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| To  Scottish Waste Industry Stakeholders |  |

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9 October 2020

Dear stakeholder

**TRANSPOSITION OF EU CIRCULAR ECONOMY PACKAGE/ BAN ON LANDFILLING OF BIODEGRADABLE MUNICIPAL WASTE**

I am writing to you to make you aware of a set of regulations – The Waste (Miscellaneous Amendments) (Scotland) Regulations 2020 - that have been laid before the Scottish Parliament today.

The Regulations transpose into Scottish waste legislation the European Commission’s Circular Economy Package (CEP). The planned changes are mainly technical, including alignment of definitions, terms and powers.

We are also taking the opportunity to amend the statutory implementation date on which landfill operators must refuse to accept biodegradable municipal waste, as announced by the Cabinet Secretary for Environment, Climate Change and Land Reform on 19 September 2019.

# **Background**

# On 2 December 2015, the EU Commission published a package of proposals on the Circular Economy including measures which amend six existing European Directives relating to waste.

# Member States are obligated to transpose the package into national law this year and this is being done in respect of Scotland, through two pieces of secondary legislation.

On 27 August 2020, the Waste (Circular Economy) (Amendment) Regulations 2020 were laid before the UK Parliament. These Regulations amend the relevant UK-wide legislation affected by the CEP, in particular, the four producer responsibility regimes. (<https://www.legislation.gov.uk/uksi/2020/904/contents/made>).

A joint policy statement setting out the approach was also published (<https://www.gov.uk/government/publications/circular-economy-package-policy-statement/circular-economy-package-policy-statement>).

In addition to the UK Regulations, the Scottish Government is making amendments to Scotland-only legislation, as well as taking non-legislative measures, to transpose the CEP fully in Scotland. Subject to Parliamentary approval, The Waste (Miscellaneous Amendments) (Scotland) Regulations 2020 will transpose elements of the Waste Framework Directive into Scottish legislation.

The Regulations will also amend the Landfill (Scotland) Regulations 2003 in line with the Scottish Government’s announcement in September 2019 that full enforcement of the ban on biodegradable municipal waste being sent to landfill would be delayed until 2025 for both public and private sectors managing wastes covered by the ban.

The Regulations change the commencement date contained within the Landfill Regulations to 31 December 2025. This timescale remains in line with previous advice provided by the Committee on Climate Change on action needed to meet net zero emissions targets.

Scottish Ministers continue to expect local authorities and the commercial sector to makecontinued progress at pace and to make every effort to comply with the ban before 31 December 2025.

**Potential Impact**

As already stated, the planned changes to transpose the CEP are mainly technical, including the alignment of definitions, terms and powers. For example, there are minor changes around the separate collection of waste oil, the mixing of hazardous waste and the co-mingling of dry recyclables.

Examples of intended changes include:

* Updates to Directive references across a number of Scottish waste regulations to ensure they continue to have full effect.
* Updates to a number of key definitions, such as the definition of Municipal Waste.
* A new requirement to take into account good practices when separately collecting waste oils alongside the existing requirement to collect waste oils separately.
* Economic feasibility is no longer a factor when deciding if illegally mixed hazardous waste must be separated.
* Dry recyclable waste may only be co-mingled where material quantity and quality is ‘comparable’ to that which would be achieved via separate collection. Previously, quantity and quality must have been ‘not significantly less’ than separate collection and we have made this change to better align with the Directive.
* The National Waste Management Plan for Scotland is to include a statement of Scottish Ministers’ policies in relation to a set of waste prevention measures, such as sustainable production and consumption and reducing waste, and targets for recycling certain materials. These will be included at the next update of the Plan.

We do not consider the proposed changes will have significant impact on the Scottish waste industry, however if you have any concerns that the CEP requirements will adversely affect your business or simply want clarification on any of the changes, then both Scottish Government and SEPA officials will be happy to discuss and provide clarification on any potential issues you may have.

Local Authorities will wish to note that the requirements to separately collect garden waste (by 2023), textiles and hazardous elements of household waste (by 2025) are not included in these regulations. We consider that these measures will require full consultation and assessment procedures to be undertaken and these will be conducted at a later date to allow full engagement and discussion with stakeholders to take place.

If you wish to discuss any element of the changes then please contact:

[Nationalwaste@sepa.org.uk](mailto:Nationalwaste@sepa.org.uk) or

[eqce.cezw@gov.scot](mailto:eqce.cezw@gov.scot)

Yours sincerely

**GARY GRAY**

Zero Waste Unit