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Dear Sir or Madam,

Transposition of the revised Waste Framework Directive (2008/98/EC) The Waste (England and Wales) Regulations 2011 (S.I. 2011 No. 988)

1. I wrote on 8 February 2011 to advise that a draft of the Regulations to transpose the revised Waste Framework Directive (rWFD) (2008/98/EC) in England and Wales had been laid before Parliament and the National Assembly for Wales (NAW). I am now writing to confirm that, following debate and approval by Parliament and the NAW, the Waste (England and Wales) Regulations 2011 (S.I. 2011 No. 988) have been made and came into force from 29 March 2011.

2. The Regulations have been published today by The Stationery Office and are available at <http://www.legislation.gov.uk/ukxi/2011/988/contents/made> together with an Explanatory Memorandum (EM) providing information on a range of issues relating to the rWFD and its transposition. Annex 1 to the EM is a Transposition Note which explains how each Article of the rWFD has been transposed in the Regulations; and Annex 2 to the EM is a post-consultation version of the Impact Assessment. Information about supplementary measures in Wales is provided in Annex 1 to this letter.

3. In my letter of 8 February 2011 I provided an explanation of how, following consideration of the responses to the stage two consultation published on 8 July 2010, a range of key issues had been addressed in the Regulations laid before Parliament and the NAW. The issues that I covered were the waste hierarchy (Article 4); separate collection of waste paper, metal, plastic and glass (Article 11(1)); the household waste recycling target (Article 11(2)(a)); and giving effect to a European Court of Justice judgment on the registration of waste carriers. The Regulations laid before Parliament and the NAW were approved without amendment so these provisions will now be implemented on the basis set out in my earlier letter.

4. The rWFD re-enacts, revises or repeals three predecessor Directives: (i) the Waste Framework Directive (2006/12/EC); (ii) the Waste Oils Directive (75/439/EEC as amended); and (iii) the Hazardous Waste Directive (91/698/EEC as amended). The legislation necessary to transpose and comply with these three predecessor Directives is in place. In many cases, therefore, the transposition of the rWFD has no immediate implications for businesses etc. operating under the terms of the waste management controls that are already in place (e.g. environmental permits for waste recovery and disposal operations, registered permit exemptions and registered waste carriers).



5. Although most of the provisions of the transposing Regulations came into force on 29 March 2011, some do not take effect until a later date. For example:-

- **Regulation 12 : Duty in relation to the waste hierarchy** comes into force on 28 September 2011;
- **Regulation 13 : Duties in relation to collection of waste** (i.e. the separate collection of waste paper, metal, plastic and glass) which apply from 1 January 2015;
- **Regulation 14 : Duty in relation to collected waste** (i.e. the prohibition on mixing separately collected waste with other waste) which applies from 1 January 2015;
- **Regulation 27 : Transitional exemptions** for certain waste carriers. The effect of this provision is that lower tier waste carriers will have until 31 December 2013 to register;
- **Regulation 35 : The transfer note** required in compliance with the duty of care. Certain information (e.g. relating to the waste hierarchy) may be omitted from the transfer note up to and including 27 September 2011; and
- **Paragraph 11 of Schedule 2 : Hazardous waste consignment notes.** The multiple collection procedure and the existing consignment note forms may continue to be used up to and including 27 September 2011.

6. The publication of guidance by Defra, the European Commission and the Environment Agency on the rWFD and/or the transposing Regulations is discussed in paragraphs 9.1-9.3 of the EM (see paragraph 2 above). A summary of the guidance which Defra and other Government Departments, after any necessary consultation, propose to make available is provided at Annex 2 to this letter. Pending the issuing of this guidance, reference may be made to the advice on a range of rWFD issues provided in the stage two consultation paper published on 8 July 2010. Information about the implementation of some aspects of the rWFD is also available on the Environment Agency's website at <http://www.environment-agency.gov.uk/business/regulation/128153.aspx> and http://www.environment-agency.gov.uk/static/documents/Business/MWRP_RPS_082_Revised_WFD_Final_10-12-10.pdf e.g. Article 2 exclusions, hazardous waste changes and changes affecting waste carriers, brokers and dealers.

7. Enquiries about the rWFD's transposition and implementation may be made of the following contact points:-

Defra

Ingrid Doves

Tel: 020 7238 4825

Email: wfd@defra.gsi.gov.uk

Welsh Assembly Government

Email: waste@wales.gsi.gov.uk

Environment Agency

National Customer Contact Centre

Tel: 03708 506 506 (Mon-Fri, 8am - 6pm)

Email: enquiries@environment-agency.gov.uk

Yours faithfully,

John A. MacIntyre OBE
Waste Framework Directive Unit
Department for Environment, Food and Rural Affairs

ANNEX 1

Supplementary Measures In Wales

In Wales, the Waste (England and Wales) Regulations 2011 (S.I. 2011 No. 988) are supplemented by the Waste (Miscellaneous Provisions) (Wales) Regulations 2011 (S.I. 2011 No. 971 (W.141)). The latter Regulations, which are available at <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=213822&ds=3/2011>, make a number of consequential amendments to several Welsh Statutory Instruments and revoke one Wales-only instrument (i.e. the Environmental Protection (Duty of Care) (Amendment) (Wales) Regulations 2003). The reason for the additional instrument is that the amendments and revocation, which mirror changes to the equivalent English Statutory Instruments that have been made in the Waste (England and Wales) Regulations 2011, must be made bilingually; and a decision was made to make them in a separate Wales-only instrument. The effect of the transposing legislation is the same in Wales as it is in England.

Proposed Guidance On rWFD And Transposing Regulations

- Overarching guidance on the transposing Regulations – including a revision of the guidance on the former Waste Framework Directive (2006/12/EC) provided in the context of the Environmental Permitting system.
- An easy-to-follow guide for businesses on the transposing Regulations.
- A post-consultation version of the guidance on the definition of waste published for consultation in January 2010.
- Guidance on hazardous waste.
- Guidance on the registration of professional waste carriers, dealers and brokers of waste.
- A revision of the duty of care code of practice provided under section 34 of the Environmental Protection Act 1990.
- A post-consultation version of the waste hierarchy guidance in England published for consultation on 8 July 2010. In the light of responses to that consultation, it is proposed to issue a shortened and revised version of the guidance. It is also proposed that the guidance should be accompanied by an interactive tool to provide case studies and tips for businesses, particularly SMEs; and by a paper summarising in layman's terms the scientific evidence underpinning the guidance and specific waste streams departing from the hierarchy.
- Guidance on the separate collection provisions of the rWFD and the transposing Regulations – including the implementation of the term “technically, environmentally and economically practicable” (scheduled for consultation in 2012).
- Revision of the guidance provided in Planning Policy Statement No.10 to take account of the rWFD's transposition. Published by Communities and Local Government on 30 March 2011 and available at <http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps10>.