was published by the Environmental Protection Agency in 2014.

This Plan sets out priority actions to be taken over the six-year life of the plan in relation to:

- Prevention of hazardous waste.
- Improved collection rates for certain categories of hazardous waste.
- Steps required to improve Ireland’s self-sufficiency in hazardous waste management.
- Identification and management of certain legacy hazardous wastes such as historic unregulated waste disposal sites and contaminated soil.

The plan includes eight key environmental objectives which will be adopted for the plan including “To minimise the export of hazardous waste for treatment and/or disposal and reduce emissions due to transportation”.

The plan also includes a range of targets and indicators which provide a means of measuring progress towards the plan objectives. These include “*minimise distance travelled by hazardous waste*” and “*Minimise export of hazardous waste and move towards self-sufficiency*”.

Department of the Environment, Heritage and Local Government (2012) A Resource Opportunity - Waste Management Policy in Ireland

This policy document sets out measures through which Ireland will increase recycling rates and reduce delivery of waste to landfill following coming into force of the EU Waste Framework Directive. Key measures set out in the report are as follows:

- Significant reduction of Planning Regions from ten to three. A review of regional waste management plans will be undertaken to comply with the requirements of the Waste Framework Directive.
- Timing and nature of the application of landfill bans will be considered taking into account the level of diversion being achieved and the development of viable beneficial uses for waste in support of the virtual elimination of our dependence on landfill.
- Ireland requires an adequate network of quality waste treatment facilities. The EPA will undertake a review of recovery infrastructure to advise on national requirements for managing municipal waste in accordance with the principles of proximity and self-sufficiency.
- All householders will be obliged to demonstrate that they are availing of an authorised waste collection service or are otherwise managing their waste in an environmentally acceptable manner
- Through waste collection permits waste collectors will be required to manage waste in accordance with the waste hierarchy and operate pricing structures to incentivise environmentally sustainable behaviours by households in terms of waste reduction
- Separate collection of organics will be a required waste permit condition for those collecting from households within population centres of a given size and will be introduced on a phased basis over a four-year period, beginning with larger population centres.

- All current and future producer responsibility schemes will be required, as part of the conditions of their approval, to formulate, implement and demonstrate significant waste prevention and re-use initiatives for their particular waste streams.

Regional Policy

RPS (2016) Construction and Demolition Waste Soil and Stone Recovery/Disposal Capacity - Eastern Midlands Region/Connacht Ulster Region/Southern Region

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 existing capacities at existing sites and the use of Article 27 By Product notifications.

Southern Waste Region (2015) 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 the administrative areas of the following local authorities - Carlow County Council, Clare County Council, Cork City Council, Cork County Council, Kerry County Council, Kilkenny County Council, Limerick City & County Council, Tipperary County Council, Waterford City & County Council and Wexford County 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
- 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 long-term goal of reaching a recycling rate of 60%.

Guidance

Department of Environment Community and Local Government (2006) Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects

These guidelines were published by the DoEHLG in July 2006. They were developed in conjunction with the National Construction & Demolition Waste Council (NCDWC) as part of the Voluntary Construction Industry Initiative and give advice on planning for C&D waste management. They also give guidance on source separation of waste, the diversion of waste from landfill and encourage construction companies to work towards achieving the national recycling target of 85% as outlined in the Government Policy Document Changing Our Ways (DOEHLG).

FÁS and CIF (2002) Construction and Demolition Waste Management - A Handbook for Contractors & Site Managers

This handbook was produced in conjunction with Fás and the CIF in 2002. It provides advice for contractors and site managers on how to manage construction and demolition waste to make financial savings in purchasing material and disposal costs in a sustainable manner.

Environmental Protection Agency (June 2019) Guidance on Soil and Stone By-products

These guidelines were published by the EPA in June 2019 with the purpose to encourage the prevention of waste and the benefits in using excess uncontaminated soil and stone. The guidelines also set out the EPA's regulatory approach to determining whether a material is a by-product or a waste.