



Circular No.: WP 12/09

23 December 2009

Re: Waste Management (Food Waste) Regulations 2009 (S.I. No.508 of 2009)

A Chara,

I am directed by the Minister for the Environment, Heritage and Local Government to state that he has signed the Waste Management (Food Waste) Regulations 2009 (S.I. No. 508 of 2009) - a copy of which is attached.

### **Purpose of the Regulations**

The Regulations are designed to promote the segregation and beneficial use of food waste arising in the commercial sector. They will increase the amount of food waste that is recovered. In particular, the Regulations will facilitate in particular the achievement of the targets set out in Directive 99/31/EC on the landfill of waste for the diversion of biodegradable municipal waste from landfill sites, by directing source-segregated food waste to composting and biogas plants and to other forms of treatment (other than incineration) – the National Strategy on Biodegradable Waste provides that a 36% diversion of such waste is required in 2010.

The Regulations impose obligations on the major generators of food waste, such as State buildings where food is prepared, restaurants and cafés, hot food outlets, canteens, hotels and larger guest houses, hospitals, universities, airports and supermarkets and other food retailers, to segregate these materials and make them available for separate collection or direct transfer by the producer for the purposes of authorised treatment. Alternatively, these materials can be treated on the premises where they are produced under specified conditions.



Where a source-segregated collection for food waste is available, the Regulations include a general prohibition on the deposition of food waste in the residual waste collection service. In addition, obligated businesses are prevented from shredding or hydrating food waste by mechanical devices to facilitate its discharge to the sewerage infrastructure, other than in accordance with the terms of a relevant licence.

The Regulations have practical application from 1 July 2010 and in accordance with Section 8.3.2 of the National Strategy on Biodegradable Waste, apply to those scheduled premises producing over 50kg per week of food waste. In addition, in order to remain consistent with policy and practice already established, the Regulations also apply to all scheduled premises where a source-segregated food waste collection service is available or where source-segregation is imposed alternatively under the requirements of a relevant Waste Management Plan, waste collection permit or waste presentation bye-law.

However, from 1 July 2011, all scheduled premises will be covered by the Regulations irrespective of the amounts of food waste produced.

The main requirements are set out in Part II -Regulations 6 to 14 and Schedule 1 and these provisions enter into force on 1 July 2010. The main features are as follows:

### **Scope-Regulation 3**

The Regulations apply to the premises described in the Schedule 1. They shall not apply to other commercial or industrial activities such as food manufacturing, except in the case where food is prepared within the curtilage of a scheduled premises for supply on that premises.

The scope is initially confined to premises where the amounts of food waste produced are more than 50kg per week -Regulation 3(2)(a). However, in order to remain consistent with policy and practice already established, the Regulations also apply to all scheduled premises where a source-segregated

food waste collection service is available or where source-segregation is imposed alternatively infer the requirements of a relevant Waste Management Plan, waste collection permit or waste presentation bye-law.

Persons producing less than 50 kg per week of food waste that are not otherwise obligated and who wish to avail of this exemption are obliged to claim exemption in writing- Regulations 3(3) and 3(4)- before 1 July 2010.

The Regulations are aligned with the Animal By-Product legislation and the scope excludes categories and types of animal by-products regulated by Department of Agriculture, Fisheries and Food which are required to be collected and disposed of in a different manner under ABP rules-Regulations 3(2) (b), (c) and (d).

The Regulations do not apply to off-shore islands- Regulation 3(5).

#### **Entry into force-Regulation 4**

While the Regulations come into force on 1 January 2010 the main operational aspects come into force on 1 July 2010. The derogation for persons producing less than 50kg per week, will, as stated above, apply until 1 July 2011 other than for scheduled premises where a source-segregated food waste collection service is available or where source-segregation is imposed alternatively under the requirements of a relevant Waste Management Plan, waste collection permit or waste presentation bye-law.

#### **Segregation and processing obligations**

Part II is the main operative part and it should be noted that the implementation of the Regulations shall not conflict with food safety and hygiene standards – Regulation 6.,

Under Regulation 7 producers are required to segregate food waste from non-biodegradable materials, other waste and contaminants (other than the need not to separate catering waste and former foodstuffs into discrete streams where the treatment is to be carried out at a facility properly authorised to

process both materials under animal by-product controls- Regulation 7(4)) at each of the prescribed in Schedule 1. Once this waste is segregated it must then either be:

- (a) Collected by an authorised waste collector and transferred for an authorised treatment process. Local authorities should note that the definition of authorised treatment process excludes incineration. Processes such as composting, anaerobic digestion, rendering or treatment taking place at other facilities authorised under Animal – By-products rules are however, included-note the definition of “authorised facility”. The Agency may certify that treatment may be carried out in other authorised facilities in the event that there is a capacity problem with the processes specified-see definitions below, or
- (b) Subjected to an authorised treatment process in the premises where the food is produced, or
- (c) Transferred directly by the producer for the purposes of an authorised treatment process-under Regulation 7(2) a waste collection permit will not be required for this transfer under prescribed circumstances or also in the case of a producer registered under the ABP legislation.

Producers are required to take all reasonable steps to minimise the creation of odours and nuisance.

### **Handling and prohibition on contamination of food waste-Regulation 8**

This Regulation prohibits the mixing of food waste segregated or collected for the purposes of an authorised treatment process with contaminants –so as to prevent making the food waste unsuitable for composting (etc) or to diminish the quality of end-product. An exception will, however, apply for the disposal waste , which the competent authority considers unsuitable for beneficial use arising out of an authorised treatment process.

## **Requirement to use a segregated collection service for food waste-**

### **Regulation 9**

The Regulations place an obligation on producers of food waste to avail of a source segregated collection service where it is available. In addition, under Regulation 9:

- (a) Deposition of food waste in the residual waste collection is prohibited and
- (b) Use of purpose built mechanical devices for the purpose of altering the structure of the foodstuffs and its discharge to the sewerage network is prohibited, unless authorised by a discharge consent. This restriction will facilitate a reduction of the load onto existing sewers and sewage treatment works from the premises listed in Schedule 1 and will ensure that the “polluter pays principle” is applied.

An exception will, however, apply for waste, which the competent authority considers unsuitable for source segregation or subsequent beneficial use arising out of an authorised treatment process.

Waste Collectors (including both local authorities and private sector collection services) are not obliged to collect waste from a producer where they consider that the producer is non compliant with the Regulations or to accept food waste for the disposal where the producer has not given a written declaration as to the separation of the food waste.

In addition collectors must inform the local authority of persons who are refusing to avail of the collection service and dealers, brokers or recovery operators are obliged to supply any specified information to the satisfaction of the Agency.

### **Trade shows & Food Waste Management Plans -Regulations 10 and 11**

Persons responsible for trade shows also must comply with the Regulations and must prepare a food waste management plan to the satisfaction of the relevant local authority in accordance with Regulation 11.

### **Power to require submission of information- Regulation 12**

Local authorities have powers to illicit information through written notice including requesting a food waste management implementation report-and a template for this is set out in the Schedule 2 Part 2. A local authority may also require the preparation and submission of an annual environmental report by a producer in respect of performance on food waste management.

### **Offences-Regulation 13**

This is a standard provision.

### **Liability of persons other than the principal offender-Regulation 14**

Such persons may also be the subject of legal proceedings.

### **Part III - Miscellaneous amendments**

This Part covers amendments to both the waste Collection and Facility Permit Regulations to align them with the Food Waste Regulations.

Regulation 5 introduces a transitional provision to cover applications for permits in advance of 1 January 2010.

### **Certain Definitions to note**

Local authorities should be familiar with a number of key definitions as follows  
“authorised facility” - the definition makes it clear that waste should not pass to facilities that are not authorised, as appropriate, by a waste licence, an IPPC licence (e.g. rendering plant), registered under ABP legislation or without planning approval.

“authorised waste collector” – the definition means (a) a local authority, (b) a person holding a collection permit that authorises the collection of the relevant classes of food waste and organic waste.

“authorised treatment process” the definition includes a listing of allowable treatment processes which must take place in an authorised facility and which, following processing, should not lead to certain outcomes when used

in the way listed. This definition does not include incineration but in the event that capacity is a problem (and the EPA must firstly certify this) then other authorised treatment methods could be used.

“producer” – this is a key definition in relation to Part II of the Regulations. It cross-refers to the list of major types of commercial generators of food waste as set down Schedule 1 .The term “producer” encompasses both the occupier of the premises *and* a third-party supplier of food- both are responsible for ensuring waste segregation and are subject to the duties in Part II of the Regulations.

Further enquiries about this circular may be made to Mr Gerry Byrne –at 018882600 and mail at [gerry.byrne@environ.ie](mailto:gerry.byrne@environ.ie)

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