

# **Directive 2008/98/EC Implementation Report**

## **UK Government Response**

**September 2013**

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# Introduction

This document details the UK response to the questions set out by the Commission Implementing Decision of 18<sup>th</sup> April 2012, covering implementation of the 2008 revision of the Waste Framework Directive (Directive 2008/98/EC) from the transposition date of 12<sup>th</sup> December 2010 until the end of the first three-year reporting period on 31<sup>st</sup> December 2012.

The UK government has devolved power to 3 nations, and also reports on behalf of the Gibraltar government. The departments responsible for policy in each nation are as follows:

- England (& overall UK responsibility): Department for Environment, Food and Rural Affairs (Defra)-Her Majesty's Government
- Gibraltar: Department of the Environment- Her Majesty's Government of Gibraltar
- Northern Ireland: Department of the Environment Northern Ireland (DoENI)- Northern Irish Executive
- Scotland: Environment and Forestry Directorate- Scottish Government
- Wales: Department for Natural Resources and Food- Welsh Government

In addition, each nation has a Competent Authority which is used to regulate and enforce legislation. These are:

- England- the Environment Agency
- Gibraltar- Environmental Agency
- Northern Ireland- Northern Ireland Environment Agency
- Scotland- Scottish Environmental Protection Agency (SEPA)
- Wales- Natural Resources Wales (Environment Agency until April 2013)

Where references are made to 'the Competent Authority' or 'the Department' it should be taken to mean the relevant organisation from the lists above for each country.

# Responses

## 1. Transposition into National Law (Article 40 of Directive 2008/98/EC)

***Please provide a reference and, if available, an electronic link to your national laws transposing Directive 2008/98/EC, including to any amendments.***

The Directive is transposed across- various pieces of legislation across the nations of the United Kingdom: the key legislation is as follows::

England:

- Waste (England and Wales) Regulations 2011 (as amended)
- Environmental Permitting (England and Wales) Regulations 2010 (as amended)
- Hazardous Waste (England and Wales) Regulations 2005
- List of Wastes (England) Regulations 2005
- The Environment Protection Act 1990

Wales: As England plus:

- Hazardous Waste (Wales) Regulations 2005 (as amended by the Waste (England and Wales) Regulations 2011)
- The Waste (Wales) Measure 2010.
- The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011

Northern Ireland:

- Waste and Contaminated Land Order 1997 (as amended)
- Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999
- Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002
- Waste Management Licensing Regulations (Northern Ireland) 2003 (as amended)
- Hazardous Waste Regulations (Northern Ireland) 2005 (as amended)
- Waste Regulations (Northern Ireland) 2011 (SR 2011 No. 127)

Scotland:

- Waste Management Licensing (Scotland) Regulations 2011
- Waste (Scotland) Regulations 2011
- Waste (Scotland) Regulations 2012
- Special Waste Regulations 1996 (as amended)

Gibraltar:

- The Public Health Act

- The Environment (Waste) Regulations 2007
- The Pollution Prevention and Control Regulations 2013

Links can be found in Annex A.

## 2. Waste Hierarchy (Article 4 of Directive 2008/98/EC)

***Please describe how the waste hierarchy laid down in Article 4 of Directive 2008/98/EC is reflected in the legislation and political measures in the area of waste prevention and waste management, and how the Member State encourages the options that deliver the best overall environmental outcome when applying the waste hierarchy.***

The waste hierarchy is primarily transposed in England and Wales via the Waste (England and Wales) Regulations 2011. Regulation 12 requires all waste handlers to take all measures available to follow the waste hierarchy as a priority order. Departures are allowed where life cycle assessments (LCAs) indicate that this will best serve the overall outcome when considering what is technically, environmentally and economically practicable and for the protection of resources, the environment and human health. Regulation 38 and 39 provide the relevant enforcement authority – the Environment Agency or Natural Resources Wales- with powers to issue compliance notices and stop notices in respect of the waste hierarchy. Regulation 15 provides for guidance which establishments and undertakings must have regard to in fulfilling their obligations. Guidance under regulation 15 has been issued in the form of Guidance on applying the waste hierarchy, published June 2011. A link to the guidance can be found in the Annex. In Northern Ireland the waste hierarchy is transposed by the Waste Regulations (Northern Ireland) 2011, placing a duty on waste handlers to follow the waste hierarchy in Regulation 17, whilst introducing the waste hierarchy as a key component of the Northern Ireland Waste Management Strategy in Regulation 8. In Scotland, the Waste (Scotland) Regulations 2011 transpose the waste hierarchy into legislation and require SEPA and other competent authorities to apply the waste hierarchy in discharging their statutory functions whilst also extending the Duty of Care under the Environmental Protection Act (1990) to encompass the waste hierarchy. Finally, in Gibraltar the Public Health Act transposes the waste hierarchy into legislation, Schedule 11B of the Public Health Act places a duty on the competent authority stating that “the waste hierarchy shall apply as a priority order in waste prevention and management”. The waste hierarchy is also a component of Gibraltar’s Waste Management Plan.

Non legislative measures reflecting the waste hierarchy include Towards Zero Waste In Wales, and Scotland’s Zero Waste Plan, national strategies which identify government backing for the waste hierarchy and state that it should be applied by all waste handlers in the respective areas. Also in Wales, the Sector Plans and Planning Policy Wales Technical Advice Note 21 (Waste) introduce the waste hierarchy as central to waste planning and management in Wales. All countries of the UK also produce guidance on application of the waste hierarchy. This guidance helps judge the total overall environmental impact for each treatment of each waste stream, in order to decide where the waste hierarchy should be strictly applied and where departures are in order.

Waste streams for which departures from the waste hierarchy are applied include tyres, where LCAs show that some forms of recycling are less desirable than energy recovery, or certain grades

of plastic where LCAs indicate energy recovery is more environmentally friendly than material recycling.

### 3. Classification of Waste (Article 7 of Directive 2008/98/EC)

***(1) With regard to Article 7 of Directive 2008/98/EC, please describe the waste classification system of the Member State.***

Article 7 is transposed in England and Wales by the Hazardous Waste (England and Wales) Regulations 2005, as amended and the List of Waste (England) Regulations 2005. The List of Waste (England) Regulations 2005 implement in England Commission Decision 2000/532/EC (“the List of Wastes Decision”, as amended by Decisions 2001/118/EC, 2001/119/EC and 2001/532/EC) which adopted the List of Wastes.

The Hazardous Waste (England and Wales) Regulations 2005 define hazardous waste for the purpose of implementing Directive requirements in England and Wales. The Regulations provide that a waste is hazardous if it is listed as a hazardous waste in the Regulations.

The Regulations provide that the List of Wastes has effect for purposes connected with the regulation of waste and hazardous waste, and in particular for determining whether a material or substance is a waste or a hazardous waste, and the classification and coding of wastes provides that the Introduction to the List of Wastes has effect for the purposes of interpreting the list, for determining whether a waste is hazardous and in identifying the waste.

The Regulations give effect, for the purposes of the regulation of waste and hazardous waste, to the six digit codes and two and four digit chapter headings in the List of Wastes. They provide that any requirement (or condition) in any legislation that the correct six digit code is to be given is only complied with (or satisfied) if the code in the List of Wastes for the waste concerned is given. The Regulations provide for the asterisk in the List of Wastes to indicate that the waste concerned is hazardous, and also provides that, for dangerous substances to be hazardous where a limit value of concentration applies, the waste is only hazardous where the limit value in regulation 4, or Annex III of the Waste Framework Directive, is satisfied. Regulation 4 sets out the limit values of concentration contained in Article 2 of the List of Wastes Decision.

The Regulations also give the Secretary of State a duty to designate as hazardous, wastes which are not on the list but exhibit hazardous properties. In individual cases, determinations that a waste is or is not hazardous can also be made.

In Northern Ireland and Scotland, the classification system is also based on the European Waste Catalogue, as transposed by the Hazardous Waste (Northern Ireland) Regulations 2005 and the List of Wastes Regulation (Northern Ireland) 2005. In Scotland the Article is transposed through the Waste Management Licensing (Scotland) Regulations 2011, with the definition contained in the Special Waste Regulations 1996, whilst in Gibraltar the waste classification system used is pursuant to Article 1 (A) of Directive 75/442/EEC on waste and Article 1(4) of Directive 91/689/EEC on Hazardous Wastes. (Schedule 11A section 192KA of the Public Health Act). Gibraltar follows Directive 2000/532/EC on Lists of Waste for waste classification purposes.

**(2) With reference to Article 7(2) and (3) of Directive 2008/98/EC, has any waste that has been classified as hazardous waste in the List of Waste established by Commission Decision 2000/532/EC2 been classified as non-hazardous by the Member State or has any waste not classified as hazardous in the List of Waste been classified as hazardous?**

No

**(3) Does the classification system of the Member State for non-hazardous waste deviate from the European List of Waste?**

No

## **4. Extended Producer Responsibility (Article 8 of Directive 2008/98/EC)**

**(1) Please describe through which legislative and non-legislative measures the Member State has established extended producer responsibility for any natural or legal person who professionally develops, manufactures, processes, treats, sells or imports products. In particular, has the Member State introduced take-back obligations for used products or has it taken measure ensuring re-usability or recyclability of products?**

### Legislative

The principle of "Producer Responsibility" has been applied to four types of product in Great Britain via legislative measures covering packaging, vehicles, electrical/electronic equipment and batteries. In board terms the legislation aims to make the producers of packaging, batteries, etc (i) pay for the costs of collecting, processing and recycling/recovering these materials when they become waste and (ii) minimise the amount of waste sent for disposal:

- Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended)
  - Placing an obligation on companies that produce packaging and handle packaging to ensure that a proportion of the packaging they handle is recovered and recycled
- The Waste Batteries and Accumulators Regulations 2009
  - Requirements on producers and distributors to contribute to the collection, treatment and recycling of waste batteries
- The Waste Electronic and Electrical Equipment Regulations 2006 (as amended)
  - Introduced compulsory compliance schemes for producers of EEE to arrange for the collections, treatment and environmentally sound disposal of an amount of WEEE based on market share.
- The End of Life Vehicle (Producer Responsibility) Regulations 2005 (as amended)
  - Require producers of ELVs to provide a network of facilities where ELVs can be taken for dismantling and environmentally friendly recycling at no cost to the final owner.

In Northern Ireland the equivalent legislation is:-

- The Producer Responsibility (Packaging Waste) Regulations (Northern Ireland) 2007 (as amended)
- The Waste Electronic and Electrical Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006
- The Waste Batteries and Accumulators (Treatment and Disposal) Regulations (Northern Ireland) 2009

In Gibraltar the equivalent legislation is The Environment (Waste) Regulations 2007.

#### Non-legislative

- The Waste & Resources Action Programme<sup>1</sup> (WRAP) is developing and monitoring a series of actions including a Plastics Industry Action Plan, working with the UK plastics supply chain, to enable achievement of the UK's plastic packaging recycling targets (which will deliver a recycling rate of 42% by 2017).
- Defra and the UK dairy industry have produced a milk product roadmap that will help farmers reduce the environmental impact of milk production. The roadmap aims to increase the use of recycled HDPE in new milk bottles from 10% in 2010 (achieved), to 30% by 2015 and 50% by 2020.
- The UK Government is facilitating the development of a product roadmap for the soft drinks sector to address resource efficiency, environmental and socio-economic issues applying to the production and consumption of soft drinks.

#### The Courtauld Commitment

The Courtauld Commitment is a voluntary agreement between the UK Governments and food retailers and manufacturers.

Courtauld Commitment 2 commenced in 2010 and ended in December 2012. This voluntary agreement moved away from solely weight-based targets to measure packaging reductions in terms of carbon impact. The second phase aimed to tackle waste within the supply chain as well as the home.

On packaging the voluntary agreement seeks to reduce the weight, increase recycling rates and increase the recycled content of all grocery packaging, as appropriate. The target to reduce the

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<sup>1</sup> The Waste & Resources Action Programme (WRAP) was established in 2000 as a not-for-profit company as part of implementation of Waste Strategy. Their aim is to create markets for recycled resources – helping to accelerate expansion of recycling & reduce landfill waste. They were initially a delivery body for England and Wales and then expanded to the UK. WRAP is co-funded by the four administrations of the UK, and as an independent body can gain funding from elsewhere.

carbon impact of grocery packaging was 10% which represents a CO<sub>2</sub> saving in excess of a million tonnes.

The supply chain target on reducing traditional grocery product and packaging waste in the supply chain was 5% including both solid and liquid wastes.

One way in which grocery retailers are being encouraged to meet this target is through optimising the amount of packaging they use so that it is the minimum amount necessary to do its job.

The full results of Courtauld 2 will be reported in the autumn of 2013. The second year progress report is available at [http://www.wrap.org.uk/sites/files/wrap/CC2\\_Interim\\_Report\\_AUG\\_2012.pdf](http://www.wrap.org.uk/sites/files/wrap/CC2_Interim_Report_AUG_2012.pdf) and includes examples from signatories. Latest relevant results announced in October 2012 are outlined below.

- To date, 2.3 million tonnes of waste have successfully been prevented by Courtauld signatories and consumers.
- The packaging target is on course, at more than three quarters of the way towards the target of a 10% carbon reduction (2009 baseline). There has been a considerable 8.8% reduction in supply chain waste (2009 baseline) which is well ahead of the 3-year target of 5%. The second year results are encouraging given they have been achieved alongside an increase in volume sales among signatories.

A third phase of the Courtauld Commitment was launched on 9th May 2013. This latest phase, runs until December 2015 and aims to prevent a further 1.1 million tonnes of waste. It has attracted 48 signatories, including all major grocery retailers and many household brands and manufacturers. This shows the grocery industry's commitment to reducing food and packaging waste, for the benefit of both the environment and the economy. For further details refer to <http://www.wrap.org.uk/content/courtauld-commitment-3>

The UK Government worked in conjunction with WRAP to identify the scope for further action to reduce packaging waste and increase its recyclability.

- The UK has another voluntary agreement, the Hospitality Sector Agreement, between the UK and devolved governments and the hospitality and food service sector. 155 companies have signed up to two targets: Waste Prevention: To reduce food and associated packaging waste arising by 5% by the end of 2015, and Waste Management target: To increase the overall rate of food and packaging waste being recycled, composted or sent to anaerobic digestion to at least 70% by the end of 2015. The 2012 baseline data is currently being analysed. The first year progress against the targets will be reported in 2014.

- WRAP facilitated a Home Improvement Sector Commitment which aimed at UK major home improvement industry leaders to reduce packaging by 15% and reduce waste going to landfill by 50% from own-brand packaging by the end of 2012. By the end of 2012 the 15% target was exceeded with a 34% reduction in packaging (25% reduction when adjusted for changes in the volume of sales). The amount of waste sent to landfill from the sector was reduced by 87% which

by far exceeded the 50% target. A significant proportion of this improvement was achieved by recycling secondary and tertiary packaging.

- WRAP developed an on-pack recycling label scheme to help consumers identify what can be recycled to raise awareness and help reach recycling targets.
- WRAP has undertaken work on business models to encourage leasing and repair of electronic equipment such as fridges and drills.
- The UK has introduced a take-back scheme for tyres, £2 per tyre to discourage fly-tipping.
- PAS 141 – reuse standard for electronic equipment
- The Scottish Government funds Zero Waste Scotland to help deliver a range of programmes, campaigns and interventions designed to help manage waste. A number of Deposit Return and Reverse Vending schemes are being piloted.

***(2) Which measures has the Member State taken to encourage the design of products such as to reduce their environmental impacts and the generation of waste in the course of the production and use of products and the subsequent management of products that have become waste?***

- WRAP and Recoup, a UK Packaging Industry Trade Association, have both developed on-line recyclability tools to assist industry in designing their packaging in a more sustainable way.
- WRAP also provides a Packaging Research Listing which summarises all the resources (guidance, tools and research) produced by WRAP to support taking action to reduce packaging waste, an index to packaging optimisation reports and case studies.
- Voluntary agreements, such as the Cortauld Agreement on food and packaging as backed by the various governments across the UK, contain targets on design for recyclability, waste prevention and use of recycled materials. The Sustainable Clothing Action Plan is working similarly to reduce the carbon, waste and water footprints of the clothing we use in the UK.
- The Governments also support the Product Sustainability Forum which works to encourage sustainable product design and practices across the grocery and home improvement sectors
- The 'Love Food Hate Waste' programme encourages design of food packaging in a such a way that reduces food waste by keeping food fresher for longer.
- The Government Buying Standards, which are mandatory procurement standards for central Government Departments include requirements on product design and waste prevention.
- The Technology Strategy Board has run a number of competitions supporting innovation, focusing on design to reduce environmental impacts and waste, including:
  - Design challenges for a circular economy - supporting feasibility studies into the re-design of products, components and systems to retain material within the economy over several cycles of use. (£1.5m)

- Supply chain innovation towards a circular economy – on the preservation of the value of products and/or materials at end-of-life and how to keep them in productive use for longer. This includes significant design components, both to ensure environmental performance and attributes such as desirability, usability and feasibility (£5m)

The Welsh Government has a number of funded projects to deliver in this area including eco-innovation intervention, which targets sectors and businesses where there is greater potential for resource efficiency gains through eco-innovation, and Resource Efficient Business Models, delivered via WRAP, to test the feasibility of introducing more resource efficient business models with a focus on high-impact products, including electrical and electronic products, clothing and furniture, and the services that use them.

## 5. Recovery (Article 10 of Directive 2008/98/EC)

***(1) Please describe how the Member State has implemented Article 10 of Directive 2008/98/EC on recovery and separate waste collection in accordance with Articles 4 and 13 of that Directive.***

This article has been approached differently throughout the UK. Recovery operations are given priority in England and Wales through the Waste (England and Wales) Regulations 2011, which mandates priority consideration of the waste hierarchy for waste handlers. Regulations 18-20 of the Waste Regulations (Northern Ireland) 2011 transpose the requirements of Articles 10 and 11 of Directive 2008/98/EC in Northern Ireland. The Waste Management Licensing (Scotland) Regulations 2011, Schedule 4 paragraphs 4, 5, and 6(1)(b) require specified public authorities to exercise specified statutory functions with the objective of ensuring separate collection, where appropriate. All countries have also produced guidance to help ensure the waste hierarchy is followed. The UK also implements Landfill Taxes to help drive waste up the waste hierarchy.

The Welsh Government has supplemented this with other financial incentives to local authorities such as grants for sustainable waste management or support to establish capacity for food waste treatment (primarily anaerobic digestion). Furthermore, in Wales statutory recycling targets have been set for local authorities (70% for municipal solid waste) along with landfill targets (maximum of 5%), both for 2025, under the Waste (Wales) Measure 2011. Strategic direction has been provided to local authorities, businesses and the public in several documents such as Towards Zero Waste, the Collections Blueprint and plans for several different sectors.

In Northern Ireland, the Waste Management Plans produced by the three sub-regional Waste Management Groups on behalf of their constituent councils commit them to separate and collect recyclable materials in accordance with whichever combination of separation and collection methods represents the best practicable environmental option for their constituent councils, including kerbside collection, or householders bringing their recyclables to civic amenity sites or Household Waste Recycling Centres. DoENI established the Strategic Waste Infrastructure Programme and the associated Programme Delivery Support Unit in 2007-2008, to support local government in securing the major new waste infrastructure necessary to achieve compliance with legislative obligations in respect of the recovery and disposal of the residual waste from which segregated recyclates have already been extracted. It also provided up to £35m funding to assist

local authorities in contracting facilities such as MBT and EfW plants in order to continue driving waste up the waste hierarchy. Gibraltar has transposed Articles 10 and 11 of the Directive under section 192C.(3) of the Public Health Act.

Gibraltar currently has kerbside recycling facilities for paper, metal & plastic and glass and has a civic amenity site for householders to bring in their recyclates

***(2) Please indicate where the Member State considers that separate waste collection may not be technically, environmentally and economically practicable. Separate collection means the collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment.***

The Waste (Scotland) Regulations 2012, paragraphs 2(3)(b), 2(5), provide a derogation in Scottish legislation that will allow for waste streams to be collected together if it can be proven that the amount of material recycled will not be significantly less and the quality of the material recycled will not be significantly lower. A non-regulatory approach has been taken in England. In addition to the measures brought in to support separate collection under Article 11, Defra has funded the provision of case studies providing good quality, up-to-date information and bespoke advice through WRAP so that local authorities and other waste collectors can make effective decisions on separate waste collection on the basis of sound evidence. Defra is considering issuing guidance to local authorities in England, Wales and Northern Ireland on what is technically, environmentally and economically practicable. Wales has also published a Collection Blueprint, which incorporates kerbside sort, which it advocates all local authorities adopt.

## **6. Re-Use and Recycling (Article 11 of Directive 2008/98/EC)**

***(1) Please describe what measures has the Member State taken to implement the requirements mentioned in Article 11(1) of Directive 2008/98/EC to promote the reuse of products and preparing for re-use activities. Which supplementary measures has the Member State taken?***

Waste Prevention Plans are soon to be published across the UK which will pull together policies implementing the requirements of Article 11(1). Many such policies and measures are already in existence. Such measures include non-statutory targets for waste prevention in Wales of a 1.2% reduction year on year on the 2006/7 baseline, actions in the Municipal Sector Plan such as awareness campaigns and service provision and working with organisations such as WRAP to deliver change in the industrial and commercial and construction and demolition waste streams. One policy taken to try and reduce local authority collected MSW is the Single Use Carrier Bags Charge (Wales) Regulations 2010, which introduced a charge for the customer to use single use carrier bags (with the money raised passed on to charities). Northern Ireland has also introduced a charge on single use carrier bags, and England and Scotland have both announced their intention to do likewise.

Specific measures taken in the industrial and commercial and construction and demolition sectors include the funding of the Product Sustainability Forum, food redistribution services and other reuse or repair schemes. Local authorities and private sector companies in Northern Ireland can

access funding through the Rethink Waste Funds to assist with projects which will boost resource efficiency, recycling and waste prevention, and in the case of local authorities to cover the capital costs of infrastructure designed to achieve this. DoENI uses the Rethink Waste Programme to set incentives for waste prevention in Northern Ireland, including reuse, from financial assistance to technical advice. Rethink Waste also includes a communications and education campaign to raise public awareness of waste prevention and how they can contribute, including funding for the Foundation for Environmental Education and using themed weeks such as Composting week or Big Spring Clean. The European Week of Waste Reduction 2012 in Northern Ireland saw 543 registrations, 60% of the overall UK total.

Scotland transposes Article 11 via the Waste (Scotland) Regulations 2012 and provides funding to the Zero Waste Scotland plan which delivers a range of support programmes, campaigns and other interventions to help people and organisations in managing waste in accordance with national policies. One of these programmes is the Re-use and Repair strategy which is designed to increase re-use, including pilot trials, evidence building, development of business cases and the development of specific projects on priority materials.

In England the Government facilitates a Reuse Forum which brings together key players across the reuse sector, along with local authorities and academics in the field to identify barriers along with opportunities, and work collectively towards addressing them. Some local authorities use reuse credits to reward those that reuse items. The Waste and Resources Action Programme (WRAP), provides support to the reuse sector including relevant communications material, research demonstrating the benefits of use and material stream specific guidance. The Government also supports industry initiatives such as the Sustainable Clothing Action Plan which includes measures for the reuse of textiles. A publically available standard for the reuse of electrical equipment was brought in in 2013 (PAS 141) and work is underway on a generic standard for reuse.

## **7. Separate Collection (Article 11(1) of Directive 2008/98/EC)**

***(1) Please describe for which waste streams separate collection schemes have been established in the Member State in order to improve and facilitate the recovery of waste and to promote high quality recycling. In particular, which steps have been taken to establish separate collection of paper, metal, plastic and glass by 2015 and to promote the separate collection of bio-waste?***

Within England and Wales all collectors of waste are required to collect waste paper, plastic, metal and glass in accordance with Article 11 by 2015. Responsibility for enforcing this duty has been given to the Competent Authorities. The relevant legislation is the Waste (England and Wales) Regulations 2011 as amended by The Waste (England and Wales) (Amendment) Regulations 2012. In Scotland, the relevant legislation is the Waste Management Licensing (Scotland) Regulations 2011 which require specified public authorities to exercise specified statutory functions with the objective of ensuring the separate collection of dry recyclables (paper, card, metal, plastic and glass), where appropriate, and allow for the separate collection of food waste. In Northern Ireland, the transposing legislation is the Waste Regulations (Northern Ireland) 2011.

All local councils provide kerbside recycling services. Councils across the UK also provide recycling centres for household wastes. The materials collected at the kerbside tend to be glass bottles and jars, metal food cans (ferrous), metal beverage cans (ferrous and aluminium), plastic bottles, mixed plastics (including pots, tubs and trays), paper and cardboard. At civic amenity sites a more diverse range of waste can be collected including other glass items (e.g. broken vases), non-can metals such as cutlery and cooking utensils, tools, taps etc, mixed plastics (including pots, tubs and trays) and a range of paper and card. In order to promote high quality recycling, England and Wales have recently consulted on a regulation to improve the quality of recyclates that come from Material Recovery Facilities (MRFs) that sort co-mingled recycling. England also published a Quality Action Plan which sets out other actions to promote high quality recycling.

In order to promote separate collection of biowaste, Wales has provided local authorities with funding for separate food waste collections which has resulted in 92% of households in Wales having a separate food waste collection service provided. The recycling targets referred to in Question 5 also have the effect of encouraging separate collection to raise recycling rates. Northern Ireland is planning to consult imminently on plans to introduce restrictions on the landfilling of food waste and introduce more stringent standards for MRFs in a bid to promote higher quality recycling. Additionally, the Rethink Waste Funds have backed a number of civic amenity sites for recycling. In England, Defra has worked with WRAP to supply education and best practice guidance as well as funding for weekly food waste collections and business food waste collections. 95% of local authorities in England provide a green waste collection service. Further information on the separate collection and treatment of biowaste, including funding and support for schemes, can be found in the answer to Question 13.

In Scotland, Zero Waste Scotland provides advice and support which includes:

- Good Practice Guidance – This provides technical guidance to help local authorities design and deliver effective waste collection strategies.
- Development of a Food Waste Programme – Funding has been made available to support the roll out of separate food waste collections.
- Compliance Auditing – Offering independent assessments of local authority waste and recycling services with the Scottish Government's Zero Waste Plan in mind.
- Technical Support – working with local authorities to plan service changes which comply with legislation and are cost effective.
- Local engagement support – providing local engagement support to drive up participation rates.
- Training – supporting the skills and knowledge development for officers and front line staff.

In Gibraltar kerbside recycling is currently in effect with the separate collection of glass, metals and plastics, and paper and cardboard. Further items are collected in a civic amenity site such as waste electrical and electronic equipment, wood and scrap metals.

***(2) Which waste streams are collected together or by means of co-mingled collection, and why?***

The Waste (Scotland) Regulations 2012, paragraphs 2(3)(b), 2(5), provide a derogation in legislation that will allow for waste streams to be collected together if it can be proven that the amount of material recycled will not be significantly less and the quality of the material recycled will not be significantly lower.

The regulations for England and Wales closely follow the wording within the Directive, providing for the twins tests of necessity and practicability.

In some local authorities in England, Wales and Northern Ireland, glass, metals, plastics and paper are collected co-mingled all together, or partly separate and partly co-mingled (the “twin” or “triple” stream approach). In some, food and garden wastes (and sometimes cardboard) are co-collected. Within England and Northern Ireland the most important factor in moving to a more separate form of collection for many local authorities will be upfront costs. Many Waste Collection Authorities are party to long term contracts which are not economically practicable to break. Where the authority carries out the work in-house it is the embedded investment in infrastructure- particularly waste collection lorries - which is more relevant. It is not clear to what extent any ongoing costs will be of issue and we will review that as local authorities carry out assessments.

To try and help with this issue in England, the Weekly Collection Support Scheme encourages councils to focus on better weekly collections, environmental improvements, and better use of innovative ideas or technology to help residents recycle more and do their bit for the environment. 90 bids from a mix of areas and geographical spread were successful. 20% of successful bids added weekly collections of food waste.

There are also a few long-term difficulties with separate collection that have been flagged by local authorities: lack of space to store additional bins and within waste transfer units, congestion on streets making kerbside sorting unfeasible, and difficulty of collecting from dispersed communities. Defra and the Welsh Government are working together to consider producing guidance on what is judged as environmentally and economically practicable in order to further assist local authorities with separate collection. Northern Ireland will produce similar guidance.

Gibraltar currently collects metal and plastics as co-mingled in kerbside recycling. The reason for this is that as Gibraltar has serious space limitations and no recycling facilities within Gibraltar, the recycling material is exported to the neighbouring member state Spain where the collection of these are co-mingled in this manner and the authorised recycling facility in Spain accepts the material in this form.

## **8. Waste Disposal (Article 12 and Article 36(1) of Directive 2008/98/EC)**

***Please describe the measures taken to ensure that waste undergoes safe disposal operations which meet the provisions of Article 13 of Directive 2008/98/EC on the protection of human health and the environment. In line with the waste hierarchy, which measures have been taken to reduce the landfilling of waste? In particular, has the Member State introduced landfill bans or economic instruments to divert waste from landfills?***

For England and Wales, in respect of the disposal of waste to meet the provisions of Article 13, Regulation 12 of The Environmental Permitting (England and Wales) Regulations 2010 states that:

A person must not, except under and to the extent authorised by an environmental permit, operate a regulated facility (carry on a waste operation).

This aspect is dealt with in greater detail in Q.14 on permitting. The Competent Authorities have responsibility for ensuring that such permitted sites operate within the requirements of Article 13. This regulation in conjunction with section 33 of the Environmental Protection Act 1990 provide offences for operating the illegal deposit of waste (fly tipping) at a site that does not have the necessary permit. Section 33 states:

A person shall not —

- (a) deposit controlled [Directive] waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless authorising the deposit is in force and the deposit is in accordance with the licence;
- (b) submit controlled waste, or knowingly cause or knowingly permit controlled waste to be submitted, to any listed operation that —
  - (i) is carried out in or on any land, or by means of any mobile plant, and
  - (ii) is not carried out under and in accordance with an environmental permit;
- (c) treat, keep or dispose of controlled waste (or extractive waste) in a manner likely to cause pollution of the environment or harm to human health”.

The Environmental Protection Act 1990 is also used in enforcing the Articles in Scotland in conjunction with the Waste Management Licensing (Scotland) Regulations 2011. The Regulatory Reform (Scotland) Bill currently before the Scottish Parliament will provide SEPA with a greater range of enforcement measures that they can apply in order to protect the environment. These will include fixed (up to £2,500) and variable monetary penalties (ranging up to £40,000) for environmental offences which include flytipping, the level being based on the seriousness of the offence.

In Northern Ireland, the Waste and Contaminated Land (Northern Ireland) Order 1997 effectively transposes the Articles by prohibiting the unauthorised or harmful depositing, treatment or disposal of waste, establishing a Duty of Care on anyone who produces or handles waste, and requiring licence for any undertaking keeping, treating or disposing of waste, to be registered and assessed under such terms and conditions the competent authority feels are appropriate. The Order also creates offences for those managing waste in an unauthorised or harmful manner, including unauthorised transportation of waste. It further establishes options for the recycling and recovery of waste, whilst placing a duty on DoENI and local authorities to prepare plans for waste management. The Duty of Care regulation, in combination with Article 4 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (which prohibits dealing with waste in a potentially harmful or polluting way and making it an offence to deposit or deal in other ways with waste without a waste management licence, or to breach any condition of such a licence) is used to prevent abandonment or dumping of waste or uncontrolled waste management in Northern Ireland. Article 28 of the Order gives local authorities the power to deal with waste illegally deposited in their areas, and this will be strengthened once the relevant sections of the Waste and Contaminated Land (Amendment) Act (Northern Ireland) 2011 comes into force. Furthermore, a ‘Flytipping Protocol’ is at an advanced stage to help combat this problem.

The Waste Management Licensing Regulations (Northern Ireland) 2003 introduced Northern Ireland's waste management licensing system as required under Part II of the Waste and Contaminated Land (Northern Ireland) Order 1997.

The Landfill Regulations (Northern Ireland) 2003 (as amended) set out a pollution control regime for landfills for the purpose of implementing Council Directive 99/31/EC on the landfill of waste ("the Landfill Directive"). The Regulations mainly set out the conditions to be included in landfill permits, the classification of landfills (hazardous waste, non-hazardous wastes or inert waste) and the requirements for conditions to be incorporated in landfill permits including conditions for ensuring compliance by landfill operators within regulations including, Waste Acceptance Procedures, General Requirements for Landfill Monitoring, Monitoring Procedures for Landfills and Closure conditions for Landfills. The 2004 Amendment implemented Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills specifying detailed criteria and procedures for acceptance of waste for each class of landfill.

Landfill Tax is a primary economic incentive for diverting waste from landfill in the UK. The Tax in England is currently £72/tonne but this will increase to £80/tonne by the start of the 2014/15 tax year, with the Tax remaining at least at this level until 2020. The Tax, and other policies to encourage the prevention, recycling and recovery of waste, are sufficient to meet UK landfill diversion targets. There are currently no landfill bans in England (other than those required under the Landfill Directive). Before bringing forward any proposals on restricting any materials, the UK Government will need to be content that restrictions are the best-value way of moving material up the waste hierarchy and that the costs to businesses and the public sector are affordable. It continues to gather evidence to look at this issue.

The Scottish Government has introduced the Waste (Scotland) Regulations 2012 which will, from 2014, ban materials collected separately for recycling going to landfill (or incineration) and a ban on all biodegradable municipal waste going to landfill from 2020. Furthermore, the Waste (Wales) Measure 2010 gives Welsh Ministers the power to introduce landfill bans for recyclable or recoverable materials, whilst the Landfill Allowances Scheme (Wales) Regulations allow the Welsh Government to prescribe a maximum allowance for landfilling of biodegradable municipal waste for each local authority. Targets for less than 5% landfilling by 2025 have also been set in Wales, whilst the recycling targets as set out in Question 5 also contribute towards driving waste up the waste hierarchy. Northern Ireland is also consulting on policies and legislation to introduce landfill restrictions and recycling targets in an attempt to drive waste away from landfill, and already operates a Landfill Allowance Scheme for local authorities based on Landfill Directive targets.

Other policies are in place to incentivise moving waste up the waste hierarchy alongside the above measures penalising over-reliance on landfilling. WRAP, funded by all the UK governments, provides technical advisory support to local authorities to improve the quality and efficiency of collection and recycling services offered to households and businesses, resulting in increases in the collection of quality materials for reuse and recycling. The governments also support WRAP's work on a range of voluntary agreements across various business sectors, all of which are designed to reduce waste arisings. In Northern Ireland, DoENI provides funding for local authorities and private sector projects designed to improve waste prevention, collection and recovery.

Gibraltar currently exports all waste and recycles to neighbouring Member State Spain, the competent authority controls all movements of waste by licencing and registration regimes which

control the transport method and final disposal to an authorised waste treatment disposal facility. This is currently legislated for in the Public Health Act section 192 (D).

## 9. Polluter–Pays Principle and Responsibility for Waste Management (Articles 14 and 15 of Directive 2008/98/EC)

***(1) Please explain briefly the system according to which the Member State gives full effect to the polluter pays principle.***

The Environmental Protection Act 1990 requires local authorities to arrange for the collection and disposal of waste in their area. Local authorities cannot charge for most types of waste collected from households as this is already covered by Council Tax/District Rates. But under the Controlled Waste (England and Wales) Regulations 2012 (CWR), they can charge households for certain types of waste, such as bulky waste and garden waste. Under the Act, local authorities arrange for the collection of commercial waste if requested, and may make a reasonable charge. The CWR states that waste collected from certain premises, e.g. charities, hotels, should be classed as commercial waste. Northern Ireland intends to introduce similar legislation which is scheduled to come into operation at the start of October 2013.

Local authorities (and others) pay Landfill Tax on all waste taken to a landfill site. This encourages local authorities to move waste further up the hierarchy, e.g. through encouraging residents to recycle more, and through investing in infrastructure.

The Environmental Protection Act also sets out duties for Waste Collection and Disposal Authorities. A Waste Collection Authority must collect household waste in its area (unless the waste is so isolated or inaccessible that the cost of collecting it would be unreasonably high, or adequate disposal arrangements have been, or could reasonably be expected to be, made). In addition, a Waste Collection Authority must collect commercial waste if asked to. No charge may be made for the collection of household waste, except in cases prescribed in Regulations. A person who has requested collection of waste other than household waste (i.e. commercial or industrial waste) is liable to pay a reasonable charge of the collection and disposal of the waste, and it is the duty of the authority to recover the charge, unless for commercial waste the Authority considers it inappropriate to do so (section 45).

Section 41 of the Environment Act 1995 states that:

the Regulatory Authorities may require the payment to them of such charges... as a means of recovering costs incurred by them in performing functions conferred by regulations under section 62 of the Environmental Protection Act 1990 (providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence, which shall not exceed, on summary conviction, a fine at level 5 on the standard scale (£5,000) and, on conviction on indictment, imprisonment for a term of two years or a fine or both). As respects environmental licences (for waste establishments), charges may be prescribed in respect of:

- (a) the grant or variation of an environmental licence, or any application for, or for a variation of, such a licence;
- (b) the subsistence of an environmental licence;
- (c) the transfer (where permitted) of an environmental licence to another person, or any application for such a transfer;
- (d) the renewal (where permitted) of an environmental licence, or any application for such a renewal;
- (e) the surrender (where permitted) of an environmental licence, or any application for such a surrender; or
- (f) any application for the revocation (where permitted) of an environmental licence”.

With regards to Article 15 (2) of Directive 2008/98EC and the transfer of waste; Section 34 of the Act states that;

(1)...it shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste, to take all such measures applicable to him in that capacity as are reasonable in the circumstances — on the transfer of the waste, to secure—

(i) that the transfer is only to an authorised person or to a person for authorised transport purposes; and

(ii) that there is transferred such a written description of the waste (Waste Transfer Note) as will enable other persons to avoid a contravention of that section, and to comply with the duty under this subsection as respects the escape of waste.

(2) It shall be the duty of any person who is responsible for the management of extractive waste to take all such measures applicable to him in that capacity as are reasonable in the circumstances —

(a) to prevent any contravention by any other person of section 33 (Prohibition on unauthorised or harmful depositing, treatment or disposal of waste) above;

(b) to prevent any contravention by another person of regulation 12 of the Environmental Permitting Regulations or of a condition of an environmental permit; and

(c) to prevent the escape of the waste from his control or that of any other person.

***(2) Please explain whether the Member State has opted for the costs of waste management to be borne wholly or partly by the producer of the product from which the waste came and whether distributors of such products share the costs and according to which cost distribution scheme.***

The UK-wide producer responsibility legislation outlined in Question 4 imparts a responsibility on the businesses across the supply chain including raw material manufacturers, goods manufacturers, packers, sellers, importers etc. to contribute towards the recovery of waste arising, be that through financial contributions or organisation of take-back or collection schemes. In particular, the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 state that:

a 'producer' may only demonstrate compliance with their recovery and recycling obligations through the acquisition of Packaging Recovery Notes or Packaging Export Recovery Notes or both.

If an establishment has an annual turnover of more than £2 million and handles more than 50 tonnes of packaging a year they are required to meet the producer obligations under the Packaging Regulations. They will also have recycling obligations if they own the packaging on which they perform an activity and supply it to someone else or if they import packaging. Producers need to register with a producer compliance scheme or directly with the Regulator by 7 April each year. This is transposed by The Producer Responsibility Obligations (Packaging Waste) Regulations 2007; Regulation 6 states:

a producer shall be registered with the appropriate Agency in respect of a relevant year, or any part of that year, during which he is not a member of a registered scheme.

The Scottish Government is investigating further schemes such as Deposit Return or Reverse Vending systems, as well as consulting over a separate reporting regime for packaging producer responsibility.

## 10. Principles of Self-Sufficiency and Proximity (Article 16 of Directive 2008/98/EC)

***(1) Which measures have been taken in fulfilment of the obligation in Article 16(1) of Directive 2008/98/EC to establish an integrated and adequate network of disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers, and has that network been organised on regional level?***

In England and Wales, the waste planning system requires local authorities to plan for an adequate network of facilities for managing waste at all steps in the hierarchy, as set out in the Waste (England and Wales) Regulations 2011. Defra is part funding new facilities to ensure capacity in England continues to meet present and future demand. In Wales, the Collection, Infrastructure and Markets Sector Plan has identified that the current network of disposal and recovery installations is adequate for present needs, and further identified the actions necessary to meet future needs. Technical Advice Note 21: Waste (2001) clarifies how the planning system will help facilitate the future infrastructure identified as necessary under the Collection, Infrastructure and Markets Sector Plan. The Welsh Government is assisting local authorities in procuring energy from waste contracts to further establish this network for the mixed municipal waste stream.

In Northern Ireland, following approval of regional Waste Management Plans in 2006, DoENI established a Waste Infrastructure Programme Board to oversee delivery of three infrastructure

projects identified as necessary to provide the integrated capacity needed to meet Northern Ireland's obligations. Each project combines mechanical biological treatment with energy from waste. After conducting more up to date analysis of the infrastructure capacity needed to meet EU obligations when considering the recent economic downturn, one of the original three projects has been discontinued, but the Department continues to fund the other two. Scotland has transposed the Article through the Waste Management Licensing (Scotland) Regulations 2011, alongside adaptations to the planning legislation, and made it an objective under the Zero Waste Scotland Plan which helps local authorities and industry identify and develop appropriate infrastructure. Gibraltar is in the final stages of a tender process for the design, build, finance and operating contract for a Waste Treatment Facility (WTF). The new WTF will be comprised of:

- Waste Reception facility
- Materials Recovery Facility
- Waste Treatment plant (The tender specifically states that only advanced thermal treatments will be considered).

All municipal Solid Waste (MSW) is currently exported into Neighbouring Member State Spain under Transfrontier Shipment regulation compliant movements. It is expected that commissioning of Gibraltar's WTF will be by no later than 2016.

***(2) How does the Member State ensure that waste is disposed of or recovered in one of the nearest appropriate installations?***

In Northern Ireland, the regional Waste Management Plans are predicated on an obligation to adhere to the principles of proximity and self-sufficiency, and assessed by DoENI on the degree to which they achieve that. The importance of these principles is reflected in the weighting and scoring applied to them in the site selection criteria recorded in the Outline Business Case for each Waste Management Group's waste infrastructure project. Towards Zero Waste (Wales) specifies that the proximity principle must be applied when deciding on the siting of waste facilities in Wales. A revised draft of Technical Advice Note 21: Waste (2001) seeks to ensure that future development of infrastructure is integrated and adequate to enable all waste to be handled in one of the nearest appropriate installations. External factors such as the price of fuel also help contribute to minimising haulage distances wherever possible. The proximity principal is also stated in the waste planning system for England and Wales. In Scotland, the proximity principle must be applied when planning consent for waste facilities is being considered. Scottish planning legislation has been modified to ensure this is done. In Gibraltar the Competent Authority imposes strict licencing requirements under Part IIB (Transfrontier Shipment of Waste) of the Public Health Act.

***(3) Please give details about the extent and the form of any collaboration which may have taken place with other Member States in fulfilling the obligation in Article 16(1) of Directive 2008/98/EC.***

There is ongoing collaboration between Northern Ireland and Ireland on waste matters generally under the auspices of the North South Ministerial Council Environmental Sector meetings, in particular in respect of cross-border movements of waste.

Gibraltar has an ongoing partnership with Spain relating to the disposal and recovery of waste. At present, all municipal solid waste is sent to Spain for recovery or disposal, but Gibraltar is in the process of commissioning a local facility to handle MSW.

***(4) What degree of self-sufficiency in waste disposal has been attained in the Member State? Please illustrate this answer with actual or estimated figures for the waste disposed of within the Member State out of the total waste requiring disposal produced in the Member State.***

A very high level of self-sufficiency in disposal has been attained in the UK. The UK Plan for Shipments of Waste prohibits the export of waste from the UK for disposal except in very exceptional circumstances such as emergencies, trial runs or hazardous waste produced in too small a quantity to make a domestic facility viable.

Gibraltar has an on-going collaboration with Spain for the disposal of waste, hazardous and non-hazardous. These are governed by Gibraltar national legislation and Spanish national legislation, both of which stem from EU law.

## **11. Management of Hazardous Waste (Articles 17 to 20 of Directive 2008/98/EC)**

***(1) Please describe the measures the Member State has taken to ensure that the generation, collection, storage, treatment of hazardous waste is carried out in conditions providing protection for the environment and human health.***

Article 17 is transposed by the existing Hazardous Waste (England and Wales) Regulations 2005, the Hazardous Waste (Wales) Regulations 2005 and the Environmental Permitting (England and Wales) Regulations 2010.

The traceability requirement is transposed by these Regulations. They require the completion of a consignment note where waste is removed from any premises. The consignment note must include the details specified in Section A Annex I to Council Directive 84/631/EEC (as amended). Waste producers, holders, carriers and consignees all have responsibilities to complete these notes

Although Northern Ireland does not have any specialised Hazardous Waste disposal sites per se, the management of certain hazardous wastes, for example, hazardous wastes that are generated from households, does take place there. However, other hazardous wastes, such as those produced by industry, are for the most part shipped to Great Britain for disposal. The Hazardous Waste Regulations (Northern Ireland) 2005 (the 2005 Regulations) set out the regime for the control and tracking of the movement of hazardous waste in Northern Ireland in compliance with Articles 17 to 20 of Directive 2008/98/EC.

In Scotland, hazardous waste (or special waste as it is referred to) is managed under section 33 of the EPA 1990 which covers keeping or managing hazardous waste (amended by the Waste (Scotland) Regulations 2011). The Special Waste Regulations 1996 cover the collection and transport of hazardous waste.

In Gibraltar, Part VA of the Public Health Act manages the collection, storage, transport and licencing conditions are imposed on all movements to ensure protection for the environment and human health.

***(2) Which measures are taken to ensure the traceability of hazardous waste from the generation to final disposal, in particular by record keeping pursuant Article 35 of Directive 2008/98/EC and a proper labelling of hazardous waste? Which measures have been taken to ensure that waste with hazardous properties is correctly classified as hazardous waste?***

Article 35 is transposed by the Hazardous Waste (England and Wales) Regulations 2005. The Regulations require producers of hazardous waste to keep records of the quantity, nature, origin and, where relevant, the destination, frequency of collection, mode of transport and treatment method of the waste. The Regulations require the person transporting the waste to keep records of this information. They also require the notification of premises at which hazardous waste is produced or removed. UK packaging and labelling requirements are transposed in legislation by the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 and the Chemicals (Hazardous Information and Packaging for Supply) Regulations 2009.

In Northern Ireland, these requirements are transposed by Part 5 of the Hazardous Waste Regulations (Northern Ireland) 2005. In Scotland, Article 35 is transposed by the Waste Management Licensing (Scotland) Regulations 2011 Schedule 4 paragraph 14. Special waste is also covered by the Special Waste Regulations 1996 Regulations 15, 15A and 16. Regulations 15 and 15A are amended by the Waste (Scotland) Regulations 2011 Regulation 6(6) and (7) to align with the Waste Directive wording. All movements of special waste must be accompanied by a Special Waste Consignment Note to ensure traceability.

In Gibraltar, these requirements are legislated by the Public Health Act Part VA. Producers of hazardous waste are required to maintain records of such waste produced. The licencing regimes and transfrontier shipments rules imposed by the competent authority control and document all movements of hazardous wastes.

***(3) Please indicate how the mixing ban for hazardous waste is being implemented, by what means and in which cases the Member State has provided derogations from Article 18(1) of Directive 2008/98/EC allowing for mixing of hazardous waste.***

In England and Wales, Part 4 of the Hazardous Waste (England and Wales) Regulations 2005 prohibits the mixing of hazardous waste with different categories of hazardous waste, with non-hazardous waste or with other substances or materials except where the mixing is part of a disposal or recovery operation and is authorised by, and conducted in accordance with the requirements of a waste permit. Where hazardous waste is already mixed, the Regulations require holders to separate that waste where technically and economically feasible and where necessary to comply with Directive conditions. Part 4 of the Hazardous Waste Regulations (Northern Ireland) fulfils the same purpose for Northern Ireland. In Scotland, the Special Waste Regulations 1996 Regulation 17 and 17A restrict the mixing of special waste. The Waste (Scotland) Regulations 2011 regulation 6(8)(b) to (e) and (9) amend these provisions to align with the current Directive wording. It also extends the mixing ban to substances and materials other than wastes, tightens the exception to the mixing ban and provides that mixing includes dilution. Section 192KB (1) of the Public Health Act fulfils the same purpose for Gibraltar.

## 12. Waste Oils (Article 21 of Directive 2008/98/EC)

***(1) Please describe the scheme applied in the Member State for separate collection and treatment of waste oils.***

The UK adopts a voluntary collection scheme for waste oils whereby operators can charge to collect waste oil, process it and then resell it. Such operators require a permit to collect and transport the oil. The oil can either be burnt or regenerated. Waste Oils fall under the auspices of the Hazardous Waste (England and Wales) Regulations 2005, the Hazardous Waste Regulations (Northern Ireland) 2005 and the Public Health Act in Gibraltar. In Scotland, controls over collection and treatment of waste oil fall under the Environmental Protection Act 1990 (EPA 1990) and Waste Management Licensing (Scotland) Regulations 2011 regulation 15. The Waste (Scotland) Regulations 2011 regulation 2 (4) amends the EPA 1990 in respect of imposing a duty on waste brokers or dealers to ensure waste oil is collected separately where technically feasible.

***(2) Has the Member State taken measures to prevent mixing of waste oils with different properties or waste oils with other wastes or materials? What measures?***

The UK has taken no specific measures to prevent the mixing of waste oils with different properties or waste oils with other wastes or materials. This is covered by the mixing ban for hazardous waste as expressed in the relevant Hazardous Waste Regulations for England, Wales and Northern Ireland and the Public Health Act in Gibraltar. In addition, regulation 13(9) of the Pollution Prevention and Control Regulations (Northern Ireland) 2013 states:

(9) A permit which authorises any activity relating to waste oils shall contain conditions ensuring that, so far as technically feasible and economically viable—

(a) waste oils having different characteristics are not mixed; and

(b) waste oils are not mixed with other kinds of waste or substances, if such mixing would impede their treatment.

(10) In paragraph (9), “waste oils” and “treatment” have the same meanings as in Directive 2008/98/EC.

In Scotland, the Waste (Scotland) Regulations 2011 regulation 7(4) amends the Pollution Prevention and Control (Scotland) Regulations 2000 ensuring that waste oils are not mixed in line with the Directive requirements.

***(3) What additional measures, such as technical requirements, producer responsibility, economic instruments or voluntary agreements does the Member State apply for the purpose of separate collection of waste oils and their proper treatment?***

The UK has an informative Oil Care Campaign, run by the Competent Authorities, which encourages collection and recycling of waste oils for recycling.

Northern Ireland has also produced a number of information leaflets. In Scotland, the Scottish Environment Protection Agency has produced guidance on the production of fuel oil from waste.

***(4) Please further indicate whether waste oils are subject to requirements of regeneration in the Member State and whether the Member State restricts the transboundary shipment of waste oils from its territories to incineration or co-incineration facilities in order to give priority to the regeneration of waste oils.***

There is no requirement for waste oils to be regenerated in the UK although they may be regenerated on a voluntary basis. Waste oils can be burnt in the UK provided this is in compliance with the Industrial Emissions Directive. Some export for incineration is allowed where the incineration treatment is classed as a recovery operation. Shipment of waste oil for incineration classed as disposal is prohibited, as is shipping it for any purpose to a non-OECD nation (due to waste oil being designated as a hazardous waste) under the UK Plan for Shipments of Waste.

The UK has produced a Quality Protocol that sets out end of waste criteria for the production and use of processed fuel oil (PFO) from waste lubricating oils.

### **13. Bio-Waste (Article 22 of Directive 2008/98/EC)**

***Please describe briefly how the Member State encourages: (a) Separate collection of bio-waste with a view to the composting and digestion of biowaste;***

The Government encourages separate collection of biowaste in England in a number of ways as explained in Question 7, including education and best practice guidance. However, government policy is that decisions on the best form of waste collection and treatment for a particular area of England are best made by the relevant local authorities. Guidance on applying the waste hierarchy identifies anaerobic digestion as the best technology currently available to treat food waste. The Anaerobic Digestion Strategy and Action Plan – produced in collaboration with stakeholders and published in 2011 - sets out measures to overcome barriers to deployment of anaerobic digestion in England. The action plan is expected to be completed by March 2014 except for a few ongoing actions. The Government has committed financial support to the anaerobic digestion sector, with a £10m fund committed to raising capacity by 300,000 tonnes by 2015. Low carbon energy incentive schemes, such as the Feed In Tariff and the Renewable Heat Incentive already offer support for the generation of renewable energy produced by anaerobic digestion. Furthermore, as part of England's anaerobic digestion Action Plan, WRAP implemented a £500,000 fund to support demonstration projects which encourage the collection of food waste from businesses and public sector buildings.

In Wales, Landfill Allowances and Statutory Recycling Targets both encourage local authorities to separately collect biowaste for recycling, whilst ring-fenced funding has assisted in setting up such schemes. . The Food Waste Treatment Programme assists local authorities in procuring anaerobic digestion capacity to handle primarily municipal food waste.

Northern Ireland is currently considering proposals for introducing landfilling restrictions for food waste and binding targets for recycling.

In Scotland, the Waste (Scotland) Regulations 2012 make it a statutory requirement that food waste must be separately collected from other waste and that a separate collection service must be provided. Through Zero Waste Scotland (ZWS), significant investment has been made in

increased kerbside recycling services, including food waste collections. A total of nearly £20 million has been invested to help local authorities roll out food waste collections to householders. They also offer communication support to local authorities to promote these services and ensure that all householders are aware of what and where they can recycle, including in high density and low performing areas. By the end of 2013, 1.2 million Scottish households will have a food waste collection service.

At a UK level, WRAP has supported the development of food waste collections through research and publications. This includes work to demonstrate the benefits of food recycling and best practice guidance on food waste collections for local authorities, businesses and other bodies. WRAP also developed a food waste resources portal to provide up to date and relevant information on the different sources of food waste which could be used as feedstock for anaerobic digestion. Other research is conducted by the anaerobic digestion Centre of Excellence at the University of Glamorgan, which works with local authorities, developers and regulators to develop and disseminate best practice.

There is UK-wide a voluntary agreement with the hospitality and food service sector with the aim that, by 2015, 70% of food and packaging waste generated by the sector should be recycled, sent to anaerobic digestion or composted. As a result of these actions, there has been strong growth in the anaerobic digestion sector, notably in those plants treating source separated food waste. The number of anaerobic digestion plants has grown from 54 in June 2011 to 110 when the anaerobic digestion Strategy and Action Plan was published in July 2013.

Gibraltar does not have any current separate collection for Bio-Waste and is dependent on the successful Waste Treatment Facility tenderer to determine the advanced thermal treatment process for the Facility and the requirements for compost and digestate.

***(b) Treatment of bio-waste in a way that fulfils a high level of environmental protection;***

The main way in which the UK Government ensures that anaerobic digestion & composting plants operate to a high level of environmental protection is through Environmental Permitting (which fulfils the requirements of Article 23 of the Waste Framework Directive), as regulated by the Competent Authorities. In Scotland, this is done through the Waste Management Licensing regime that meets the requirements of Article 23.

***(c) The use of environmentally safe materials produced from bio-waste.***

WRAP are carrying out an extensive programme of work to develop markets for digestate. This follows similar work on markets for compost. The digestate programme has three main elements:-

- Identifying new markets for digestate
- Demonstrating the benefits of digestate. The largest element of this work is the series of field trials that WRAP are carrying out on the safety and efficacy of using digestate in agriculture. Other trials are being done on the use of digestate in landscaping and in recreation (e.g. sports turf)
- Responding to stakeholder concerns about risks associated with the use of digestate through an extensive risk assessment programme. This includes the

development of a bio-fertiliser matrix (similar in concept to the safe sludge matrix which has been used by the UK sewage treatment sector for many years).

In Scotland, the Scottish Government and Zero Waste Scotland are also working closely with WRAP to ensure that environmentally safe materials are produced from bio-waste.

In addition, the UK have developed quality standards for compost and digestate:-

- Quality Protocol Compost - End of waste criteria for the production and use of quality outputs from composting
- Quality Protocol - Anaerobic Digestate - End of waste criteria for the production and use of quality outputs from anaerobic digestion

These end of waste criteria define when compost and digestate is produced to high enough quality as to no longer be waste. The use of compost and digestate that does not meet these criteria is regulated under the Environmental Permitting system.

## 14. Permits (Articles 23, 24 and 25 of Directive 2008/98/EC)

***(1) How does the Member State ensure that waste is only treated by establishments or undertakings which have a permit complying with the requirements of Article 23 of Directive 2008/98/EC?***

Regulation 12 of the Environmental Permitting Regulations 2010 requires the recovery or disposal of waste to be carried out under a permit. It states that:

12.—(1) A person must not, except under and to the extent authorised by an environmental permit operate a regulated facility (carry on a waste operation).

The environmental permits granted by the Competent Authorities stipulate the types and quantities of waste that may be handled and impose other conditions in order to protect human health and the environment. Waste operations also require the appropriate planning permission for the development and use of land. The 2010 Regulations also include provisions for the variation, transfer and surrender of permits and a system of appeals. Under the Waste and Contaminated Land (Northern Ireland) Order 1997 (as amended) and the Waste Management Licensing Regulations (Northern Ireland) 2003 (the 2003 Regulations), anyone who treats, keeps, disposes or transports waste or who acts as a broker of or dealer in waste has to have a licence to do so. Failure to have a waste licence/permit is an offence. Failure to comply with the conditions of a waste licence/permit is also an offence.

In Gibraltar Article 23 is transposed by the Public Health Act and the Transfrontier Shipments of Waste Regulations 1995.

In Scotland, this requirement is covered by section 33(1)(a) and (b) of the Environmental Protection Act 1990. The Waste Management Licensing (Scotland) Regulations 2011 (WMLR) Schedule 4 paragraph 8 deals with matters to be covered by permits.

The Competent Authorities are under a duty to carry out inspection of the facility to ensure compliance with the conditions of the permit.

***(2) To what extent has the Member State derogated from the permit requirement and which provisions have been laid down to ensure that waste treatment exempted from the permit requirements are in line with the principle of environmentally sound waste management? Has the Member State made use of the Commission's guidance on permitting and inspections?***

Establishments or undertakings that carry out certain low risk waste disposal or recovery operations can be exempt (under Article 24 of the WFD) from the need to hold an environmental permit. Exempt waste operations (recovery and disposal) are provided under regulation 4 of the 2010 Regulations. The general requirements including the requirement to register exempt waste operation with the competent authority (Article 26) are set out in Schedule 2 and the descriptions of the exempt activities and rules for each exempt activity are set out in Schedule 3 to the 2010 Regulations in England and Wales. The exempt waste operations are divided into those relating to the use, treatment, storage and disposal of waste. Schedule 2 to the 2003 Regulations in Northern Ireland contains parallel provisions. In Scotland, Schedule 1 of the WMLR indicates what activities are exempt from full waste management licensing. A similar approach to that used in England for ensuring compliance is used.

Part 4 of the 2010 Regulations describes the enforcement powers of the regulator in ensuring compliance with the regulations and permit conditions. Exempted waste activities are also subject to appropriate periodic inspection. In England and Wales the 2010 Regulations include the duty on regulators to undertake appropriate periodic inspections of regulated facilities (regulation 34(2)) and exempt waste operations (Schedule 2, paragraph 15). Similar inspections are legislated for elsewhere in the UK.

Where breaches of the permit or waste exemption occur, the Competent Authority, as appropriate, works with the operator to bring about compliance. Where compliance cannot be achieved, the Competent Authority exercises its powers and takes appropriate enforcement action which includes the suspension and revocation of permits or prosecution. The Competent Authority takes enforcement action in accordance with its published enforcement and sanctions guidelines. In the case of exempt waste activities, failure to meet the rules of the exemptions can lead to the removal of the entry from the register of exempt waste activities.

## **15. Waste Management Plans (Article 28 of Directive 2008/98/EC)**

***(1) Have waste management plan(s) been drawn up in order to attain the objectives referred to in Articles 1, 4, 13 and 16 of Directive 2008/98/EC? Please provide a link to the publically available website on which they are placed. Has the Member State made use of the Commission's guidance on how to prepare a waste management plan?***

In England, the Government has consulted on a Waste Management Plan with a view to fulfilling most of the mandatory requirements of Article 28. This document will be published by December 2013 and follows the Commission's guidance on what needs to be covered under a Waste

Management Plan or Plans to meet the requirements of Article 28. Article 28 (3) (d) – on location specific criteria - is addressed through a number of documents prepared at national and local level. At national level, the Government has prepared a national planning policy document "Planning Policy Statement 10: Planning for sustainable waste management", revised in March 2011, and is currently out to consultation on updating this policy. This document should also be finalised by December 2013. This national level document is supported by a number of local authority waste plans which provide geographical coverage of England.

Coverage in Wales is provided by Towards Zero Waste (the overarching waste strategy for Wales), Sector Plans – Municipal Sector Plan; Collection, Infrastructure and Sectors Plan; Construction and Demolition Waste Sector Plan; Industrial and Commercial Sector Plan (draft consulted on, final due by December 2013), Technical Advice Note (TAN) 21 and Local Development Plans. The Waste Strategy for Wales was published prior to the publication of the Commission guidance.

In Northern Ireland, the Northern Ireland Waste Management Strategy (NIWMS), together with Waste Management Plans (WMPs) prepared by the three district council Waste Management Groups as required by the Waste and Contaminated Land (Northern Ireland) Order 1997, form Northern Ireland's waste plan as required by Article 28 of Directive 2008/98/EC. The Waste Management Plans cover the whole of Northern Ireland and are supplemented by the Northern Ireland Regional Development Plan and Planning Policy Statement 11. The current Northern Ireland Waste Management Strategy 2006-2020 is being reviewed with a view to publishing a final document by September 2013. This will inform revised Waste Management Plans.

In Scotland, a draft Plan is currently being prepared. A national Zero Waste Plan (ZWP) has already been published which has set a strategic direction for waste policy in Scotland. The Waste Management Plan currently being drafted to meet the requirement of Article 28 will be inserted as an Annex to the overall ZWP.

Gibraltar's Waste Management Plan 2011 is currently being revised and will be consulted upon and submitted to the EU by December 2013.

All these plans have been drawn up in order to meet the objectives of the Directive.

***(2) How many waste management plans have been drawn up to cover the entire geographical territory of the Member State? In case of more than one plan, how does the Member State ensure that the entire geographical territory is properly covered by the waste management plans and that they meet the objectives referred to in Articles 1, 4, 13 and 16 of Directive 2008/98/EC?***

Waste is a devolved matter, so each administration is delivering its own Waste Management Plans. There are, therefore, four main national waste management plans covering the three devolved administrations, Gibraltar and England, all of which have been prepared following the Commission's guidance on how to prepare a Waste Management Plan. In England the national waste management plan is supported by national planning policy and local authority waste plans. There is regular co-ordination between the UK Government, the devolved administrations and Gibraltar to ensure that these Plans, taken collectively, meet the Directive's requirements on the UK.

## 16. Waste Prevention Programmes (Article 29 of Directive 2008/98/EC)

***(1) Have waste prevention programme(s) been drawn up in accordance with Articles 1 and 4 of Directive 2008/98/EC? Please provide a link to the publically available website on which they are placed. Has the Member State made use of the Commission's guidance on how to prepare a waste prevention programme?***

Defra has recently publically consulted on its approach to drafting the Waste Prevention Programme for England, making use of the Commissions guidance. The programme will be published before the end of 2013 in accordance with the requirements of Article 29 of Directive 2008/98/EC. Wales has publically consulted on its draft Waste Prevention Programme and is currently undertaking the analysis of responses. It is scheduled to publish the plan by 12 December 2013. The Welsh Government has made use of the EC guidance on how to prepare a waste prevention programme. In Northern Ireland, the Waste Prevention Programme is currently being prepared for consultation in order to meet the Directive deadline in December 2013. The steps outlined in the guidance were followed, including the involvement of the public and business in the elaboration of the programme. Scotland has already publicly consulted on its Waste Prevention Programme and is awaiting Ministerial clearance of its draft Plan. It is still on target to publish before the deadline. Gibraltar incorporated the Waste Prevention Programme into the 2011 Waste Management Plan and is currently updating this which will go to public consultation and be submitted to the Commission by December 2013.

Links to consultation pages can be found in Annex A.

***(2) Please outline the main elements of the waste prevention programmes the Member State has adopted in order to break the link between economic growth and the environmental impacts associated with the generation of waste.***

Various waste prevention methods have been used to try and break the link between economic growth and waste generation, many of which will be built into the Waste Prevention Programmes when they are published, although some of those Plans have yet to be finalised. The Welsh Government has set a target to reduce the quantity of waste generated by weight in Wales by between 1.2% and 1.4% by 2050 in all major waste streams from a 2006/7 baseline. The aim of an absolute reduction in waste arising combined with policies in place to encourage economic growth should see decoupling of economic growth and waste arising occur.

There is a UK-wide initiative to encourage prevention of food waste known as Love Food Hate Waste. The Welsh government is building on this with an engagement campaign designed to encourage consumers to consider their consumption patterns and promote reuse facilities. Further UK-wide waste prevention initiatives include the Courtauld Commitment, Hospitality and Food Services Agreement and the Home Improvement Sector Commitment. All of the above are voluntary agreements with industry to reduce waste arising.

The Welsh Government view eco-design and eco-innovation as important initiatives for reducing material consumption, waste generation and wider environmental impacts. It has a number of funded projects to deliver in this area including The Product Sustainability Forum, which provides evidence of environmental "hotspots", researches strategies for reducing impacts, publishes

guidance notes to businesses and manages pilot projects to provide case studies and test theories, Eco-Innovation intervention targeting sectors and businesses where there is greater potential for resource efficiency gains through eco-innovation, and providing staged interventions according to where businesses are on their 'innovation journey', and Resource Efficient Business Models delivered via WRAP to test the feasibility of introducing more resource efficient business models with a focus on high-impact products, including electrical and electronic products, clothing and furniture, and the services that use them.

In Wales public procurement accounts for around 10% of GDP, therefore it could have a significant role to play in encouraging waste prevention and acting as a driver for the uptake of resource efficient products and eco-design. The Welsh Government has developed resources to help the public sector in becoming more sustainable in their procurement.

The Welsh Government has also researched the potential for increasing the reuse of goods from households and businesses, with particular emphasis on electronic and electrical equipment, furniture and clothing. The aim would be to encourage the reuse of good quality items as a substitute for new purchases. A "network" concept is being investigated – including communications, a central telephone service, and infrastructure development. Voluntary extended producer responsibility and a voluntary agreement are being assessed for their suitability in increasing reuse in Wales.

Scotland's Zero Waste Plan committed to publishing a national Waste Prevention Programme in line with the requirements of the Waste Directive. There are many actions planned. One already established is "Resource Efficient Scotland", which is a programme which brings together support to Scottish businesses and other stakeholders on the efficient use of energy, water and raw materials. In addition, it will work strategically to change the way products and services are designed and used. The aim of this is to move Scotland towards a more circular economy where nothing is wasted.

Re-use is another major element of the Waste Prevention Programme, Zero Waste Scotland (ZWS) are encouraging reuse and resource exchange through the development of the "ZWS Resource Exchange", an online tool that will help businesses find solutions that reuse resources and encourage the use of materials with recycled content.

***(3) Please report on any progress waste prevention programmes have produced during the reporting period and indicate the evolution of waste generation over the reporting period.***

Defra in England provides funding to the Waste and Resources Action Programme (WRAP) to undertake activities which prevent waste on its behalf. These activities include:

- The Product Sustainability Forum – provides evidence of environmental "hotspots", researches strategies for reducing impacts, publishes guidance notes to businesses and manages pilot projects to provide case studies and test theories.
- Resource Efficient Business Models - funding WRAP to test the feasibility of introducing more resource efficient business models with a focus on high-impact products, including electrical and electronic products, clothing and furniture, and the services that use them.

## Voluntary Agreements

- Courtauld Commitment – aimed at grocery retailers, brands and supply chains.
- Hospitality and Food Services – aimed at businesses providing food and drink services and wider hospitality (e.g. hotels and restaurants), commercial suppliers of food and catering services.
- The Home Improvement Sector Commitment - with the aim of improving the resource efficiency of home improvement products throughout the UK by reducing packaging and waste in the sector.

A programme for waste prevention has been in place in Wales since Wise About Waste was published in 2002. This has targeted household waste, industrial and commercial waste, construction and demolition waste and hazardous waste.

Data for the reporting period is only available for Household Waste. The figures are:

**Table 1- Municipal Waste Arising in England 2009-11**

Year	Tonnage
2009/10	23,700,000
2010/11	23,453,695
2011/12	22,900,000

**Table 2- Municipal Waste Arising in Scotland, 2009-2011**

2008	3,437,046
2009	3,413,702
2010	3,288,067
2011	3,141,202

**Table 3- Municipal Waste Arising in Wales, 2009-2011**

Year	Tonnage
2009	1,387,849.81
2010	1,343,532.29
2011	1,329,201.84

**Table 4- Municipal Waste Arising in Northern Ireland, 2009-2012**

Year	Tonnage
2009/10	1,004,020
2010/11	985,176
2011/12	949,491

**Table 5- Municipal Waste Arising in Gibraltar 2010-2012**

Year	Tonnage
2010	18,111
2011	17,691
2012	16,926

## 17. Inspections (Article 34 of Directive 2008/98/EC)

***Please describe briefly the system of periodic inspections referred to in Article 34 of Directive 2008/98/EC, indicating frequency and depth of inspections. Please further indicate the available administrative capacity in the Member State for carrying out such inspections. Has the Member State made use of the Commission's guidance on permitting and inspections?***

Part 4 of the Environmental Permitting (England and Wales) Regulations 2010 describes the powers and duties of the regulator (and the operator) in ensuring compliance with the regulations and permit conditions. These Regulations place a duty on regulators to undertake appropriate periodic inspections of regulated facilities (regulation 34(2)). There is also a duty to carry out periodic inspections of exempt waste operations (Schedule 2, paragraph 15).

The Environment Agency operates the OPRA system (Environmental Permitting Regulations Operational Risk Appraisal) to allow it to assess the relative environmental risk of -permitted site-based activities; this is a tool to target its regulatory effort into the higher-risk activities and poor performers, resulting in more site inspections to ensure less environmental risk . All activities are set into one of three tiers; Tier 1 for simple activities with a very small or no risk of impact on the environment. Tier 2 and 3 are for permitted activities and are judged by a compliance rating which allows the Environment Agency to ascertain the number of visits and cost of permit required. The compliance rating is based on the answers to the following 5 attributes – Complexity of activity, Emissions and inputs (the amounts allowed to be put into and released from an activity), Location (the state of the environment around the site), Operator performance (the management systems and procedures used to comply with the rules of the environmental permit. Operators who input an externally accredited management scheme are likely to be rewarded) and Compliance rating (how well the operator complies with the conditions of the permit). The regulator works out the compliance rating using the total Compliance Classification Scheme points for each calendar year, January to December. The compliance rating allows the Regulator to plan the amount of resources it will make available, report on how the site is performing and reflect performance in the charges required for the forthcoming year. The compliance rating adjusts the yearly subsistence charge for most tier-2 and -3 permits.

The requirement to carry out appropriate periodic inspection of exempt waste operations is provided at paragraph 15 of Schedule 2 to Regulation 4 of the 2010 Regulation. Regulation 34 of the Environmental Permitting Regulations 2010 states that:

The regulator must periodically review environmental permits... and... must make appropriate periodic inspections of regulated facilities.

Regulation 42 of The Waste (England and Wales) Regulations 2011 states that:

No person may act as a broker of or dealer in controlled waste unless registered with the Competent Authority.

In Northern Ireland, the Northern Ireland Environment Agency (NIEA) carries out regular unannounced monitoring inspections of all licensed and permitted sites. The frequency of inspections is determined using a risk-based approach which considers the type and scale of the activity as well as the operator's compliance history. Visits are also conducted to companies to advise them of their obligations and how to work towards compliance with the legislation. Relevant businesses are required to provide information to NIEA to enable the producer responsibility team to determine whether they have any obligations under the legislation. The team adopts a risk based approach to balance the number of visits and checks on producers, (to ensure their data are accurate) and investigations of unregistered businesses (to ensure they register if obligated).

In Scotland, the Waste Management Licensing (Scotland) Regulations 2011 (WMLR) Schedule 4 paragraph 13 transposes the requirements of Article 34. The Scottish Environmental Protection Agency (SEPA) utilises a compliance Assessment Scheme, designed to demonstrate the level of compliance associated with specific licence conditions. It uses a risk based system to identify which sites get a site based inspection in any given year. The highest risk sites and poorly performing sites will receive multiple site based inspections per year and the lowest risk sites will receive a site based inspection every 5 years. The results of SEPA sampling, site data returns and desk based inspections are also used to calculate the annual compliance result. Should a site have an environmental incident, this is also fed into the scheme along with any subsequent follow up inspections.

Section 192 D of the Public Health Act make provisions in Gibraltar for the inspections referred to in Article 34 of Directive 2008/98/EC. Inspections are carried out by the competent authority on a risk and compliance history basis.

## **18. Enforcement and Penalties (Article 36 (2) of Directive 2008/98/EC)**

***Please provide examples for the Member State's system of effective, proportionate and dissuasive penalties applicable to infringements of the provisions of Directive 2008/98/EC.***

Some examples of the system of offences and penalties for infringements of the legislation which transposes Directive 2008/98/EC follow.

The Waste (England and Wales) Regulations 2011 state that no person may act as a broker of or dealer in controlled waste unless registered with the Competent Authority. The Regulations also state that a person is guilty of an offence if they fail to comply with the requirement to register, or if they fail to comply with a compliance notice, stop notice or restoration notice. Such an offender is liable on summary conviction to a fine not exceeding level 5 on the standard scale. The Regulations also make it an offence not to take all reasonable measures to apply the waste hierarchy ensure separate collection of the stipulated waste streams or prevent mixing of separately collected waste. Persons breaching these regulations are similarly liable to:

- (a) on summary conviction, to a fine not exceeding the statutory maximum (£5,000); and
- (b) on conviction on indictment, to a (unlimited) fine

To ensure Article 36 (2) of the WFD is transposed into UK law, section 34 of the Environmental Protection Act states that:

it shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste, to take all such measures applicable to him in that capacity as are reasonable... to prevent the escape of the waste from his control or that of any other person; and on the transfer of the waste, to secure that the transfer is only to an authorised person or to a person for authorised transport purposes”.

Any person who fails to comply with this duty of care will be liable to:

- (a) on summary conviction, to a fine not exceeding the statutory maximum (£5,000); and
- (b) on conviction on indictment, to a (unlimited) fine”.

Section 41 of the Clean Neighbourhoods and Environment Act 2005 states:

a person who commits an offence under Section 33 of the Environmental Protection Act is liable to:

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £50,000 or both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.

The Act also introduced provisions for courts to order a person convicted of a Section 33 offence to pay costs relating to investigation and enforcement (S42) and clean up costs (S43).

Penalties for Section 34 of the Environment Protection Act 1990 offences (breach of the waste duty of care) are at Section 34(6) Environment Protection Act 1990. Someone who commits an offence shall be liable to:

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine”.

Regulation 69 of the Hazardous Waste (England and Wales) Regulations 2005 states:

a person who commits an offence under regulation 65... shall be liable on summary conviction, to a fine not exceeding level 5 (£5,000) on the standard scale. A person who commits an offence under regulation 65 or 68 in connection with any other requirement under these Regulations shall be liable to

- (a) on summary conviction, to a fine not exceeding the statutory maximum (£5,000); or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both”.

Under Regulation 38 of the Environmental Permitting Regulations 2011:

A person is guilty of an offence and... must not, except under and to the extent authorised by an environmental permit:

- (a) operate a regulated facility; or
- (b) cause or knowingly permit a water discharge activity or groundwater activity.

Secondly, it is an offence for a person to fail to comply with or to contravene an environmental permit condition. Offenders are liable on summary conviction to a fine not exceeding £50,000 or imprisonment for a term not exceeding 12 months, or to both; or on conviction of indictment to a fine or imprisonment for a term not exceeding 5 years or to both.

It is an offence to make a statement which the person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made for the purpose of obtaining the grant of an environmental permit. A person guilty of this offence is liable on summary conviction to a fine not exceeding the statutory maximum; or a fine or imprisonment for a term not exceeding 2 years, or to both.

Regulation 40 of The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 states that:

an operator of a scheme who fails to comply with his recovery and recycling obligations in contravention of regulation 12(1) is guilty of an offence

and that:

a person who contravenes a requirement of regulation 23 or who is in breach of either of the conditions specified in paragraph 1(a) or 1(d) of Schedule 5 is guilty of an offence

and that:

a person who furnishes any information to the appropriate Agency in connection with its functions under these Regulations or furnishes information to which regulation 19 applies to an operator of a scheme shall be guilty of an offence if, in furnishing the information, he

- (a) knows the information to be false or misleading in a material particular; or
- (b) furnishes such information recklessly and it is false or misleading in a material particular.

A person who fails without reasonable excuse to comply with any requirement imposed in a notice under regulation 31(3) shall be guilty of an offence; and a person who intentionally delays or obstructs a person authorised by the appropriate Agency in the exercise of powers referred to in regulation 35 is guilty of an offence; and where in accordance with Schedule 8 there is a group registration the holding company is guilty of an offence if:

- (a) it does not comply with its recovery and recycling obligations referred to in paragraph 5(c) of Schedule 8; or

(b) it does not furnish a certificate of compliance in accordance with paragraph 5(d) of Schedule 8.

A person guilty of an offence shall be liable to:

(a) on summary conviction to a fine not exceeding the statutory maximum (£5,000); or

(b) on conviction on indictment, to a (unlimited) fine.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 has introduced powers to remove the cap of £5000 on the statutory maximum to an unlimited fine. The relevant powers have yet to be commenced.

Section 33 of the Environmental Protection Act 1990 states:

a person who commits an offence under this section (Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste) is liable to:

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £50,000 or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.

Scotland's enforcement and penalty system is similarly based on the Environmental Protection Act 1990 as described above. The Regulatory Reform (Scotland) Bill which is currently before the Scottish Parliament, will provide SEPA with a more strategic range of enforcement tools, including direct measures such as fixed and variable monetary penalties and enforcement undertakings. This will ensure that SEPA has the right range of interventions to tackle poor performance in a proportionate manner and better protect the environment for the benefit of all.

The Scottish Government has also established an Environmental Crime Taskforce, with the aim of:

- defining environmental crime;
- identifying opportunities and priorities for preventing, tackling and deterring environmental crime in Scotland;
- improving co-ordination between law enforcement agencies and others;
- Make proposals for legislation, research and other measures to tackle environmental crime.

It is expected to make its first report of recommendations to the Scottish Government in the near future.

In England, the National Intelligence team use the National Intelligence Model to help better understand environmental crime, identify priorities and the ways in which they can be tackled most effectively. This work contributes to the understanding of where non-compliance takes place and enables others to use the most effective prevention or enforcement action.

In Northern Ireland some of the most serious environmental crime has been waste related. This is dealt with primarily by the Environmental Crime Unit of the NIEA.

The Environmental Crime Unit enforces against serious waste crime through, variously, criminal prosecution of those individuals and companies responsible arising from information, intelligence and evidence gathered by investigators from reported incidents and detailed investigations and focus on the most serious cases, confiscation of financial assets acquired from environmental crime under the Proceeds of Crime Act (POCA), and the requirement for the lawful disposal of waste under Statutory Notice.

In Gibraltar the penalties set out in the Public Health Act applicable to infringements of the provisions of Directive 2008/98/EC specifically in Sections 69, 192D(7), 193E(7), 192KB(8) and 192(S). Section 69 provides the courts to be able to sentence entities or individuals guilty of an offence and liable on summary conviction to a fine of one half of the amount at level 4 on the standard scale in the case of a first conviction for such an offence and in the case of a second or subsequent conviction to a fine at level 4 on the standard scale and imprisonment for a term of three months and in either case to a further fine of one tenth of the amount at level 4 on the standard scale for every day on which the offence has continued. In addition Regulation 63 of the Pollution Prevention and Control Regulations 2013 also provide penalties for infringements of the provisions of Directive 2008/98/EC.

## 19. Record with regard to meeting the Targets set out in Points (A) and (B) of Article 11(2) of Directive 2008/98/EC

**Table 6- Responses to Question 19**

1	Member State provides data on its record with regard to meeting the targets for each year of the three-year reporting period (select appropriate answer).	Yes
2	Member State provides data on its record with regard to meeting the targets for the years of the reporting periods laid down in Annex I, Section 5, to Regulation (EC) No 2150/2002.	Yes
3	Please specify by selecting the appropriate answer which calculation method has been chosen pursuant to Article 3(1) of Decision 2011/753/EU.	Calculation method 3
4	<i>Not applicable to first implementation report</i>	N/A
5	The data on the percentage of recovery (covering preparation for re-use and recovery) and recycling (covering preparation for re-use and recycling) are collected by Eurostat. Member States may enter the data for verification purposes:	
	Preparation for re-use and recycling rate for household and similar waste as specified in the calculation method selected by the Member State in each year covered by this implementation report:	40% in year 2010
		43% in year 2011
		43% <sup>2</sup> in year 2012
	Recovery rate for construction and demolition waste in each year covered by this implementation report:	92.7% in year 2010
		92.5% in year 2011
92.5% <sup>2</sup> in year 2012		
6	Where targets were not met, please set out the reasons for failure and the actions the Member State intends to take to meet those targets.	The UK remains on course to meet the targets within the 2020 deadline.

<sup>2</sup> Provisional data; full 2012 data is not yet available for the whole UK.

# Annex A

## Links to transposing legislation

Links to the directly transposing legislation as stated in the response to Question 1, along with other major pieces of legislation used to enforce the requirements of Directive 2008/98/EC

- England (and Wales where applicable)
  - Waste (England and Wales) Regulations 2011 (<http://www.legislation.gov.uk/uksi/2011/988/contents/made>)
  - Waste (England and Wales) (Amendment) Regulations 2012 (<http://www.legislation.gov.uk/uksi/2012/1889/made>)
  - Hazardous Waste (England and Wales) Regulations 2005 (<http://www.legislation.gov.uk/uksi/2005/894/note/made>)
  - Environmental Protection Act 1990 (<http://www.legislation.gov.uk/ukpga/1990/43/contents>)
  - List of Wastes (England) Regulations 2005 (<http://www.legislation.gov.uk/uksi/2005/895/contents/made>)
- Wales
  - Hazardous Waste (Wales) Regulations 2005 (<http://www.legislation.gov.uk/wsi/2005/1806/contents/made>)
  - Waste (Wales) Measure 2010 (<http://www.legislation.gov.uk/mwa/2010/8/contents/enacted>)
  - The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011 (<http://www.legislation.gov.uk/wsi/2011/1014/contents/made>)
- Northern Ireland
  - The Waste and Contaminated Land (Northern Ireland) Order 1997 (<http://www.legislation.gov.uk/nisi/1997/2778/contents/made>)
  - Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999 (<http://www.legislation.gov.uk/nisr/1999/362/introduction/made>)
  - Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 (<http://www.legislation.gov.uk/nisr/2002/271/contents/made>)

- Waste Management Licensing Regulations (Northern Ireland) 2003 (<http://www.legislation.gov.uk/nisr/2003/493/schedule/2/made>)
- Waste Management Licensing (Amendment) Regulations (Northern Ireland) 2011 (<http://www.legislation.gov.uk/nisr/2011/403/made>)
- Hazardous Waste Regulations (Northern Ireland) 2005 (<http://www.legislation.gov.uk/nisr/2005/300/contents/made>)
- Waste Regulations (Northern Ireland) 2011 (<http://www.legislation.gov.uk/nisr/2011/127/contents/made>)
- Scotland
  - Waste Management Licensing (Scotland) Regulations 2011 (<http://www.legislation.gov.uk/ssi/2011/228/contents/made>)
  - Waste (Scotland) Regulations 2011 (<http://www.legislation.gov.uk/ssi/2011/226/contents/made>)
  - Waste (Scotland) Regulations 2012 (<http://www.legislation.gov.uk/sdsi/2012/9780111016657>)
  - The Special Waste Regulations 1996 (<http://www.legislation.gov.uk/uksi/1996/972/contents/made>)
- Gibraltar
  - The Public Health Act (<http://www.gibraltarlaws.gov.gi/articles/1950-07o.pdf>)
  - The Environment (Waste) Regulations 2007 (<http://www.gibraltarlaws.gov.gi/articles/2007s125.pdf>)
  - The Pollution Prevention and Control Regulations 2013 (<http://www.gibraltarlaws.gov.gi/articles/2013s042.pdf>)

Laws relating to producer responsibility in different waste streams include:

- Great Britain
  - Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (<http://www.legislation.gov.uk/uksi/2007/871/contents/made>)
  - The Waste Batteries and Accumulators Regulations 2009 (<http://www.legislation.gov.uk/uksi/2009/890/contents/made>)

- The Waste Electronic and Electrical Equipment Regulations 2006 (<http://www.legislation.gov.uk/uksi/2006/3289/contents/made>)
- The End of Life Vehicle (Producer Responsibility) Regulations 2005 (<http://www.legislation.gov.uk/uksi/2005/263/contents/made>)
- Northern Ireland
  - The Producer Responsibility (Packaging Waste) Regulations (Northern Ireland) 2007 (as amended) (<http://www.legislation.gov.uk/nisr/2007/198/contents/made>)
  - The Waste Electronic and Electrical Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006 (<http://www.legislation.gov.uk/nisr/2006/519/contents/made>)
  - The Waste Batteries and accumulators (Treatment and Disposal) Regulations (Northern Ireland) 2009 (<http://www.legislation.gov.uk/nisr/2009/159/contents/made>)
- Gibraltar
  - The Environment (Waste) Regulations 2007 (<http://www.gibraltarlaws.gov.gi/articles/2007s125.pdf>)

## Links to Waste Management Plans

The UK Waste Management Plans directly transposing the requirements of 200/98/EC are still in development stages to be published later this year (2013). Below are links to current waste management plans and/or consultation for the proposed waste management plants for each country.

- England
  - Consultation for Waste Management Plan (<https://consult.defra.gov.uk/waste/https-consult-defra-gov-uk-waste>)
  - Planning Policy Statement 10 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/11443/1876202.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11443/1876202.pdf))
  - Consultation for National Waste Planning Policy update ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/225581/Updated\\_national\\_waste\\_planning\\_policy\\_-\\_Planning\\_for\\_sustainable\\_waste\\_management\\_-\\_Consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225581/Updated_national_waste_planning_policy_-_Planning_for_sustainable_waste_management_-_Consultation.pdf))
- Wales
  - Towards Zero Waste ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/11443/1876202.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11443/1876202.pdf))

- Sector Plans  
([http://wales.gov.uk/topics/environmentcountryside/epq/waste\\_recycling/bysector/?lang=en](http://wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/bysector/?lang=en))
- Planning Policy Technical Advice Note 21  
(<http://wales.gov.uk/desh/publications/planning/technicaladvisenotes/tan21/tan21e.pdf?lang=en>)
- Local Development Plans (following  
<http://wales.gov.uk/docs/desh/publications/051201localdevelopmentplansen.pdf>)
- Northern Ireland
  - Northern Ireland Waste Management Strategy 2006-2020  
(<http://www.doeni.gov.uk/niea/wms.17.pdf>)
  - Local WMPs
    - <http://www.arc21.org.uk/filestore/default.asp?categoryId=2&map=&itemId=8>
    - <http://www.northwestwaste.org.uk/downloads-3/waste-management-plan/>
    - <http://swamp2008.org.uk/publications/>
  - Planning Policy Statement 11  
([http://www.planningni.gov.uk/index/policy/policy\\_publications/planning\\_statements/pps11-waste-management.pdf](http://www.planningni.gov.uk/index/policy/policy_publications/planning_statements/pps11-waste-management.pdf))
  - Northern Ireland Regional Development Strategy  
([http://www.drdni.gov.uk/rds\\_2035.pdf](http://www.drdni.gov.uk/rds_2035.pdf))
- Scotland
  - Zero Waste Plan Scotland  
(<http://www.scotland.gov.uk/Resource/Doc/314168/0099749.pdf>)
  - Planning Policy Statement 10  
(<http://www.scotland.gov.uk/Resource/Doc/196433/0052646.pdf>)
- Gibraltar
  - Gibraltar Waste Management Plan 2011 ([http://www.environmental-agency.gi/pdf/Gibraltar\\_waste\\_management\\_plan\\_2011.pdf](http://www.environmental-agency.gi/pdf/Gibraltar_waste_management_plan_2011.pdf))

## Links to Waste Prevention Plans

The UK's various Waste Prevention Plans are still in development ahead of the Commission's deadline for publishing of the 12<sup>th</sup> December 2013

Links to the consultation pages:

- England ([https://consult.defra.gov.uk/waste/waste\\_prevention/](https://consult.defra.gov.uk/waste/waste_prevention/))
- Wales (<http://wales.gov.uk/consultations/environmentandcountryside/waste-prevention-programme/?lang=en>)
- Northern Ireland (Consulted alongside WMP  
[http://www.doeni.gov.uk/waste\\_strategy\\_review\\_condoc.pdf](http://www.doeni.gov.uk/waste_strategy_review_condoc.pdf))
- Scotland (<http://www.scotland.gov.uk/Resource/0039/00396085.pdf>)
- Gibraltar (as part of Waste Management Plan linked in above section)