



STATUTORY INSTRUMENTS.

S.I. No. 71 of 2013



EUROPEAN UNION (HOUSEHOLD FOOD WASTE AND BIO-WASTE)
REGULATIONS 2013

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S.I. No. 71 of 2013

EUROPEAN UNION (HOUSEHOLD FOOD WASTE AND BIO-WASTE)
REGULATIONS 2013

I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste¹ and Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008² on waste and repealing certain Directives, hereby make the following regulations:

PART I

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Union (Household Food Waste and Bio-waste) Regulations 2013.

Interpretation

2. (1) In these Regulations, any reference to a Regulation that is not otherwise identified is a reference to a Regulation of 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 Act 1996 (No. 10 of 1996);

“Act of 1992” means the Environmental Protection Agency Act 1992 (No. 7 of 1992);

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

“agglomeration” means an area where a population cluster of a specified threshold occurs;

“anaerobic digestion” means the biological decomposition of food waste and bio-waste in the absence of oxygen and under controlled conditions by the action of micro-organisms in order to produce biogas and digestate;

¹O.J. L 182, 16.7.1999, p 3

²O.J. L 312, 22.11.2008, p 3

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th March, 2013.*

“authorised facility” means 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) where appropriate, Part 4 of the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2008 (S.I. No. 252 of 2008) to accept and treat the relevant types of food waste;

"authorised person" means a person who is appointed in writing to be an authorised person for the purposes of these Regulations;

"authorised treatment process" means—

- (a) processing, transformation or use as raw material in an authorised facility,
 - (i) which produces a stabilised output which fulfils all relevant product, environmental and health protection requirements for the specific use,
 - (ii) which 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
 - such other lawful use, other than disposal, as may be approved by the Agency, and
 - (iii) which fulfills the requirements of section 21A of the Act;
- (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 bio-waste;

“bio-waste” is as defined in the Act;

“Collection Permit Regulations” means the Waste Management (Collection Permit) Regulations 2007 (S.I. No. 820 of 2007);

“composting” means the thermophilic biological decomposition of separately collected bio-waste, including organic sludges of biological origin, in the presence of oxygen and under controlled conditions in order to produce compost, and “compost” and “compostable” shall be construed accordingly;

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

“Directive 1999/31/EC” means Council Directive 1999/31/EC³ of 26 April 1999 on the landfill of waste;

“Directive 2008/98/EC” means Directive 2008/98/EC⁴ of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives;

“facility” is as defined in the Act;

“Facility Permit Regulations” means the Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. No. 821 of 2007);

“food waste” includes any food substance used, available to be used, or intended to be used, for food by human persons and discarded as household waste;

“home composting” means composting at the premises where the food waste is originally produced;

“household waste” is as defined in the Act;

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

“premises” is as defined in the Act;

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

“producer” means anyone—

(a) whose activities produce food waste (in these Regulations referred to as the ‘original food waste producer’), or

(b) who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of such food waste;

“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

³O.J. L 182, 16.07.1999, p. 1.

⁴O.J. L 312, 22.11.2008, p 3

regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002⁵;

“residual waste” means the fraction of municipal waste remaining after the source separation of municipal waste fractions such as food and garden waste, packaging, paper, metals and glass;

“segregated food waste” means food waste that has been kept separate from other waste in accordance with Regulation 6;

“separate collection” is as defined in the Act;

“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 segregated” means the segregation of specified waste at source by the waste producer, in such a way so as 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;

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

“treatment” is as defined in the Act;

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

“waste presentation bye-law” means a bye-law 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 (No. 37 of 2001);

Purpose and scope of Regulations

3. (1) The purpose for which these Regulations are made is to give effect to Article 5 of Directive 1999/31/EC and Articles 4,10,11,13 and 22 of Directive 2008/98/EC.

(2) Subject to paragraph (3), these Regulations shall apply to food waste and bio-waste arising as part of household waste.

(3) These Regulations shall not apply to—

(a) off-shore islands; or,

⁵O.J. No. L300, 14.11.2009, p.1.

- (b) areas where a specific exclusion is provided for in a waste management plan on the grounds that it is not technically, environmentally and economically practicable to separately collect such waste.

Entry into force

4. Subject to Regulation 3(3), these Regulations shall come into operation in the following time schedule for all households situated in the following population agglomerations:

1st July 2013 for agglomerations > 25,000 persons;

31st December 2013 for agglomerations > 20,000 persons;

1st July 2014 for agglomerations > 10,000 persons;

1st July 2015 for agglomerations > 1,500 persons; and

1st July 2016 for agglomerations > 500 persons.

PART II

DUTY ON WASTE COLLECTORS TO HAVE A SEPARATE COLLECTION OF HOUSEHOLD FOOD WASTE

Duty on waste collectors to have a separate collection of household food waste

5. (1) 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, authorised waste collectors shall ensure, as a minimum, that they provide or arrange for the provision of a separate collection service for food waste from households for population agglomerations in accordance with the time schedule set out in Regulation 4.

(2) Where an authorised waste collector provides or arranges for the provision of a service in accordance with paragraph (1), such a separate collection service-

(a) shall be provided at least once a fortnight; or

(i) more frequently according to the necessity of collection of such food waste as may be determined by the relevant local authority; or

(ii) at the same frequency as a residual waste collection service provided on a more frequent basis unless the waste collector can clearly demonstrate to the satisfaction of the relevant local authority that the collection arrangements are subject to a pay-by-use charging system which incentivises the presentation and segregation of food waste for separate collection; and

(b) may form part of the services provided for the segregated collection of garden and/or other suitable bio-waste.

(3) Food waste collected by an authorised waste collector in accordance with this Regulation shall be transferred to an authorised facility for the purposes of an authorised treatment process.

PART III

DUTY ON HOUSEHOLDERS TO HAVE SEGREGATION OF HOUSEHOLD FOOD WASTE

Producers' duty to source segregate food waste arising as household waste

6. (1) Subject to paragraph (2) 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, an original producer of food waste arising as part of household waste 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
- (c) source segregated food waste arising on the producer's premises is collected by an authorised waste collector.

(2) Paragraph (1) shall not apply where an original food waste producer—

- (a) subjects the food waste to a home composting process on the premises where the food waste is produced; or
- (b) brings the food waste to an authorised facility with a view to its composting or anaerobic digestion or treatment in a way which fulfils a high level of environmental protection.

(3) Where an original food waste producer undertakes a home composting process he or she shall minimise the creation of odours and nuisance, and shall take all reasonable steps to achieve this objective.

Prohibition on certain practices

7. An original producer of food waste arising as part of household waste, shall not—

- (a) deposit food waste in the residual waste collection, or
- (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.

PART IV

MISCELLANEOUS

Powers of authorised person

8. (1) An authorised person may, for any purpose connected with these Regulations—

- (a) at all reasonable times, or at any time if he or she has reasonable grounds for believing that there may be a risk of environmental pollution arising from the carrying on of an activity at the premises or that such pollution is occurring, enter any premises and bring thereon such other persons (including members of the Garda Síochána) or equipment as he or she may consider necessary for the purpose, and
- (b) at any time halt (if necessary) and board any vehicle and have it taken, or require the driver of the vehicle to take it, to a place designated by the authorised person, and such a vehicle may be detained at that place by the authorised person, for such period as he or she may consider necessary for the purpose.

(2) Subject to paragraph (7), an authorised person shall not, other than with the consent of the occupier, enter into a private dwelling under this Regulation unless he or she has given to the occupier of the dwelling not less than 24 hours notice in writing of his or her intended entry.

(3) Every authorised person when exercising any power conferred on him or her by or under these Regulations, shall, if requested by any person affected, produce the certificate furnished to him or her under section 14(3) of the Act of 1996.

(4) Whenever an authorised person enters any premises or boards any vehicle, pursuant to this Regulation, the authorised person may therein, as appropriate—

- (a) make such plans, take such photographs, record such information on data loggers, make such tape, electrical, video or other recordings and carry out such inspections,
- (b) make such copies of documents and records (including records in electronic form) found therein and take such samples,
- (c) carry out such surveys, take such levels, make such excavations and carry out such examinations of depth and nature of subsoil,
- (d) require that the premises or vehicle or any part of the premises or anything in the premises or vehicle shall be left undisturbed for such period,

- (e) require from an occupier of the premises or any occupant of the vehicle or any person employed on the premises or any other person on the premises, such information,
- (f) require the production of and inspect such records and documents, (including records held in electronic form) and take copies of or extracts from, or take away if considered necessary for the purposes of inspection or examination, any such records or documents,

as the authorised person, having regard to all the circumstances, considers necessary for the purposes of exercising any power conferred on him or her by or under these Regulations.

- (5) (a) An authorised person who, having entered any premises or boarded any vehicle, pursuant to this Regulation, considers that waste thereon or therein is such, or is being handled or transported in such manner, as to constitute a risk of environmental pollution, may direct the holder of such waste to take such measures as are considered by that authorised person to be necessary to remove that risk, including, the disposal of the waste, in such manner and place and within such period as the authorised person may specify.
- (b) If a holder of waste fails to comply with a direction of an authorised person under this paragraph, the authorised person may do all things as are necessary to ensure that the direction is carried out and the costs incurred by him or her in doing any such thing shall be recoverable from the holder of the waste by him or her, or the person by whom he or she was appointed, as a simple contract debt in any court of competent jurisdiction.

(6) Any person who—

- (a) refuses to allow an authorised person to enter any premises or board any vehicle or to take any person or equipment with him or her in the exercise of his or her powers under this Regulation,
- (b) obstructs or impedes an authorised person in the exercise of any of his or her powers under this Regulation,
- (c) gives either to an authorised person, information which to his or her knowledge is false or misleading in a material respect, or
- (d) fails or refuses to comply with any requirement of this Regulation or of an authorised person,

shall be guilty of an offence.

- (7) (a) Where an authorised person in the exercise of his or her powers under this Regulation is prevented from entering any premises or if an authorised person has reason to believe that evidence related to a suspected offence under these Regulations may be present in any premises and that the evidence may be removed therefrom or destroyed,

the authorised person or the person by whom he or she was appointed may apply to a judge of the District Court for a warrant under this paragraph authorising the entry by the authorised person into the premises.

- (b) If on application being made to him or her under this paragraph, a judge of the District Court is satisfied, on the sworn information of the applicant, that the authorised person concerned has been prevented from entering a premises as aforesaid or that the authorised person has reasonable grounds for believing the other matters aforesaid, the judge may issue a warrant under his or her hand authorising that person, accompanied, if the judge deems it appropriate so to provide, by such number of members of the Garda Síochána as may be specified in the warrant, at any time or times within one month from the date of the issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, the premises concerned and exercise the powers referred to in paragraph (4) or (5).

(8) An authorised person may, in the exercise of any power conferred on him or her by these Regulations involving the bringing of any vehicle to any place, or where he or she anticipates any obstruction in the exercise of any other power conferred on him or her by or under these Regulations, request a member of the Garda Síochána to assist him or her in the exercise of such a power and any member of the Garda Síochána of whom he or she makes such a request shall comply therewith.

Service of notices

9. (1) Any notice required to be served or given by or under these Regulations shall be addressed to the person concerned and served or given in one of the following ways—

- (a) by addressing it to the person by name and delivering it to him or her,
- (b) by leaving it at the address at which the person ordinarily resides,
- (c) by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides,
- (d) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to him or her to, that address, or
- (e) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and notice is required to be served on, or given to, him or her in respect of any premises, by delivering it to a person over the age of 16 years of age resident in or employed on the premises, or by affixing it in a conspicuous position on or near the premises.

(2) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice may be addressed to “the occupier”, “the owner” or “the person in charge”, as the case may be.

(3) For the purposes of these Regulations, a company registered under the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) A person shall not at any time during the period of 3 months after a notice is affixed under paragraph (1) (e) remove, damage or deface the notice without lawful authority.

(5) A person who contravenes paragraph (4) shall be guilty of an offence.

Information

10. (1) A local authority may, for any purpose relating to its functions under these Regulations, by the service of a notice in writing on the person, require—

- (a) any waste producer,
- (b) any person engaged in the collection, recovery or disposal of waste, or any related or ancillary activity, or
- (c) the occupier or person in charge of any waste facility,

to maintain such records and to furnish in writing to the local authority within such period (being not less than 14 days after the date of the service of the notice) and, if appropriate, thereafter at such frequency as may be specified in the notice, such particulars, as to—

- (i) any activity or process as aforesaid or any facility concerned,
- (ii) provision proposed to be made or made or measures taken for the treatment, recovery or disposal of any waste concerned,
- (iii) the origin, type, quantity, nature, composition and properties of waste concerned, or
- (iv) any other related or ancillary matter,

as may be so specified.

(2) A person who fails to comply with a notice under this Regulation or who furnishes any information in reply to such a notice which he or she knows to be false or misleading in a material respect shall be guilty of an offence.

(3) Information obtained under this Regulation by a local authority, or any summary or compilation of, or any report based on, such information may, and shall if the Agency so requests, be furnished to the Agency.

(4) Each local authority shall compile or otherwise obtain, and furnish to the Agency, such statistics or other information relating to any aspect of food waste management, at such frequency, as may be specified in writing by the Agency.

Enforcement and penalties

11. (1) Each local authority, shall take the necessary enforcement measures to prohibit management of food waste contrary to these Regulations.

(2) A prosecution for a summary offence under these Regulations may be taken by the local authority concerned.

(3) A person guilty of an offence under these Regulations is liable—

(a) on summary conviction, to a class B fine or imprisonment for a term not exceeding 3 months or both, or

(b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years or both.

Liability of persons other than the principal offender

12. Where the commission of an offence in relation to the non-compliance by a person with 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 V

AMENDMENTS TO CERTAIN REGULATIONS

Amendment to the Collection Permit Regulations

13. The Collection Permit Regulations are amended by—

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

(b) substituting for paragraph (m) 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, and”;

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

“(n) information, where relevant to the type of waste intended to be collected, on how the applicant will collect food waste and, as the case may be, bio-waste in compliance with the Waste Management (Household Food Waste and Bio-Waste) Regulations 2013.”;

- (d) deleting “and” at the end of paragraph (b) of sub-article 20(1);
- (e) substituting for paragraph (c) 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, and”;
- (f) inserting after paragraph (c) of sub-article 20(1), the following paragraph—
 - “(d) in the reasonable opinion of the nominated authority, necessary to give effect to the segregation, separation, storage and collection of food waste and, as the case may be, bio-waste in accordance with the Waste Management (Household Food Waste and Bio-Waste) Regulations 2013.”;
- (g) inserting after sub-article (o) of article 21, the following sub-article—
 - “(p) the contravention of Regulation 5 of the Waste Management (Household Food Waste and Bio-Waste) Regulations 2013.”;
- (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, or the Waste Management (Shipments of Waste) Regulations 2007, the Waste Management (Food Waste) Regulations 2009, the European Communities (Shipments of Hazardous waste exclusively within Ireland) Regulations 2011, or the Waste Management (Household Food Waste and Bio-Waste) Regulations 2013”.

Amendment to the Facility Permit Regulations

14. The Facility Permit Regulations are amended by—

- (a) substituting for paragraph (ii) of sub-article 10(1), the following paragraph—
 - “(ii) in the case of a waste facility permit application or a certificate of registration application, as the case may be, which involves the treatment of food waste, details of how the applicant intends to manage food waste and, as the case may be, bio-waste collected in accordance with the Waste Management (Food Waste) Regulations 2009 or, as the case may be, the Waste Management

(Household Food Waste and Bio-Waste) Regulations 2013.”;

- (b) substituting for subparagraph (iv) of paragraph 19(1)(b), the following—

“(iv) to effect the recovery of food waste and, as the case may be, bio-waste collected in accordance with the Waste Management (Food Waste) Regulations 2009 or, as the case may be, the Waste Management (Household Food Waste and Bio-Waste) Regulations 2013,”;

- (c) substituting for sub-paragraphs (o) and (p) of Regulation 22, the following sub-paragraphs—

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

(p) the contravention of Regulation 5 of the Waste Management (Household Food Waste and Bio-Waste) Regulations 2013 or, as appropriate,

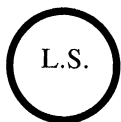
(q) an offence under Article 43 of these Regulations.”;

- (d) 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, or the Waste Management (Shipments of Waste) Regulations 2007, or the Waste Management (Food Waste) Regulations 2009, or the European Communities (Shipments of Hazardous waste exclusively within Ireland) Regulations 2011, or the Waste Management (Household Food Waste and Bio-Waste) Regulations 2013, or the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2008, or”;

- (e) 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 (Shipments of Waste) Regulations 2007, or the Waste Management (Food Waste) Regulations 2009, or the European Communities (Shipments of Hazardous waste exclusively within Ireland) Regulations 2011, or the Waste Management (Household Food Waste and Bio-Waste) Regulations 2013, or the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2008, or”.



GIVEN under my Official Seal,
21 February 2013.

PHIL HOGAN,
Minister for the Environment, Community 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 household food waste. They will, in particular, contribute to the achievement of the targets set out in article 5 of EU Directive 99/31/EC on the landfill of waste for the diversion of biodegradable municipal waste from landfill sites to composting and biogas plants and to other forms of authorised treatment. They will also increase the amount of food waste that is recovered.

The regulations also form part of the implementation of measures set out in the national waste management policy:

“A Resource Opportunity — Waste Management Policy in Ireland”

published in July 2012.

The Regulations place obligations:

1. on waste collectors to have a separate collection service for household food waste; and,
2. on the householders who produce food waste to segregate such waste and make it available for separate collection. Producers may alternatively compost the waste on the premises where it arises under specified conditions or take it to authorised facilities such as civic amenity sites, composting sites, anaerobic digestion sites or for incineration.

The regulations also give effect to Article 22 of the EU Waste Framework Directive — Directive 2008/98/EC and are a measure aimed at giving effect to the waste hierarchy and the protection of the environment requirements of that Directive as well as meeting the requirements of Articles 10, 11 and 13 of the Directive.

Some consequential miscellaneous amendments to both the waste collection permit regulations and waste facility permit regulations are also provided for.

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