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S.I. No. 508 of 2009



WASTE MANAGEMENT (FOOD WASTE) REGULATIONS 2009

(Prn. A9/1816)

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WASTE MANAGEMENT (FOOD WASTE) REGULATIONS 2009

I, JOHN GORMLEY, Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on me by sections 7, 18, 28, 29, 34, 36, 38 and 39 of the Waste Management Acts 1996 to 2008 hereby make the following regulations:

PART I

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the Waste Management (Food Waste) Regulations 2009.

Interpretation

2. (1) In these Regulations, any reference to a Regulation or Schedule that is not otherwise identified is a reference to a Regulation of, or Schedule to, these Regulations.

(2) In these Regulations, any reference to a paragraph or subparagraph that is not otherwise identified is a reference to the paragraph or subparagraph of the provision in which the reference occurs.

(3) In these Regulations, save where the context otherwise requires—

“Act” means the Waste Management Acts 1996 to 2008;

“Act of 1992” means the Environmental Protection Agency Act 1992 (No. 7 of 1992) as amended by Part 2 of the Protection of the Environment Act 2003 (No. 27 of 2003) and Section 107 of the Water Services Act 2007 (No. 30 of 2007);

“Act of 2000” means the Planning and Development Acts 2000 to 2009;

“any Minister of the Government concerned” means any Minister of the Government (other than the Minister) who, having regard to the functions vested in him or her, in the opinion of the Minister might be concerned with or interested in the matter in question;

“Agency” means the Environmental Protection Agency established under section 19 of the Act of 1992;

“animal by-products” have the meaning assigned to them by article 2 of Regulation 1774 and by article 3 of Regulation 1069;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th December, 2009.*

“authorised facility”, for the purposes of these Regulations, shall mean a facility that is authorised for the treatment of waste in accordance with—

- (a) section 39 of the Act or section 82 of the Act of 1992 for the acceptance of food waste; and
- (b) planning requirements, other than where—
 - (i) an exemption from planning permission has been issued for the facility through a declaration by a planning authority under section 5 of the Act of 2000, or
 - (ii) the facility does not constitute an unauthorised structure within the meaning of section 2 of the Act of 2000;
 and, where appropriate,
- (c) Part 4 of the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2008¹ to accept and treat the relevant types of food waste;

“authorised person” means a person who is appointed in writing by—

- (a) a local authority,
- (b) any Minister of the Government concerned,
- (c) the Agency,
- (d) the Commissioner of the Garda Síochána (or a member of the Garda Síochána nominated by that Commissioner for the purposes of appointing authorised persons under the Act),
- (e) the Minister for Agriculture, Fisheries and Food,
- (f) the Sea Fisheries Protection Authority,
- (g) the Health Service Executive,
- (h) the Food Safety Authority of Ireland, or
- (i) such other person as may be prescribed, to be an authorised person for the purposes of some or all of these Regulations;

“authorised treatment process”, for the purposes of these Regulations, shall mean—

- (a) processing, transformation or use as raw material in an authorised facility, other than incineration, which

¹S.I. No. 252 of 2008, as amended by S.I. No. 291 of 2009 and S.I. No. 345 of 2009.

- (i) produces a stabilised output, which fulfils all relevant product, environmental and health protection requirements for the specific use, and
- (ii) will not lead to overall adverse environmental or human health impacts when used principally as—
 - a fertiliser, or
 - a soil improver, or
 - a replacement for fossil fuel in energy production processes, or
 - a petfood, or
 - such other lawful use, other than disposal, as may be approved by the Agency.

- (b) Where the Agency certifies that adequate processing facilities under (a) are not available, treatment in other authorised facilities;

“authorised waste collector” means a local authority or, as the case may be, a person authorised under section 34 of the Act to collect the relevant classes of food waste and organic waste;

“catering waste” means all waste food including used cooking oil originating in restaurants, catering facilities and kitchens, including central kitchens and household kitchens;

“certificate of registration” means a certificate of registration issued under the Facility Permit Regulations or the Waste Management (Permit) Regulations 1998²;

“Collection Permit Regulations” means the Waste Management (Collection Permit) Regulations 2007³ as amended by the Waste Management (Collection Permit) (Amendment) Regulations 2008⁴;

“competent authority” means the authority responsible for the supervision and enforcement of the relevant regulatory requirements within these Regulations and includes, as the case may be, a local authority, the Agency, Department of Agriculture, Fisheries and Food, or, where appropriate, other Government Departments or Agencies;

“competent person”, for the purposes of compiling a food waste management plan or a food waste management implementation report, means a person with knowledge of the responsibilities and requirements for the management of food waste that derive from these Regulations and who is competent, on the basis of appropriate education, training and/or experience, to document the necessary tasks and steps to be undertaken to meet these obligations;

²S.I. No. 165 of 1998.

³S.I. No. 820 of 2007.

⁴S.I. No. 87 of 2008.

“contaminate”, for the purposes of these Regulations, means the direct or indirect introduction of other wastes or substances or preparations to food waste so as to render it unsuitable for authorised treatment, or to diminish the quality of end product and “contaminated” and “contaminant” shall be construed accordingly;

“Directive 1999/31/EC” means Council Directive 1999/31/EC⁵ of 26 April 1999 on the landfill of waste;

“Directive 2006/12/EC” means Directive 2006/12/EC⁶ of the European Parliament and of the Council of 5 April 2006 on waste which codifies Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991;

“discharge licence” means a licence to discharge any trade effluent or other matter within the meaning of section 4 of the Local Government (Water Pollution) Acts 1977 to 2007;

“disposal”, in relation to waste, includes any of the activities specified in the Third Schedule of the Act, and “waste disposal activity”, “disposed” and “dispose” shall be construed accordingly;

“domestic waste water” means waste water of a composition and concentration (biological and chemical) normally discharged by a household, and which originates predominantly from the human metabolism or from day to day domestic type human activities, including washing and sanitation, but does not include fats, oils, grease or food particles discharged from a premises in the course of, or in preparation for, providing a related service or carrying on a related trade;

“drain” means a drainage pipe, or system of such pipes and related fittings for collection of waste water, that is not owned by, vested in or controlled by a water services authority, an authorised provider of water services, or a person providing water services jointly with or on behalf of a water services authority or an authorised provider of water services, and that is not a service connection, which is used, or to be used as the case may be, to convey waste water from one or more premises or to any waste water treatment system on a premises where the waste water is generated;

“Facility Permit Regulations” means the Waste Management (Facility Permit and Registration) Regulations 2007⁷ as amended by the Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008⁸;

“food” includes—

- (a) any substance used, available to be used, or intended to be used, for food by human persons, and

⁵O.J. L 182, 16.07.1999, p. 1.

⁶O.J. L 114, 27.04.2006, p. 9.

⁷S.I. No. 821 of 2007.

⁸S.I. No. 86 of 2008.

- (b) any substance which enters into or is used in the production, composition or preparation of these substances,

and references to food include, as the context may require, reference to a particular food or class of food;

“food waste management plan” means a plan, compiled on behalf of the organiser by a competent person, in respect of the proposed arrangements for the management of food waste at a trade show, exhibition or, as appropriate, any event where food is being supplied, which is—

- (a) required under Regulation 10, and

- (b) to be prepared in accordance with the requirements of Regulation 11;

“food waste management implementation report” means a report, in accordance with the requirements of Schedule 2: Part II, compiled on behalf of a producer by a competent person, certifying in respect of a specified period and in respect of all premises involved in the supply of food operated by the producer in the State, the nature and weight of food waste—

- (a) treated by or on behalf of the producer concerned,

- (b) collected for the purposes of delivery to an authorised treatment process, and

- (c) consigned by the producer for disposal;

“former foodstuffs” means former foodstuffs or products of animal origin or foodstuffs containing products of animal origin, other than catering waste, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects which do not present any risk to humans or animals;

“IPPC Licence” means a licence for the purposes of section 83 of the Environmental Protection Agency Acts 1992 and 2003;

“Local Government (Water Pollution) Acts 1977 to 2007” shall mean the Local Government (Water Pollution) Act 1977 (No. 1 of 1977), the Local Government (Water Pollution) (Amendment) Act 1990 (No. 21 of 1990), as amended by section 66 of the Act and sections 1, 109 and 110 of the Water Services Act 2007 (No. 30 of 2007);

“Minister” means the Minister for the Environment, Heritage and Local Government;

“off-shore island” means an island which is not accessible by road from the mainland;

“organic waste” means any waste that is capable of undergoing decomposition through a biological treatment process;

“petfood”, for the purposes of these Regulations, means food for pet animals containing Category 3 animal by-products within the meaning of Regulation 1774 and Regulation 1069;

“premises”, for the purposes of these Regulations, includes any messuage, building, vessel, structure or land (whether or not there are structures on the land and whether or not the land is covered with water), and any plant or vehicles on such land, or any hereditament of any tenure, together with any out-buildings and curtilage. Schedule 1 sets out the classes of premises covered by these Regulations;

“processing” means treatment to an authorised processing standard within the meaning of Regulation 1774 and Regulation 1069;

“producer” shall mean a person who supplies food, regardless of whether a charge is made, at any of the specified classes of premises listed in Schedule 1 to these Regulations. Where the occupier of the premises listed in Schedule 1 is a different person to the person who supplies food on those premises, both parties shall be deemed to be a producer under these Regulations and both may be jointly and severally liable for any non-compliance with these Regulations;

“Regulation 1069” means Regulation (EC) No. 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002⁹;

“Regulation 1774” shall mean Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption¹⁰, as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003¹¹, by Commission Regulation (EC) No. 811/2003 of 12 May 2003¹², by Commission Regulation (EC) No. 668/2004 of 10 March 2004¹³, by Commission Regulation (EC) No. 878/2004 of 29 April 2004¹⁴, by Commission Regulation (EC) No. 79/2005 of 19 January 2005¹⁵, by Commission Regulation (EC) No. 92/2005 of 19 January 2005¹⁶, by Commission Regulation (EC) No. 93/2005 of 19 January 2005¹⁷, by Commission Regulation (EC) No. 416/2005 of 11 March 2005¹⁸, by Commission Regulation (EC) No. 2067/2005 of 16 December 2005¹⁹, by Commission Regulation (EC) No. 181/2006 of 1 February 2006²⁰, by Commission Regulation (EC) No. 197/2006 of 3 February 2006²¹, by Commission Regulation (EC) No.

⁹O.J.No. L300, 14.11.2009,p.1.

¹⁰O.J. No. L273, 10.10.2002, p.1.

¹¹O.J. No. L117, 13.5.2003, p.1.

¹²O.J. No. L 117, 13.5.2003, p.14.

¹³O.J. No. L112, 19.4.2004, p.1.

¹⁴O.J. No. L 162, 29.4.2004, p.62.

¹⁵O.J. No. L 16, 20.1.2005, p.46.

¹⁶O.J. No. L19, 21.1.2005, p.27.

¹⁷O.J. No. L19, 21.1.2005, p.34.

¹⁸O.J. No. L66, 12.3.2005, p.10.

¹⁹O.J. No. L 331, 17.12.2005, p.12.

²⁰O.J. No. L29, 2.2.2006, p.31.

²¹O.J. No. L 32, 4.2.2006, p. 13

208/2006 of 7 February 2006²², by Commission Regulation (EC) No. 209/2006 of 7 February 2006²³, by Commission Regulation (EC) No. 1192/2006 of 4 August 2006²⁴, by Commission Regulation (EC) No. 1678/2006 of 14 November 2006²⁵, by Commission Regulation (EC) No. 2007/2006 of 22 December 2006²⁶, by Commission Regulation (EC) No. 185/2007 of 20 February 2007²⁷, by Commission Regulation (EC) No. 829/2007 of 28 June 2007²⁸, by Commission Regulation (EC) No. 832/2007²⁹, by Commission Regulation (EC) No. 1256/2007 of 25 October 2007³⁰, by Commission Regulation (EC) No. 1432/2007³¹, by Commission Regulation (EC) No. 1576/2007 of 21 December 2007³², by Commission Regulation (EC) No. 399/2008 of 5 May 2008³³, by Commission Regulation (EC) No. 437 of 2008³⁴, by Commission Regulation (EC) No. 523 of 2008³⁵, by Commission Regulation (EC) No. 777/2008 of 4 August 2008³⁶ and by Commission Regulation (EC) No 129/2009 of 13 February 2009³⁷;

“residual waste”, for the purposes of these Regulations, means the fraction of municipal waste presented for collection remaining after the source separation of municipal waste fractions (e.g. food and garden waste, packaging, paper, metals, and glass) and shall also include materials extracted from source-segregated municipal waste which are unsuitable for recycling or treatment;

“segregated food waste” means food waste that has been kept separate from other waste in accordance with Regulation 7;

“separate collection” means the collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment;

“service connection” means a water supply pipe or drainage pipe, together with any accessories and related fittings, extending from a waterworks or waste water works to the outer edge of the boundary to the curtilage of a premises, and used, or to be used as the case may be, for the purpose of connecting one or more premises with a waterworks or waste water works, and, where used or to be used for connecting more than one such premises it shall extend to the outer edge of the boundary to the curtilage of the premises which is furthest from the said waterworks or waste water works;

“sewage” includes domestic sewage and a combination of domestic sewage and storm water;

²²O.J. No. L36, 8.2.2006, p.25.

²³O.J. No. L36, 8.2.2006, p. 32.

²⁴O.J. No. L215, 5.8.2006, p. 10.

²⁵O.J. No. L314, 15.11.2006, p.4.

²⁶O.J. No. L379, 28.12.2006, p.98.

²⁷O.J. No. L63, 1.3.2007, p. 4.

²⁸O.J. No. L191, 21.7.2007, p.1.

²⁹O.J. No. L185, 17.07.2007, p. 7.

³⁰O.J. No. L282, 26.10.2007, p. 30.

³¹O.J. No. L320, 6.12.2007, p.13.

³²O.J. No. L340, 22.12.2007, p. 89.

³³O.J. No. L118, 6.5.2008, p.12.

³⁴O.J. No. L132, 22.5.2007, p.7.

³⁵O.J. No. L153, 12.6.2008, p.23.

³⁶O.J. No. L207, 5.8.2008, p. 9.

³⁷O.J. No. L44, 14.02.2009, p. 3.

“sewage effluent” means effluent from any works, apparatus, plant or drainage pipe used for the disposal to waters of sewage, whether treated or untreated;

“sewer” means drainage pipes and sewers of every description, including storm water sewers, owned by, vested in or controlled by a water services authority, an authorised provider of water services or a person providing water services jointly with or on behalf of a water services authority or an authorised provider of water services, but does not include a drain or service connection;

“source segregation” means the segregation of specified waste at source by the waste producer, in such a way to make it suitable for separate collection by avoiding such specified waste from being mixed, combined or contaminated with other potentially polluting wastes, products, materials or packaging;

“storm water” means run-off rainwater that enters any pipe;

“supply” in relation to food means providing food in the course of business, or in exchange for any consideration including money, or giving as a prize, or otherwise making a gift, and “supplied” shall be construed accordingly;

“trade effluent” means effluent from any works, apparatus, plant or drainage pipe used for the disposal to a waste water works of any liquid (whether treated or untreated), either with or without particles of matter in suspension therein, which is discharged from premises used for carrying on any commercial activity, trade or industry (including mining), but does not include domestic waste water or storm water;

“transformation” means the subjection of a Category 3 animal by-product to a procedure involving composting or anaerobic digestion without necessarily being processed to the prevailing EU, National Standards or an authorised alternative processing standard within the meaning of Regulation 1774 and Regulation 1069;

“waste collection permit” means a waste collection permit issued under the Collection Permit Regulations or the Waste Management (Collection Permit) Regulations 2001³⁸;

“waste facility permit” means a waste facility permit issued under the Facility Permit Regulations or the Waste Management (Permit) Regulations 1998³⁹;

“Waste Management Acts 1996 to 2008” means the Waste Management Act 1996 (No. 10 of 1996) as amended by the European Communities (Amendment of Waste Management Act, 1996) Regulations, 1998 (S.I. No. 166 of 1998), the Planning and Development Act 2000 (No. 30 of 2000), the Waste Management (Amendment) Act 2001 (No. 36 of 2001), Part 3 of the Protection of the Environment Act 2003 (No. 27 of 2003), Part 2 of the Waste Management (Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 290 of 2005), the Waste Management (Environment Levy) (Plastic Bag) Order 2007 (S.I. No. 62 of

³⁸S.I. No. 402 of 2001, as amended by the Waste Management (Collection Permit) (Amendment) Regulations 2001 (S.I. No. 540 of 2001).

³⁹S.I. No. 165 of 1998.

2007), the Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. No. 821 of 2007), the Waste Management (Registration of Brokers and Dealers) Regulations 2008 (S.I. No. 113 of 2008), Waste Management (Landfill Levy) Order 2008 (S.I. No. 168 of 2008) and the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008 (S. I. No. 524 of 2008);

“waste management plan” has the meaning assigned to it by section 22 of the Act;

“waste presentation bye-laws” means bye-laws within the meaning of section 35 of the Act in relation to the presentation of waste for collection by an authorised waste collector and made by a local authority in accordance with Part 19 of the Local Government Act 2001;

“waste water” means sewage, storm water or other effluent discharged, or to be discharged, to a drain, service connection or sewer;

“written” or “in writing” means any expression consisting of words or figures which can be read, reproduced and subsequently communicated and which may include information which is transmitted and stored by electronic means.

Scope of Regulations

3. (1) Subject to paragraphs (2) and (3), these Regulations shall apply to food waste arising at, or collected from, the premises of the producers listed in the specified classes of Schedule 1 to these Regulations.

(2) These Regulations shall not apply:

- (a) prior to 1 July 2011 and notwithstanding paragraph (5), to premises where the amounts of food waste produced are less than 50 kg per week, other than where a local authority otherwise—
 - (i) provides for relevant policy objectives under a waste management plan, or
 - (ii) applies conditions under a waste collection permit, or
 - (iii) applies conditions under a waste presentation bye-law, or
- (b) to Category 1 animal by-products within the meaning of Regulation 1774 and Regulation 1069, which shall be
 - (i) collected and treated in accordance with the requirements of that Regulation, and
 - (ii) in the case of food waste that has arisen from a means of transport operating internationally, it may also be disposed of as waste by burial in a landfill approved under Directive 1999/31/EC in accordance with the requirements of Regulation 1774 and Regulation 1069, or

- (c) to Category 2 animal by-products within the meaning of Regulation 1774 and Regulation 1069, which shall be collected and treated in accordance with the requirements of that Regulation; or
- (d) to food waste arising at a premises of a type mentioned in Class 7 of Schedule 1 which is—
 - (i) contaminated so as to pose a risk to human or animal health through an infectious disease, or
 - (ii) otherwise prohibited or withdrawn for use as a food or feed,
 and which shall be collected and treated in accordance with the requirements of Regulation 1774 and Regulation 1069.

(3) The exception available under paragraph 2(a) shall only apply where a written declaration is made to the relevant competent authority in accordance with paragraph (4) prior to 1 July 2010.

(4) For the purposes of paragraph (3), a written declaration claiming an exception for a premises from the Regulations on the basis of food waste generation levels of less than 50 kg per week shall be made by—

- (a) a person who supplies food at the premises, or
- (b) the occupier of the premises, or
- (c) a person acting on behalf of the supplier of food or occupier.

(5) Without prejudice to the power of any local authority to provide for relevant policy objectives under a waste management plan or to apply conditions under a waste collection permit or under a waste presentation bye-law, these Regulations shall not apply to off-shore islands.

Entry into force

4. (1) These Regulations shall come into operation on 1 January 2010.

(2) The provisions of Regulations 7, 8, 9, 10, 11, 12 and 13 shall have effect from 1 July 2010.

Transitional arrangements

5. (1) Regulations 15(a) to 15(c) and 16(a) to 16(b) shall not apply to an application for, as the case may be, a waste collection permit, waste facility permit or a certificate of registration that is received by a local authority before 1 January 2010.

(2) For the purposes of this Regulation, “an application” shall include an application for a review of a waste collection permit, waste facility permit or certificate of registration.

PART II

SEGREGATION AND PROCESSING OF FOOD WASTE

Food safety and hygiene

6. Nothing in these Regulations shall conflict with the requirements of any enactment in respect of food safety and hygiene standards.

Food waste arising on a producer's premises

7. (1) Subject to paragraphs (3) and (4) and without prejudice to the power of any local authority to provide for additional policy objectives under a relevant waste management plan or to apply more onerous conditions under a waste collection permit or under a waste presentation bye-law, a producer shall ensure, as a minimum, that—

- (a) food waste arising on the producer's premises is source segregated and kept separate from non-biodegradable materials, other waste and contaminants, and
 - (b) source segregated food waste arising on the producer's premises is—
 - (i) collected by an authorised waste collector and transferred for an authorised treatment process, or
 - (ii) subjected to an authorised treatment process on the premises where the food waste was produced, or
 - (iii) transferred directly by the producer for the purposes of an authorised treatment process, subject to the producer being able to produce satisfactory documentary evidence, in the reasonable opinion of the local authority, of the treatment of the food waste at an authorised facility.
- (2) Section 34(1)(a) of the Act shall not apply in respect of—
- (a) a producer entered in the animal by-products transport register under Part 4 of the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2008⁴⁰, or
 - (b) a producer transferring source segregated food waste arising on his premises for the purposes of an authorised treatment process in accordance with paragraph (1)(b) (iii), provided that the vehicle used for the transfer is—
 - (i) transporting the waste in compliance with the general requirements of article 4 of Directive 2006/12/EC⁶, and
 - (ii) facilitating the transfer of the waste for the purposes of an authorised treatment process, and

⁶O J L 114, 27.04.2006, p 9.

⁴⁰S.I. No. 252 of 2008, as amended by S.I. No. 291 of 2009 and S.I. No. 345 of 2009.

- (iii) registered in accordance with the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992), and, as appropriate,
- (iv) licensed under section 1 of the Finance (Excise Duties) (Vehicles) Act 1952 or section 21 of the Finance (No. 2) Act 1992.

(3) For the purposes of subparagraph (1)(b), “source segregated food waste” shall mean food waste which is kept separate in accordance with the definition of “source segregation” in Regulation 2 and subparagraph (1)(a).

(4) Notwithstanding paragraph (1) and subject to any terms and conditions set down in, or arising from, Regulation 1774 or Regulation 1069 or from any approval issued for a facility under Regulation 1774 or Regulation 1069, a producer is not required to segregate catering waste from former foodstuffs within the meaning of Regulation 1774 or Regulation 1069 when these materials are to be subjected to an authorised treatment process at the same authorised facility.

(5) Producers shall take all reasonable steps to minimise the creation of odours and nuisance in discharging the obligations arising from this Regulation.

Handling and prohibition on contamination of food waste before and after collection

8. (1) Without prejudice to Regulations 7(4) and 9, food waste segregated or collected for the purposes of treatment in accordance with Regulation 7 shall not be—

- (a) mixed with other waste or other material with different properties, or
- (b) disposed of by a producer, authorised waste collector or any other person prior to delivery at an authorised facility for the purposes of an authorised treatment process.

(2) Following reception at an authorised facility for the purposes of an authorised treatment process and without prejudice to amendments made for the purposes of—

- (a) blending of food wastes with other suitable organic waste materials, or
- (b) improving the substance and structure of food waste

in order to facilitate the efficient and effective treatment of the food waste at that facility, a person shall not contaminate food waste.

(3) Paragraphs (1) and (2) shall not prejudice the disposal of waste which, in the reasonable opinion of the competent authority, is considered unsuitable for beneficial use arising out of any treatment operation authorised under the Act, the Act of 1992 or under Regulation 1774 or Regulation 1069.

Requirement to use a segregated collection service for food waste

9. (1) Where a source segregated waste collection service is available to producers of food waste and without prejudice to the conditions of a discharge licence or a waste collection permit, a person shall not—

- (a) deposit food waste in the residual waste collection, nor
- (b) use purpose built mechanical devices to shred or hydrate or otherwise alter the structure of food waste for the purposes of facilitating its discharge in waste water to a service connection, drain or sewer.

(2) Paragraph (1) shall not prejudice the disposal of food or other waste which, in the reasonable opinion of the competent authority, is considered unsuitable, as the case may be, for source segregation and processing or subsequent beneficial use arising out of any operation carried out by an authorised treatment facility.

(3) Notwithstanding any contractual arrangement to the contrary effect an authorised waste collector shall not-

- (a) be obliged to collect or arrange for the collection of food waste from a producer where it considers that the said producer is not in compliance with the requirements of these Regulations,
- (b) accept food waste for disposal from a producer without first receiving a written declaration, signed by the person in charge of the premises from which the waste is to be collected, stating that the producer will source segregate and present food waste for collection in compliance with Regulation 7.

(4) An authorised waste collector shall, on an annual basis, and by 31 December in each calendar year, inform the relevant local authority of persons who are refusing to avail of the source segregated waste collection service.

(5) Recovery operators, brokers and dealers shall furnish such information in relation to food waste collected, transferred, treated, recovered or disposed of within a specified period, in such form and at such frequency as may be specified by the Agency.

Trade Shows, Exhibitions and Events

10. Any person organising a trade show, exhibition or, as appropriate, any event where food is being supplied (other than an activity excluded from within the scope of Class 1 of Schedule 1 to these Regulations) shall—

- (1) be responsible for compliance with these Regulations,
- (2) ensure that any producer supplying food at the trade show, exhibition or, as appropriate, event concerned is compliant with the provisions of Regulations 7, 8 and 9,

(3) prepare a food waste management plan, in accordance with the provisions of Regulation 11, for submission to the relevant local authority in relation to the trade show, exhibition or, as appropriate, event concerned at which food is being supplied, and

(4) within 28 days of the conclusion of the trade show, exhibition or, as appropriate, event concerned, have prepared and submitted to the local authority a food waste management implementation report specifying the steps taken by the said person in order to comply with the food waste management plan and the requirements of these Regulations, and the results of those steps.

Food Waste Management Plans

11. (1) A person organising a trade show, exhibition or, as appropriate, event concerned shall—

(a) on the date of commencement of the trade show, exhibition or, as appropriate, event concerned, have—

(i) prepared,

(ii) submitted to the relevant local authority at least 30 days prior to the commencement of the trade show, exhibition or, as appropriate, event concerned

a food waste management plan specifying the steps to be taken by that person in order to comply with the requirements of Regulation 10(3).

(2) A food waste management plan shall—

(a) provide detailed information in respect of the proposed supply of food at the trade show, exhibition or, as appropriate, event concerned regarding the use, type, quantity, origin, management arrangements and destination of food waste by that producer, and

(b) include the steps which the person intends to take to ensure the environmentally sound management of food waste, and

(c) contain at least the information set out in Part 1 of Schedule 2.

(3) A copy of a food waste management plan prepared for the purpose of this Regulation shall be made available for inspection for the duration of the trade show, exhibition or, as appropriate, event concerned, free of charge, by the person concerned to any person who so requests.

(4) The organiser of the trade show, exhibition or, as appropriate, event concerned shall implement the provisions of the food waste management plan.

(5) The relevant local authority shall determine the adequacy, in its reasonable opinion, of a food waste management plan.

(6) In determining the adequacy of a food waste management plan, a local authority shall ensure compliance with—

- (a) the requirements of these Regulations, and
- (b) the policy objectives of the National Strategy on Biodegradable Waste⁴¹, and
- (c) the objectives and targets of the relevant waste management plan, and
- (d) the requirements of Directive 1999/31/EC⁵.

(7) Where a local authority considers, in its reasonable opinion, that the food waste management plan submitted by a person under paragraph (1) is not satisfactory in terms of its scope, detail or in respect of the steps which the person intends to take to ensure the environmentally sound management of food waste, it shall notify the person that a revised waste management plan must be submitted by that person for approval by the local authority at least 10 days prior to the commencement of the trade show, exhibition or, as appropriate, event concerned.

(8) Where a number of trade shows, exhibitions or, as appropriate, events are being held at the same venue over the course of a calendar year, a single food waste management plan may be prepared on behalf of the venue in accordance with the requirements of paragraph (2) to cover all such occasions, provided that submission to the relevant local authority takes place

- (a) by 31 May 2010 in respect of events scheduled after 1 July 2010 in respect of the calendar year 2010, and
- (b) by 30 November of the previous calendar year in respect of each calendar year for events scheduled after 1 January 2011.

Power of a local authority to require submission of information

12. (1) Where a producer does not produce satisfactory evidence, in the reasonable opinion of the competent authority, of appropriate management of waste in accordance with Regulation 7, a local authority may, subject to paragraph (8) and by notice in writing, require a producer to furnish—

- (a) a food waste management implementation report in respect of a specified period,
- (b) such other information as may be specified in the notice regarding the use, type, quantity, origin, management arrangements and destination of food waste by that producer, the steps taken in order to comply with any requirement of these Regulations, and the results of those steps, or

⁵O J L 182, 16.07.1999, p 1.

⁴¹National Strategy on Biodegradable Waste, published by the Department of the Environment, Heritage and Local Government (April 2006).

(c) evidence of the origin, use, type, quantities, management arrangements and destination of food waste generated by the producer concerned.

(2) A notice under paragraph (1) may specify the manner in which any matter is to be set out or addressed in a food waste management implementation report, or the nature of the evidence to be furnished, as the case may be.

(3) A producer on whom a notice under this Regulation has been served shall, within the period specified in the notice, comply with the terms thereof.

(4) A food waste management implementation report in accordance with the provisions of paragraphs (1) and (2) or, as the case may be, Regulation 10(4) shall contain at least the information set out in Part 2 of Schedule 2.

(5) The relevant local authority shall determine the adequacy, in its reasonable opinion, of a food waste management implementation report.

(6) In determining the adequacy of a waste management implementation report, a local authority shall ensure compliance with these Regulations and have regard to—

(a) the policy objectives of the National Strategy on Biodegradable Waste⁴², and

(b) the objectives and targets of the relevant waste management plan, and

(c) the requirements of Directive 1999/31/EC⁵.

(7) Subject to, in the reasonable opinion of the local authority, the submission of a satisfactory food waste management implementation report by a producer, a local authority may not require a producer to furnish in accordance with paragraph (1) a food waste management implementation report more frequently than once in any calendar year.

(8) A local authority may, by notice in writing, require a producer to furnish by 28 February of the specified year, an annual environmental report in respect of performance in the management of food waste for the previous calendar year.

(9) An annual environmental report prepared by a producer in response to a notification by a local authority under paragraph (8) shall include details of the—

(a) quantities of food discarded as waste

(b) quantities of food waste consigned to treatment,

(c) quantities of food waste managed by methods other than treatment,

⁵O J L 182, 16.07.1999, p 1.

⁴²National Strategy on Biodegradable Waste, published by the Department of the Environment, Heritage and Local Government (April 2006).

(d) measures proposed to reduce food waste, and

(e) measures adopted to reduce food waste.

(10) Where a local authority considers, in its reasonable opinion, that—

(a) the food waste management implementation report submitted by a person under paragraphs (1) and (2) or, as the case may be, Regulation 10(4), or

(b) an annual environmental report submitted by a producer under paragraphs (8) and (9)

is not satisfactory in terms of its scope, detail or in respect of the steps which the person intends to take to ensure the environmentally sound management of food waste, it shall notify the person that a revised food waste management implementation report or, as the case may be, an annual environmental report must be submitted by that person within 14 days of receipt of such a notice.

(11) Producers shall maintain and make available for the purposes of inspection by the local authority all supporting information used in the preparation of—

(a) a food waste management implementation report sought under paragraph (1), and

(b) an annual environmental report sought under paragraph (8).

Offences

13. (1) A producer who fails to comply with the relevant provisions of Regulations 6, 7, 8, 9, 10, 11 or 12 shall be guilty of an offence.

(2) A person who fails to comply with the relevant provisions of Regulations 6, 7, 8, 9, 10, 11 or 12 shall be guilty of an offence.

(3) (a) An authorised waste collector, or, as the case may be

(b) a person entered in the animal by-products transport register under Part 4 of the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2008⁴³

who fails to comply with the relevant provisions of Regulations 7, 8 or 9 shall be guilty of an offence.

(4) A person shall not compile information, which he or she knows to be false or misleading in a material respect, or furnish any such information in support of an application or in response to any notice or other document used for the purposes of these Regulations and any person who does so shall be guilty of an offence.

⁴³S.I. No. 252 of 2008, as amended by S.I. No. 291 of 2009 and S.I. No. 345 of 2009.

(5) A person who fails to comply with a notice or to provide information which a competent authority requires under these Regulations shall be guilty of an offence.

Liability of persons other than the principal offender

14. Where the commission of an offence in relation to the non-compliance by a person of these Regulations is due to an act or default committed by some other person, the other person may be the subject of proceedings and be convicted of an offence without prejudice to any proceedings which may be taken against the first-named person.

PART III

MISCELLANEOUS AMENDMENTS

Amendment to the Collection Permit Regulations

15. The Collection Permit Regulations are amended by—

(a) deleting “and” at the end of paragraph (k) of sub-article 7(1);

(b) substituting for paragraph (l) of sub-article 7(1), the following paragraph—

“(l) information in relation to the terms of any requirement imposed on the applicant by order of a court under the Act, and”;

(c) inserting after paragraph (l) of sub-article 7(1), the following paragraph—

“(m) information, where relevant to the type of waste intended to be collected, on how the applicant will collect food waste in compliance with the Waste Management (Food Waste) Regulations 2009.”;

(d) deleting “and” at the end of paragraph (a) of sub-article 20(1);

(e) substituting for paragraph (b) of sub-article 20(1), the following paragraph—

“(b) stated to be necessary by a relevant local authority or the Agency in accordance with articles 11(4), 13(5) or 27(1), and”;

(f) inserting after paragraph (b) of sub-article 20(1), the following paragraph—

“(c) in the reasonable opinion of the nominated authority, necessary to give effect to the segregation, separation, storage and collection of food waste in accordance with the Waste Management (Food Waste) Regulations 2009.”;

(g) inserting after sub-article (n) of article 21, the following sub-article—

“(o) the contravention of Regulations 6, 7, 8, 9, 10, 11 or 12 of the Waste Management (Food Waste) Regulations 2009.”;

(h) substituting for paragraph (c) of sub-article 29(1), the following paragraph—

“(c) the activity is, or may be, in contravention of the Waste Management (Facility Permit and Registration) Regulations 2007, Waste Management (Movement of Hazardous Waste) Regulations 1998, Waste Management (Shipments of Waste) Regulations 2007, or Waste Management (Food Waste) Regulations 2009”.

Amendment to the Facility Permit Regulations

16. The Facility Permit Regulations are amended by—

(a) substituting for paragraph (hh) of sub-article 10(1), the following paragraph—

“(hh) description of the proposed measures to be taken for the control of pests and nuisances at the facility, and”;

(b) inserting after paragraph (hh) of sub-article 10(1), the following paragraph—

“(ii) in the case of a waste facility permit application or a certificate of registration, as the case may be, which involves the treatment of food waste, details of how the applicant intends to manage food waste collected in accordance with the Waste Management (Food Waste) Regulations 2009.”;

(c) substituting for subparagraph (iii) of paragraph 19(1)(b), the following subparagraphs—

“(iii) to prevent the disposal of waste which has previously been collected in source-segregated form in order to facilitate recycling or to prevent the collection, transport, handling or mixing of waste in a manner so as to make it unsuitable for recycling or treatment, or

(iv) to effect the recovery of food waste collected in accordance with the Waste Management (Food Waste) Regulations 2009.”;

(d) substituting for sub-articles (n) and (o) of article 22, the following sub-articles—

- “(n) an offence under article 47 of the Waste Management (Batteries and Accumulators) Regulations 2008⁶⁹,
- (o) the contravention of Regulations 6, 7, 8, 9, 10, 11 or 12 of the Waste Management (Food Waste) Regulations 2009 or, as appropriate,
- (p) an offence under Article 43 of these Regulations.”;
- (e) substituting for paragraph (c) of sub-article 36(1), the following paragraph—
- “(c) activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007, the Waste Management (Movement of Hazardous Waste) Regulations 1998, the Waste Management (Shipments of Waste) Regulations 2007, or the Waste Management (Food Waste) Regulations 2009, or the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2008, or”;
- (f) substituting for paragraph (c) of sub-article 38(7), the following paragraph—
- “(c) the activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007, the Waste Management (Movement of Hazardous Waste) Regulations 1998, the Waste Management (Shipments of Waste) Regulations 2007, or the Waste Management (Food Waste) Regulations 2009, or the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2008, or”.

⁶⁹S.I. No. 268 of 2008, as amended by the Waste Management (Batteries and Accumulators) (Amendment) Regulations 2008 (S.I. No. 556 of 2008).

SCHEDULE 1

CLASSES OF PREMISES WHERE PRODUCERS OF FOOD WASTE
ARE SUBJECT TO REGULATIONS 6 TO 14

Class 1	Premises used for the supply of hot food for consumption both on and off the premises, including premises where the supply of such food is subsidiary to any other commercial or retail activity, (including events prescribed under section 230 of the Act of 2000 but excluding other premises located at any fair, funfair, bazaar, circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character where the use for such purposes does not exceed, as the case may be, a period of 10 days continuously or an aggregate of 20 days in any one year). Mobile food outlets, such as vans and caravans, located outside the curtilage of premises so obligated shall be exempted from the requirements of these Regulations.
Class 2	A public house where food is supplied, which has been prepared in a kitchen or catering facility engaged in the preparation of food for the purposes of supply.
Class 3	Premises where food is supplied to employees or prepared on the premises for the purposes of supply to employees, including premises which are used for carrying on any industrial, commercial or trade activities as well as office buildings and mixed-use premises.
Class 4	A guest house, hostel or hotel providing overnight guest accommodation, excluding premises comprising not more than four bedrooms which are used for the purposes of overnight guest accommodation.
Class 5	A shop or supermarket involved in the sale of food to the public, including premises for the sale of sandwiches or hot food where the sale of such food is subsidiary to the main retail use.
Class 6	A restaurant, café, bistro, wine bar or other similar premises where food is prepared on the premises.
Class 7	A hospital, nursing home or other premises for the long term residential accommodation of people in need of care where food is prepared on the premises.
Class 8	An institution providing adult, continuing or further education, a school, college or training centre, or a university or any other third-level or higher-level institution, whether or not supported by public funds, where food is prepared on the premises.
Class 9	<p>State buildings where food is prepared on the premises, including:—</p> <ul style="list-style-type: none"> (a) Garda stations and other buildings; (b) Prisons and other places of detention; (c) Barracks, other buildings and other installations (including airfields and naval yards) used for the purposes of, or in connection with, the operation of the Defence Forces; (d) Office buildings or other premises used for the purposes of, or in connection with, the business of Uachtarán na h-Éireann, Dáil Éireann, Seanad Éireann, the Department of the Taoiseach, the Office of the Tánaiste, the Department of Defence and other Government Departments; (e) Office premises and other buildings used by local authorities.
Class 10	<p>Canteen services where food is supplied to employees or prepared on the premises for the purposes of supply to employees, which—</p> <ul style="list-style-type: none"> (a) is situated on the site of construction, development or refurbishment works, and (b) where the duration of such works exceeds a period of 9 months.

Class 11	Stations, Airports, Ports, Harbours and Marinas where trains, planes, and boats which engage in the supply of food to the public (other than food waste originating from means of transport operating internationally) unload food waste from the transportation medium.
<i>Interpretation of Classes:</i>	<p>For the purposes of Class 3, “Industrial activity” shall mean any process which is carried on in the course of trade or business, other than agriculture, and which is—</p> <p>(a) for or incidental to the making of any article or part of an article, or</p> <p>(b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,</p> <p>and for the purposes of this Class, “article” includes—</p> <p>(i) a vehicle, aircraft, ship or vessel, or</p> <p>(ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database.</p> <p>For the purposes of Classes 3, 6, 7, 8, 9 and 10 to this Schedule, food is prepared on the premises when it is subject to heating or to other preparation processes undertaken on that premises.</p> <p>Class 8 to this Schedule excludes food preparation activities by students and other persons in residential accommodation where such preparation activities do not form part of any training or curriculum-based activity.</p>
<i>General Notes:</i>	<ol style="list-style-type: none"> 1. In accordance with Regulation 3, these Regulations shall not apply to food waste that has arisen from a means of transport operating internationally. 2. Where a premises fulfils the criteria for inclusion within any class of Schedule 1, it shall be regarded as a “Schedule 1 Activity” for the purposes of the definition of a producer.

SCHEDULE 2

INFORMATION TO BE PROVIDED IN FOOD WASTE MANAGEMENT
PLANS AND FOOD WASTE MANGEMENT IMPLEMENTATION
REPORTS IN ACCORDANCE WITH REGULATIONS 11 AND 12.

PART 1

INFORMATION TO BE PROVIDED IN A FOOD WASTE
MANGEMENT PLAN IN ACCORDANCE WITH THE PROVISIONS OF
REGULATION 11(2).

1. Name, address(es), telephone, electronic mail address and fax number of the registered office of the person where that person is a company registered under the Companies Acts, or, the principal place of business of the person where that person is any other body corporate or unincorporated body.

Registered Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

Trading Name:

Address for Correspondence:

Name of the contact person in the company responsible for compliance with the Regulations:

Contact Person's Telephone No.:

Contact Person's Fax No.:

Contact Person's E-mail:

2. Name(s) and address(es) of owner(s).

3. The location of premises where the trade show, exhibition or, as appropriate, event is situated at which food is being distributed.

4. The projected quantities of food waste that will be generated at the trade show, exhibition or, as appropriate, event.

5. The names, addresses and waste collection permit numbers of proposed authorised waste collectors to be used for the collection of food waste generated at the trade show, exhibition or, as appropriate, event.

6. The names, addresses, waste facility permit/waste license number and animal by-product approval number of proposed recovery operators to be used for the treatment of food waste generated at the trade show, exhibition or, as appropriate, event.

PART 2

INFORMATION TO BE PROVIDED IN A FOOD WASTE
MANAGEMENT IMPLEMENTATION REPORT IN ACCORDANCE
WITH THE PROVISIONS OF REGULATION 12(4).

1. Name, address(es), telephone, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

Registered Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

Trading Name:

Address for Correspondence:

Name of the contact person in the company responsible for compliance with the Regulations:

Contact Person's Telephone No.:

Contact Person's Fax No.:

Contact Person's E-mail:

2. Name(s) and address(es) of owner(s).

3. The location of premises where the trade show, exhibition or, as appropriate, event was situated at which food was distributed.

4. The quantities of food waste that was generated at the trade show, exhibition or, as appropriate, event.

5. The names, addresses and waste collection permit numbers of authorised waste collectors used for the collection of food waste generated at the trade show, exhibition or, as appropriate, event.

6. The names, addresses, waste facility permit/waste license number and animal by-product approval number of recovery operators used for the treatment of food waste generated at the trade show, exhibition or, as appropriate, event



GIVEN under my Official Seal,
10 December 2009.

JOHN GORMLEY,
Minister for the Environment, Heritage and
Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations are designed to promote the segregation and recovery of food waste arising in the commercial sector. They 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 to composting and to other forms of authorised treatment. They will also increase the amount of food waste that is recovered.

The Regulations impose obligations on the major sources of food waste, such as State buildings where food is prepared, restaurants and cafés, hot food outlets, canteens, hotels and larger guest houses, supermarkets and other food retailers, to segregate these materials and make them available for separate collection. Alternatively, these materials can be treated on the premises where they arise under specified conditions.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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