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Marie Austin
Clerk, Windsor Framework Democratic Scrutiny Committee
Room 382, Parliament Buildings
Stormont
Belfast, BT4 3XX

30 May 2024

Dear Marie,

Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 and repealing Regulation (EC) No 1013/2006

I write further to the letter from the Committee Chair Philip McGuigan MLA, dated 9 May 2024 and your letter dated 23 May regarding the above mentioned Regulation. The Committee has sought substantive engagement with the UK Government on the matters concerned by the Regulation.

Please find accompanying this letter a briefing note on the published Regulation, prepared by officials in the Department for Environment Food & Rural Affairs, which sets out the Government's up-to-date assessment of its effects.

I trust that this note will provide the information the Committee needs to carry out its functions, and would be grateful if you could please circulate it onwards to the Chair and members of the Committee.

**PAUL FLYNN
DEPUTY DIRECTOR**

Briefing note on New EU waste shipment regulations (2024/1157)

Briefing note from the Department for Environment, Food and Rural Affairs

Introduction

1. The European Commission has published a new waste shipments regulation (2024/1157, hereafter referred to as the 'revised WSR') to replace Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste ('WSR'). Like the existing WSR, the revised WSR implements the provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention) and the Organisation for Economic Cooperation and Development Decision on the control of transboundary movements of wastes destined for recovery operations (OECD Decision). The UK is a party to the Basel Convention in its own right and is also subject to the OECD Decision.
2. The existing WSR establishes a framework for the control of shipments of waste to and from EU Member States for recovery and disposal. The WSR imposes conditions on the types of waste that can be exported and sets out procedures that waste exporters must follow.
3. The revised WSR seeks to address issues identified in the WSR evaluation published by the European Commission in January 2020. The main findings of the evaluation were:
 - a. that optimal implementation of the WSR has been hampered by varying levels of interpretation, application and enforcement of the Regulations in Member States, combined with varying inspection regimes.
 - b. that insufficient supervision of the conditions under which exported wastes, especially non-hazardous wastes, are managed in destination countries is a major shortcoming of the WSR.
 - c. that illegal shipment of waste within, from, and to, the EU remains a considerable problem.
4. The revised WSR also responds to calls under the EU's European Green Deal and the Circular Economy Action Plan to revise the WSR with the aim of facilitating shipments of waste for reuse and recycling within the EU; ensuring that the EU does not export its waste challenges to third countries; and tackling illegal waste shipments.

5. International waste shipments is a reserved policy area. The Devolved Administrations have an interest in this proposal due to the overall objective to increase the level of environmental and public health protection from the impacts of unsound transboundary shipments of waste. In addition, the four UK Environmental Regulators (the UK Waste Shipment Competent Authorities) are responsible for the implementation and regulation of the waste shipments regime in the UK.
6. The revised WSR will replace Regulation (EC) No 1013/2006, which is listed in Annex 2 of the Windsor Framework. The revised WSR will apply in Northern Ireland accordingly, subject to the democratic scrutiny mechanisms set out in Article 13(3a) of the Framework and Schedule 6B of the Northern Ireland Act 1998.

Policy and Legal Implications

7. The revised WSR contains several changes to the existing control framework for shipments of waste which will apply to waste. These include:

Controls on waste exports

8. a) From 2026, the export of non-hazardous waste will only be permitted to those non-OECD countries (the UK and EU are OECD members) that have explicitly notified the European Commission of their willingness to receive EU waste, and which have demonstrated their ability to treat the waste in an environmentally sustainable manner according to criteria specified in an annex to the revised regulation.

b) From 2026, the European Commission will monitor the export of waste from the EU to OECD countries outside the EU, with a view to ensuring that such exports do not lead to significant environmental or human health damage in the country of destination. Where there is sufficient evidence that waste destined to a specific OECD country will not be dealt with appropriately, the European Commission is empowered to adopt delegated acts to prohibit the export of that waste.
9. It should be noted that it is already illegal to send hazardous waste from the UK to non-OECD countries, so these harder-to-deal-with wastes will not be impacted by the measure in paragraph 10a. Moreover, the majority of non-hazardous waste is dealt with domestically in Northern Ireland or the rest of the UK. Meanwhile, of the remainder of non-hazardous “green list” waste (waste which is considered low risk) exported from Northern Ireland to third countries, two-thirds is destined for OECD

countries.¹ That leaves only a narrow proportion of trade that could theoretically be impacted, but some of those non-OECD countries would in any event be approved for export and otherwise we would anticipate alternative markets to be available for the remainder.

10. We would also expect the measure in paragraph 12b to have limited impact. In 2023, 78% of waste exported from Northern Ireland to OECD countries is destined for EU Member States.² Furthermore, OECD countries are subject to a shared legal framework on the transboundary movement of waste which is designed to support trade between OECD members in an environmentally sound manner, and therefore we expect that the EU would only prohibit the export of waste to an OECD country in exceptional circumstances.

Controls on plastic waste exports

11. From 2026, to give economic operators and competent authorities time to adapt their operations, there will be a temporary prohibition on the export of plastic waste to non-OECD countries until 2029. From 2029, non-OECD countries that want to receive non-hazardous “green-list” plastic waste for recycling may submit a request to the Commission in line with the process set out in paragraph 10a.

Auditing requirements

12. From 2026, exporters will be required to obtain evidence in advance of shipment that the facilities they are exporting to outside the EU have been independently audited, to verify that they are able to manage waste in an environmentally sound manner. Article 46(11) of the revised WSR provides an exemption from the auditing requirement for exports to OECD countries with which the EU has an international agreement recognising that the facilities in that country will manage waste in an environmentally sound manner.

13. In practice, beyond those countries with international agreements, we do not anticipate any significant additional costs for waste exporters arising by virtue of independent audit requirements as there will be significant incentives for receiving facilities to procure their own audits to maintain market share. Moreover, the majority of Northern Ireland's waste is dealt with in Northern Ireland itself or in the rest of the UK. Of the remaining export volume, 60% of waste exported from Northern Ireland

¹ Source: Information submitted by exporters to the Northern Ireland Environment Agency

² Source: Information submitted by exporters to the Northern Ireland Environment Agency

is destined for EU Member States which will not be subject to the auditing requirement, with a further 17% exported to OECD countries which may seek an exception to the auditing requirement under Article 46(11) of the revised WSR.

Digital submission of documentation

14. From 2026, information and documentation on shipments of waste between Member States will need to be submitted electronically, via an electronic system which the European Commission must implement by 31 May 2026, or via an equivalent national system which is interoperable with the EU system. This system will also be made available to exporters in GB for submitting information and documentation on shipments of waste to and from EU Member States.
15. In the UK, the vast majority of information and documentation relating to notifiable waste shipments is already submitted electronically/digitally via an established UK-wide system.
16. In addition to the changes discussed above, the revised WSR also introduces some ancillary changes to the control system on waste shipments. These additional changes relate to the powers of the Commission to undertake investigations, method of calculating financial guarantees or insurance, processes for facilities to achieve pre-consented status, informational requirements and objection powers of competent authorities, and administrative provisions relating to the classification of certain wastes.
17. We do not expect these additional changes to have a significant impact on businesses in Northern Ireland.
18. The revised WSR also amends Regulation (EU) No 1257/2013 of the European Parliament and of the Council on Ship Recycling, to clarify that the export of end-of-life vessels containing hazardous waste to non-OECD countries is prohibited, in line with the existing WSR.

Financial Implications

19. We do not expect any significant additional regulatory costs for NI businesses as a result of these measures. Businesses already pay fees to the regulator which we do not expect to be subject to substantive change as a result of this measure. Any additional administrative costs are expected to be small as the regulations do not place a significant new burden on the regulator in Northern Ireland.