



# Waste (Scotland) Regulations

To: All Chief Executives, Main Contacts and APSE Contacts in Scotland

For information only to England, Northern Ireland and Wales

## Key Issues

- The Scottish Parliament's Waste (Scotland) Regulations aim to help Scotland become one of the most resource efficient nations in Europe
- The regulations highlight a number of provisions for households and businesses to be adopted by 1 January 2014 and beyond
- Duty of Care Code of Practice provides detailed guidance on how to comply with the new statutory duties

## 1.0 Introduction

The Waste (Scotland) Regulations 2012 were passed by Scottish Parliament on 9 May 2012. These regulations will help to ensure that the value of anything which is used and thrown away is preserved and wherever possible, it can be captured and used again in Scotland's economy. These regulations will also play a role in helping Scotland reach its Zero Waste Plan targets for recycling 70% of its waste and landfilling only 5% by 2025 as well as reducing greenhouse gases (see APSE briefing 13-06 Low Carbon Scotland).

Waste (Scotland) Regulations 2012 can be found [here](#)

Scottish Parliament has adopted a phased approach to rolling out the key measures in the regulations to ensure sufficient time for all involved. The provisions contained within the regulations are as follows:-

- Businesses to present metal, plastic, glass, paper and card for separate collection from 1 January 2014
- Food businesses (except rural areas) which provide over 50kg of food waste per week to present that food waste for separate collection from 1 January 2014
- Food businesses (except rural areas) which provide over 5kg of food waste per week to present that food waste for separate collection from 1 January 2016

- Local authorities to provide a minimum recycling service to householders (as detailed below)
- Waste contractors to provide collection and treatment services which deliver high quality recycling
- A ban on any metal, plastic, glass, card and food collected separately for recycling from going to incineration or landfill from 1 January 2014
- All new incinerators must ensure that metals and dense plastics have been removed from residual municipal waste prior to incineration
- A ban on biodegradable municipal waste going to landfill from 1 January 2021

The European Waste Framework Directive (2008/98/EC) came into force in December 2010 with the intention of turning EU member states into “recycling societies”. The Directive aims to shift the focus away from waste being an unwanted burden towards being a valued resource which can provide opportunities for sustainable growth in a low carbon economy.

This resource centred approach is summarised in the five step waste hierarchy and the Waste (Scotland) Regulations 2012 places a duty on everyone who produces, keeps or manages waste (including local authorities) to apply the hierarchy. The diagram below highlights all five steps:-



Scottish Government has also produced a Duty of Care Code of Practice which provides detailed guidance on the new statutory duties and how to comply with them. This document can be found [here](#)

## 2.0 Content of Code of Practice

The Code of Practice contains six main sections which highlight the obligations of different groups.

### **Obligations of a Waste Producer** (includes public and private sector)

- Apply the waste hierarchy to the management of your waste and promote ‘high quality’ recycling.
- From 1 January 2014 present glass, metal, plastic, paper and card (including cardboard) for separate collection.
- Take steps to maintain the quality of dry recyclables presented for separate collection.
- In some circumstances, present food waste for separate collection.
- Take care of the waste while you hold it so it does not escape from your control.

- Ensure your waste is transferred to someone who is authorised to receive it, for example, a registered waste carrier or waste manager with the relevant authorisation. Or, if you are carrying your own waste that you are appropriately registered with SEPA.
- Complete a waste transfer note for any transfer of waste, including a full description of the waste, and retain a copy of this note for two years.
- Describe the waste accurately and provide information for the safe handling, transport, treatment, recovery or disposal by subsequent holders.
- Take reasonable measures to ensure that your waste does not cause pollution or harm to human health.

**Obligations of a Waste Collector** (includes waste collection contractors and local authorities etc)

- Apply the waste hierarchy as a priority order to all waste that you collect and ensure recycling services are designed and operated to promote 'high quality' recycling.
- From 1 January 2014 collect and carry dry recyclable and food waste that has been presented to you separately by your customer.
- Ensure recyclable materials are not mixed with other wastes in a manner which may hamper recycling whilst you are the holder.
- Check that the transfer note is correctly completed and that it contains sufficient information to enable you to manage the waste properly and safely.
- Be registered to carry waste with SEPA (if you are required to be registered).
- Ensure your waste is transferred to someone who is authorised to receive it.
- Take reasonable measures to ensure that your waste does not cause pollution or harm to human health.

**Obligations of a Waste Manager** (includes operators of transfer stations, sorting facilities and treatment sites etc)

- Apply the waste hierarchy to the management of your waste and promote 'high quality' recycling.
- Do not mix recyclable waste with other waste in a manner which may hamper further recycling.
- Ensure that you hold the appropriate environmental permit or exemption which allows you to accept and manage the waste at your site.
- Manage waste safely without causing pollution of the environment or harm to human health, in accordance with the conditions of your environmental permit or exemption.
- Ensure that the transfer of waste both into and out of your site is covered by a waste transfer note including an adequate description of the waste and signatures of those transferring the waste to you or receiving waste from you.
- Ensure that the description of the waste you receive is accurate and contains all the information necessary for safe handling, treatment, recovery or disposal.

**Obligations in the event of Waste Import or Export**

- Apply the waste hierarchy as a priority order in your role as freight forwarder, transporter (including shipping line) or broker.
- Comply with the Duty of Care applicable to you in your role as freight forwarder, transporter (including shipping line) or broker.
- Ensure that the waste description is accurate and contains all the information necessary for safe handling, transport, treatment or recovery by subsequent holders.
- Ensure that the transfer of waste is covered by a waste transfer note (or in the case of imports and exports, Annex VII form or notification form and movement document) including a full description of the waste and to retain the transfer note and waste details for two years (three years for import/ export documentation).

- Ensure that the site of destination holds the appropriate environmental permit or exemption to accept the waste. This responsibility extends to destinations in other countries.
- Ensure that the person whom you are transferring waste will not export it in breach of the rules set out in the EU Waste Shipment Regulations (1013/2006) and the UK Transfrontier Shipments of Waste (TFS) Regulations 2007.

#### **Obligations of a Broker or a Dealer**

- Apply the waste hierarchy as a priority order to the management of your waste and promote high quality recycling.
- Ensure that any waste in your control is handled and sorted safely, without causing harm to the environment and in accordance with the law.
- Know the nature of the waste you are in control of, for example, if it is process waste to know its constituents and properties.
- Ensure care of the waste while it is stored, so it does not escape.
- Ensure that the waste description is accurate and contains all the information necessary for safe handling, transport, treatment, recovery or disposal (especially by landfill) by subsequent holders.
- Ensure that you have a valid registration with SEPA.
- Ensure the waste is transferred to someone who is authorised to receive it, for example, a registered waste carrier or waste manager.
- Ensure transfers of waste are covered by a waste transfer note including a full description of the waste and to retain the transfer note and waste details for two years.
- Ensure that the site of destination holds the appropriate environmental permit or exemption to accept the waste. This responsibility extends to destinations in other countries.

#### **Obligations of the Householder**

- Ensure that any waste that you produce is handled and stored safely, without causing harm to the environment and in accordance with the law.
- Ensure that any household waste produced on your property is only transferred to a carrier that is appropriately registered with SEPA.

#### **Tackling Waste Crime**

The Code of Practice notes that deliberate law breaking by people who fail to manage, transport and dispose of waste correctly to cut costs does occur. However, it highlights that SEPA is working to actively identify and deal with illegal operators with a particular focus on illegal waste sites, illegal exports and large scale dumping. Not dealing with waste legally can cause serious damage to the environment and pose a number of risks to human health e.g. illegal burning produces toxic fumes. It can also create problems for local communities from noise and nuisance and for communities abroad through illegal exports of non-recyclable waste. As well as being bad for business, as illegal operators undercut legitimate waste companies.

### **3.0 Comment and Conclusion**

The provisions contained within the regulations aim to help Scotland reach the Zero Waste Plan targets. To achieve these ambitious targets Scottish local authorities will need to secure funding to enable them to invest for the future. Zero Waste Scotland continues to provide a range of funding and support packages to help meet the provisions and make the necessary changes (Further information can be found [here](#)).

Currently Scotland spends over £100 million per year to throw away materials that would be worth over £100 million pounds if they were recycled. As well as this processing food waste through modern treatment plants has the potential to generate enough energy to power a city the size of Inverness and supply 10% of Scotland's fertiliser needs. Scotland has a number of excellent examples of local authority champions already making positive steps towards meeting these regulations with some Scottish local authorities having already started to roll out their food waste recycling services. Other initiatives include Fife Council's organic waste plant and the pilot 'recycle and reward' scheme which offers people money back for recycling empty bottles and cans.

Finally APSE believes that it is important for local authorities to build these Government messages into Corporate and Service plans to enable Councils to embed the themes into the future Council vision. Councils are a key player in meeting these provisions and it is important that when these new and innovative schemes are started, Councils communicate and showcase these to communities and help to continue to highlight the drive towards the Zero Waste Plan and ways in which it can be successfully achieved.

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