

Title: The Transfrontier Shipment of Waste (Amendment) Regulations 2012 IA No: DEFRA1140 Lead department or agency: Defra, Hazardous & International Waste Unit Waste Management Division Other departments or agencies: n/a	Impact Assessment (IA)			
	Date: 29/08/2012			
	Stage: Development/Options			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
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Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£-1.08m	£-0.88m	£0.1m	No
			NA

What is the problem under consideration? Why is government intervention necessary?
As transposed there are some ambiguities in the Transfrontier Shipment of Waste Regulations 2007 (TFS Regulations) regarding the competent authority (CA). In some circumstances this makes enforcement a complex process involving the Secretary of State. At present it is also impossible for CAs to access key information and intelligence held by HMRC. Current fees for shipment of waste into or from Northern Ireland (NI) have also been identified as insufficient to cover costs. Government intervention is necessary to clarify CA responsibilities, provide the required legal gateway to allow access to HMRC export data and change existing fees in NI. These changes will help ensure we have effectively implemented the EU requirements.

What are the policy objectives and the intended effects?
To regularise current informal arrangements between Defra and the enforcement bodies for dealing with the transit of waste and shipments in the marine area. This will avoid the need to obtain Secretary of State approval. To enable HMRC to share export data with CAs so maximising use of existing data on monitoring exports. All these proposed changes are intended to result in more accurate detection of illegal shipments and more targeted and effective enforcement of the WSR which will lead to more efficient regulation and support legitimate business by creating a level playing field. We also propose a change to the existing fees for shipments of waste into and from NI.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
"Do Nothing" option (maintain the status quo).
Option 1: Amend the TFS Regulations in order to:

- Better detect illegal shipments by allowing the sharing of HMRC export data with CAs and giving Border Force (BF) the ability to stop and detain containers themselves, instead of only at the request of a UK CA, should the opportunity arise.
- Clarify the responsibilities of the CAs for the transit of waste and the marine area.
- Change to the existing fees payable for the import and export of waste into and from NI.

Option 2: Amend the TFS Regulations in order to:

- Better detect illegal shipments by allowing the sharing of HMRC export data with CAs.
- Clarify the responsibilities of the CAs for the transit of waste and the marine area.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 12/2017					
Does implementation go beyond minimum EU requirements?				N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	
				Non-traded:	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Adopt all of the proposed changes to the TFS regulations

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £-1.19m	High: £-0.97	Best Estimate: £-1.08m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	£0.11m	£0.97m
High	Optional	£0.14m	£1.19m
Best Estimate	Non-monetised	£0.13m	£1.08m

Description and scale of key monetised costs by 'main affected groups'

The changes to existing fees in NI incur an estimated cost to business of £884,139 (NPV over 10 years). Admin costs associated with data-sharing between CAs and HMRC, estimated at £197,977 (NPV over 10 years).

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Non-monetised	Non-monetised	Non-monetised

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

The proposed adjustments facilitate effective enforcement and therefore support legitimate businesses and reduce adverse environmental consequences. The provisions for data-sharing and greater powers for BF are also expected to increase the efficiency of the enforcement process. The increase in NI fees reduces the risk of a breakdown in enforcement and a "weak link" developing. The changed fee structure is more consistent with the rest of the UK, which prevents distortions in shipment decisions.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

It has been assumed that the current pattern and number of shipments to and from Northern Ireland will remain unchanged. It has also been assumed that the proposed changes are sufficient to secure a more effective enforcement. Since the exact extent of illegal shipping is unknown, the benefits have not been monetised - consequently there is a risk that some benefits will be different than expected.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0.1	Benefits:	Net: £-0.1m	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description: Adopt all changes to TFS regulations except changes to NI fees

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £-0.21m	High: £-0.18m	Best Estimate: £-0.20m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	£0.18m
High	Optional	Optional	£0.21m
Best Estimate	Not monetised	£0.02m	£0.20m

Description and scale of key monetised costs by 'main affected groups'

Admin costs associated with data-sharing between CAs and HMRC, estimated at £197,977 (NPV over 10 years).

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Non-monetised	Non-monetised	Non-monetised

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

The proposed adjustments facilitate effective enforcement and therefore support legitimate businesses and reduce adverse environmental consequences. The provisions for data-sharing are also expected to increase the efficiency of the enforcement process. Illegal shipments of waste are expected to decline as a result of the greater deterrent, though not as much compared to Option 1.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

It has been assumed that the proposed changes are sufficient to secure a more effective enforcement. Since the exact extent of illegal shipping is unknown, the benefits have not been monetised - consequently there is a risk that some benefits will be different than expected.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	No	NA

Evidence Base (for summary sheets)

Background

The Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal sets down the worldwide notification requirements for the movement of hazardous waste between countries. Signatories to the Convention are also required to minimize the generation of such waste and ensure its environmentally sound management.

The European Community transposes the requirements of the Basel Convention by Regulation (EC) No 1013/2006 on shipments of waste - the "Waste Shipment Regulation" (WSR). The Transfrontier Shipment of Waste Regulations 2007 (TFS Regulations) set out requirements for the enforcement of the WSR within the UK.

As the competent authorities (CAs), the Environment Agency, the Scottish Environment Protection Agency (SEPA) and the Department of the Environment in Northern Ireland (DOENI)¹ carry out enforcement of the regulations for waste imported (destination) and waste exported (despatch) in the UK on a territorial basis.

In the TFS Regulations the Secretary of State is currently the CA for waste transiting the UK and also the marine area. CAs in the UK consent to transit of waste "tacitly" as allowed by the WSR. They do not send any formal consent. Practically this means the Secretary of State would only have a role if something went wrong while waste is transiting.

For the marine area, the TFS Regulations require that those wishing to import or export waste must seek the consent of the Secretary of State. For practical reasons CAs have carried out this work on behalf of the Secretary of State. This requires Defra officials to put a submission to Ministers seeking their agreement to CAs processing notifications for the movement of waste from these sources on behalf of the Secretary of State.

The WSR set strict controls which apply to anyone when exporting or importing all waste materials. How this is managed depends on:

- whether the waste is being sent for recovery or disposal - most shipments for disposal are prohibited and if they are allowed they are subject to notification controls.
- the type of waste, if waste is being moved for recovery - the WSR contains several annexes specifying different types of hazardous and non-hazardous waste.

Notification controls will apply to anyone for all allowed imports and exports of:

- hazardous waste moving for recovery operations
- all wastes moving for disposal
- some shipments of non-hazardous wastes to non-OECD countries.

However, some movements of non-hazardous waste do not need to be notified.

CAs in the UK use an intelligence-led approach to tackle the illegal export of all wastes whether notification is required or not. Some have set up specialist teams to lead their work to prevent the illegal export of waste. They use intelligence to understand waste crime activity and export trends. This helps identify priority offenders responsible for the most serious crimes, prevent and disrupt illegal waste exports and prosecute those involved in the illegal export of wastes. They also carry out both scheduled and unannounced port and facility inspections, carry out transport checks and issue stop notices on suspect containers preparing for export.

With access to HMRC export data, CAs could develop better intelligence on potential illegal waste exports and target non-compliant shipments more effectively. This is a high profile area with certain cases of illegal waste exports gaining significant media coverage. There is concern within the industry about the level of this criminal activity.

In Northern Ireland (NI) the development of the existing fee structure for the shipment of waste dates back to 2005, and before the DOENI took on the role of the CA for the TFS Regulations in NI. In addition, this fee structure did not change when the TFS Regulations were made in 2007.

The DOENI conducted a review of their fees for the TFS Regulations in May 2012. This identified that there are a number of areas where the original assumptions and projections failed to predict the impact, cost or resources associated with enforcing these regulations.

So, current fees in NI do not reflect a realistic cost to effectively deliver all the requirements of the WSR by the DOENI. The proposed change to fees in NI is not due to an increase or decrease in the required level of regulatory activity. As such there will be no exemption for micro-businesses.

Rationale for government intervention and desired outcomes

To ensure that data is managed properly HMRC can only disclose their information in accordance with legislative authority. We, therefore, need to change the TFS Regulations to provide a legal gateway to allow HMRC to share their export data with CAs. This will enable CAs to improve the efficiency of detection of illegal shipments and so increase the effectiveness of enforcement of the WSR.

Setting up the gateway will also allow us in part to address recommendations made by Ministers of the EFRA Committee in 2010² on identifying illegal exports. This highlighted that CAs must be enabled to fully share intelligence on waste exports. For example, information from other relevant agencies monitoring exports including HMRC and the Border Force (BF).

We also intend to address a current anomaly in the regulations to allow BF to stop suspect shipments and detain these at the port for up to five working days themselves, rather than only at the request of a CA.

We do not expect this change to result in new work for BF. However, as the BF operate on the front line, for example at ports, they may sometimes identify shipments that CAs may not be aware of through their intelligence. For example if there is cause for suspicion from a visual perspective and/or with the paperwork accompanying the shipment.

All the changes will help secure the protection of the environment and safeguard human health from the risks posed by the management of waste shipments. Our expectations are that the amount of waste exported illegally and then dumped in developing countries would reduce.

Green list wastes (wastes that can be recycled) can be of poor quality. If the quality falls below the requirements expected by the WSR, exports of this material would be illegal. Better detection of such shipments may, therefore, mean that the quality of recycled material for export will improve.

Actions arising from this improved application of the WSR will only target illegal shipments and will thus provide support to the legitimate waste export industry and ensure there is a level playing field for all businesses in the sector.

The TFS Regulations make the Secretary of State the CA for waste transiting the UK and the marine area. This can cause practical difficulties if problems occur while waste is transiting the UK. We intend to change this provision to enable the other UK CAs to work more effectively and ensure a consistent service for business. This change also proposes a role for the Department of Energy and Climate Change (DECC) in relation to offshore installations in the marine area. DECC inspectors visit offshore installations as part of their work to check operator compliance with the various legislative requirements of the department's offshore environmental regulatory regime. DECC inspectors will, therefore, undertake inspections and evidence gathering at offshore installations under the TFS Regulations on behalf of the CAs.

Fees payable to the DOENI for their role as the CA to police the import and export of waste into and from NI under the TFS Regulations are inadequate. Previous rationale and assumptions used to develop them did not accurately predict the likely costs or resources needed to carry out this work. Now that the WSR have been in force for five years it is clear that the costs are greater for the following reasons:

- **Compliance:** The process involves a greater proportion of desk based activities and a risk based approach to compliance activities with full audits being carried out thus increasing the section's workload.
- **Enquiries:** The number of enquiries and the amount of time taken processing them has increased significantly dealing with complex queries. These enquiries concern both notified and non-notified waste shipments.
- **Financial guarantees:** More time is spent concluding financial guarantees than projected and includes requirement for legal advice.
- **Analysis:** Auditing process also includes sampling and analysis which had previously not been accounted for through fees.
- **Training:** The nature of audits, sampling and checks being conducted have become more complex with ever changing waste streams involved and staff training in terms of health and safety, use of specialised equipment and technology employed is essential.

DOENI will not be able to maintain their current level of activity without an increase in fee revenue. Therefore, there is a risk that the effectiveness of enforcement will decrease in Northern Ireland; this may allow a greater number of illegal shipments to pass unnoticed and, by creating a “weak link” in the UK’s enforcement of the WSR, may make Northern Ireland a magnet for illegal activity.

The proposed increase in fees in NI payable to the DOENI for their role as the CA will not change regulatory activity, but will simply more adequately reflect the costs NI incurs and address this disparity. It would also bring them in line with the existing fee structure used by the other UK CAs and so create a greater degree of consistency.

Policy options considered

The following policy options were analysed in producing this impact assessment.

“Do Nothing” option (maintaining the status quo):

This option refers to maintaining the current situation. The other options costs and benefits will be compared against it.

Option 1: amending the TFS Regulations to:

- make the current UK CAs responsible for the control of waste exports in the marine area and for the transit of waste instead of the Secretary of State.
- set up the required legal gateway to allow the sharing of HMRC export data with the CAs.
- address a current anomaly so BF can stop and detain suspect waste shipments of their own volition should the opportunity arise.
- increase the existing fees payable to DOENI for shipments of waste into and from NI to address previous under estimates of the impact, cost and resources needed. This will also bring the fee structure in line with that used by the other UK CAs and create consistency.

Option 2: amending the TFS Regulations to:

- make the current UK CAs responsible for the control of waste exports in the marine area and for the transit of waste instead of the Secretary of State.
- set up the required legal gateway to allow the sharing of HMRC export data with the CAs.

We consider policy option 1 the most appropriate. The reasons for adopting option 1 are set out in more detail below.

Costs and benefits analysis

Benefits

“Do Nothing” Option

No additional benefits which could help to support the legitimate waste export industry.

Note: We consider Options 1 and 2 together as the benefits of amending the TFS Regulations are similar. Where we consider a benefit is not attributable to an option we indicate this.

Option 1: *Amend the TFS Regulations to allow the sharing of HMRC export data with CAs and allow BF to stop and detain containers themselves should the opportunity arise. Also clarify the responsibilities of the CAs for the transit of waste and the marine area. Change the existing fees payable to import and export waste into and from NI.*

Option 2: *Amend the TFS Regulations to allow the sharing of HMRC export data with CAs. Also clarify the responsibilities of the CAs for the transit of waste and the marine area.*

The proposed amendments to the TFS Regulations which form part of options 1 and 2 are likely to result in a number of benefits:

- **Better detection of illegal shipments** leading to improvements in the effectiveness of the enforcement of the WSR. Effective enforcement is required in order to realise the benefits of the underlying regulation.

With access to HMRC export data the CAs will be able to increase their intelligence base and better detect illegal shipments of waste. This will enable them to improve targeting and help prevent these shipments leaving the UK. CAs’ task is made more difficult without the ability to share this already

existing data with significant effort going into gathering and developing quality intelligence from numerous sources.

HMRC's CHIEF system which holds the data is a live system which can provide information to the CAs on who is exporting a given commodity, the site of loading, port of export and where it is going. Profiles could be run on CHIEF and make use of codes relating to waste and scrap and other relevant codes such as that for used goods.

CAs could help develop profiles which reflect the requirements of the WSR which means they can more easily detect the types of waste shipments they already target. Specifically this could help to identify shipments that the waste shipment controls prohibit, for example waste tyres to China.

In addition intelligence already shows that significant quantities of waste electrical equipment is exported to West Africa. The export of hazardous waste, which includes waste televisions and computer equipment, to developing countries is prohibited. Profiles which attempt to identify waste equipment rather than genuine, tested and working electrical equipment would help to combat this illegal activity.

Using the HMRC export data means CAs could:

- create profiles which mirror the requirements of the WSR and intervene and prevent more non-complaint shipments leaving the UK
- run campaigns on waste types of concern, for example waste tyres - this will allow CAs to check the quality of these waste streams
- assess new and emerging threats in the exports of wastes
- reduce the threat of the repatriation of illegally exported waste and the associated costs
- use government data which already exists helping to improve their efficiency in targeting non-compliant shipments.
- **Provides support to the legitimate waste management industry** by helping to create a level playing field. Non-compliant businesses who make illegal waste shipments will be targeted using an intelligence-led approach.
- **Maximising the use of existing data** which will show a joined up government, with those involved in enforcing and monitoring exports working in partnership to make the detection of illegal shipments more efficient.
- As they are deployed at the front line, such as ports, BF are in a position to **identify in the course of their routine work suspect shipments which CAs may otherwise not be aware of through their intelligence-led approach**. The proposed change would allow BF to stop such containers from being exported while the CAs investigate (not option 2). In contrast to the existing circumstances, BF would have the power to stop suspicious vessels of its own volition. This is expected to create a more streamlined and efficient process (by eliminating both the need to obtain permission and existing legal uncertainties) as well as increasing the effectiveness of enforcement.

We do not expect this change to be used frequently or to result in new work for BF. It would only be used for example if there is cause for suspicion from a visual perspective and/or with the paperwork accompanying the shipment.

- **Reducing impacts on the global environment** by adopting the proposed changes. Our expectations are that the amount of waste exported illegally and then dumped in developing countries would reduce through better detection of illegal shipments.

The type of wastes detected will vary with enforcement priorities but currently waste streams detected are likely to be mainly waste electrical and electronic equipment (WEEE), then green list wastes (wastes that can be recycled) including some tyres, plastics, paper. It may also include some end-of-life vehicles.

- **Improving the quality of recycled material sent for export** by adopting the proposed changes. By accessing HMRC export data we envisage better detection of illegal shipments. Green list wastes (wastes that can be recycled) can be of poor quality. If exports of green list waste do not meet the requirements in the WSR they would be illegal shipments.

- Our expectations are that with an increase in fees to import and export waste into and from NI, additional resources can be funded within the NIEA **providing a more effective and consistent service for business in NI** (not option 2). This avoids the potential for poor enforcement and the creation in Northern Ireland of a “weak link” in the UK’s control of illegal waste shipments. The changes also bring the NI structure more in line with the rest of the UK which prevents distortions in the allocation of shipments across the UK.
- It is expected that as a result of more effective enforcement of the WSR, there will be a much greater deterrent for illegal waste shipments. Consequently, we expect that the actual level of illegal activity will fall.

Costs

“Do Nothing” option

No additional costs.

Option 1: *Amend the TFS Regulations to allow the sharing of HMRC export data with CAs and allow BF to stop and detain containers themselves should the opportunity arise. Also clarify the responsibilities of the CAs for the transit of waste and the marine area. Change the existing fees payable to import and export waste into and from NI.*

We do not expect the majority of the proposed amendments to the TFS Regulations in option 2 to have significant cost implications but they may have some minor impacts as follows:

Exporters of waste - using an intelligence-led approach CAs only target and detain non-compliant shipments. Having access to HMRC export data may alert CAs to more potentially illegal shipments and result in more containers being stopped. A sample report run by HMRC to assess the scale of the problem detected around 200 shipments that may have warranted further checks by CAs for the period 1 April 2011 to 31 March 2012, some of which may not have complied with the requirements of the regulations.

Using their intelligence-led approach, the total number of containers stopped by the UK CAs during 2011 was 178 (Environment Agency = 95; SEPA = 46; DOENI = 37). Of these, 113 were permanently prevented from export as they were not compliant with the requirements of the regulations. The remaining 65 stopped exposed issues of minor non-compliance. Where appropriate these were allowed to continue following further checks. For example after a doorkside inspection, checks with the CAs of destination or the provision of further required information such as an Annex VII form or a contract. It is clear from these figures that the number of shipments detected as illegal could be much higher with access to the HMRC data.

Even with better data, it is possible that a small number of these may be legitimate exports and in such cases the exporters may incur some additional costs from the resultant delay. However, care with targeting will mean that such incidents will be rare. So, the impacts on legitimate exporters are likely to be minimal. Impacts, for example detaining a compliant shipment unnecessarily, are not expected to increase significantly as a result of the changes. Such occurrences have the potential to happen under current arrangements.

Overall we consider access to HMRC export data will enhance the CAs intelligence-led approach to tackling illegal exports of waste. However, of potentially greater net benefit is the level playing field it could help to provide for the industry as whole.

It is also unlikely that there will be an impact on legitimate operators as a result of the extension of an existing power to BF to stop and detain containers themselves. Containers will only be stopped where there are definite indications that the shipment is not compliant.

Regulators (1) - associated with the sharing of HMRC export data with the CAs.

HMRC already collect and hold the export data but will need to carry out some work to process it into a form which CAs can readily use. HMRC will charge CAs for information provided. The level of the charges is being considered by HMRC as part of a wider exercise reviewing the charges they make for providing data within government.

Based on provisional costs provided by HMRC, a cost estimate for supplying this information is between £23,000 to £47,000 per annum. Costs would be likely to reduce after the first year as systems and an agreed way of working would be established. Therefore, it has been assumed, for the purposes of calculation, that the lower end of this range represents a suitable rough estimate for the average cost

over the next ten years. It is assumed that this cost fully represents the additional real resource cost required by the changes.

The costs of providing this information will not fall onto businesses.

Overall the benefits of setting up such a data sharing arrangement, which will help to make the detection of illegal shipments more efficient and so reduce:

- the level of risk to the environment and human health that these shipments pose
- the cost of repatriating illegal shipments to the UK. These are estimated in the order of £7,500 to £10,000 per container, with some incidents involving numerous containers
- the risk of infraction by the European Commission for failing to properly enforce the WSR. This might be in the order of a lump sum of several million pounds with a substantial daily fine running into thousands of pounds until the issue was resolved.

These benefits are thought to offset the costs to be charged by HMRC to the CAs.

Regulators (2) - associated with extending an existing power to BF.

Activities involving detaining suspect shipments by BF are already part of their routine activities. BF indicate this change to the legislation will not involve any significant cost, as they involve holding the containers concerned and referring to the relevant CA, who will then undertake any necessary further enforcement action using their own powers. The proposed change to the legislation allows BF to detain suspect waste consignments at their own volition. This is consistent with other prohibitions and restrictions BF are engaged with, rather than requiring an advance specific request from a CA.

Importers and exporters of waste into and from NI only

The increase in existing fees payable to DOENI to import and export waste into or from NI introduce additional costs for some business carrying out these activities.

The existing fees payable to DOENI are set out in Schedule 3 of the TFS Regulations. The current cost to business is a fee of:

- £450 per notification for any shipment into or from NI and
- £25 per shipment to which the notification relates to.

Table 1 outlines the proposed fee changes for the import and export of waste into and from NI.

Table 1: Proposed fee changes in NI

Number of shipments	Fee payable by business	
	Imports	Exports
1 to 5	£940	£1,090
6 to 20	£2,025	£2,025
21 to 100	£3,675	£3,050
101 to 500	£7,950	£5,940
500+	£14,625	£10,785

Tables 2 and 3 detail the proposed fee change for business to import and export waste into or from NI. This is based on a pattern of existing notifications dealt with by the DOENI from 1 April 2011 to 31 March 2012.

Fees for notifications for some imports and exports with larger numbers of shipments will see a significant reduction in charge. For smaller numbers of shipments there will be an increase in charge as currently most imports are within the 21 to 100 range, and most exports are within the 6 to 20 range.

The new fee structure will ensure full cost recovery of the monitoring of these shipments, and include some activities previously not allowed for when the original fees were set in 2005.

On the assumption that the current pattern of shipments will continue for the foreseeable future, the costs of the new fee structure have been calculated based on current shipment data. The gross additional cost to exporters of the change in fee structure is £23,115 per year. In NPV terms this is equivalent to £198,967 over the next 10 years. The gross additional cost to importers is £79,600 per year. In NPV terms this is equivalent to £685,172 over the next 10 years. Therefore, the total NPV is

£884,139 over the next 10 years. As the future evolution of shipment rates is not known, there is some uncertainty in this figure. Allowing for a 10% variance on either side gives a range of £795,725 - £972,552. Using an annuity rate of 8.6 (over 10 years), the EANCBS has been calculated as £97,554 in 2009 prices.

Table 2: Impact of proposed changes in fees for imports of waste into NI

Imports of waste

Number of shipments	Current notification fee payable by business = £450 per notification		Current shipment fee payable by business = £25 per shipment to which the notification relates to		Total current fee payable by business	New total fee payable by business	No. of notifications 1 April 2011 to 30 March 2012
	1 = £450	5 = £450	1 = £25	5 = £125			
1 to 5	1 = £450	5 = £450	1 = £25	5 = £125	1 = £475 to 5 = £575	£940	0
6 to 20	6 = £450	20 = £450	6 = £150	20 = £500	6 = £600 to 20 = £950	£2,025	7
21 to 100	21 = £450	100 = £450	21 = £525	100 = £2,500	21 = £975 to 100 = £2,950	£3,675	24
101 to 500	101 = £450	500 = £450	101 = £2,525	500 = £12,500	101 = £2,975 to 500 = £12,950	£7,950	16
500+	£450		+£12,500		+£12,950	£14,625	2

Table 3: Impact of proposed changes in fees for exports of waste from NI

Exports of waste

Number of shipments	Current notification fee payable by business = £450 per notification		Current shipment fee payable by business = £25 per shipment to which the notification relates to		Total current fee payable by business	New total fee payable by business	No. of notifications 1 April 2011 to 30 March 2012
	1 = £450	5 = £450	1 = £25	5 = £125			
1 to 5	1 = £450	5 = £450	1 = £25	5 = £125	1 = £475 to 5 = £575	£1,090	0
6 to 20	6 = £450	20 = £450	6 = £150	20 = £500	6 = £600 to 20 = £950	£2,025	10
21 to 100	21 = £450	100 = £450	21 = £525	100 = £2,500	21 = £975 to 100 = £2,950	£3,050	4
101 to 500	101 = £450	500 = £450	101 = £2,525	500 = £12,500	101 = £2,975 to 500 = £12,950	£5,940	6
500+	£450		+£12,500		+£12,950	£10,785	0

Option 2: Amend the TFS Regulations to allow the sharing of HMRC export data with CAs. Also clarify the responsibilities of the CAs for the transit of waste and the marine area.

The proposed amendments to the TFS Regulations in option 2 would have similar cost implications as described in option 1 but would not give BF the opportunity to act by themselves and detain suspect illegal shipments should the opportunity arise.

In addition the fees for the shipment of waste into or from NI would not change resulting in no additional costs for business.

Risks and assumptions

The main risks and assumptions for each option are set out below.

“Do Nothing” option

Assumptions:

- CAs continue to use existing intelligence to specifically target suspect shipments.

Risks:

- the UK may be criticised by the international community and industry for not using the HMRC export data to deal with illegal waste shipments.
- Defra may be criticised for not progressing with the recommendation of the EFRA Committee.
- DOENI would not be raising sufficient money through fees to cover the costs of administering the regime.

Option 1

Assumptions:

- With the exception of some businesses in Northern Ireland who will face an increase in fees, only businesses that operate outside the law and export waste illegally will be impacted.
- proportionate use of HMRC export data by CAs such that they continue to specifically target suspect illegal shipments.
- CAs will not devote additional resources to targeting suspect illegal exports but be able to use their existing resources to better effect. The improved data will provide better intelligence making it easier to identify illegal shipments and they could focus more on prevention and in taking compliance and enforcement action.
- data is provided in a form technically compatible for sharing and use by the CAs.
- BF will adopt a similar approach to CAs to identify and detain suspect shipments.
- the number of notifications dealt with by the DOENI from 1 April 2011 to 31 March 2012 represent the likely number of shipments, and hence businesses affected, each year.

Risks:

- non-compliant shipments may be detained unnecessarily such that there could potentially be an increase in storage charges incurred by the exporter. This risk is thought to be minimal as CAs will only detain shipments where the evidence suggests it is illegal.
- the extent of illegal shipment of waste is uncertain. If it were significantly different from expectations this would affect the expected costs and benefits.

Option 2

Assumptions:

- total compliance with the regulations by business is assumed. Only businesses that operate outside the law and export waste illegally will be impacted.
- proportionate use of HMRC export data by CAs such that they continue to specifically target suspect illegal shipments.
- CAs will not devote additional resources to targeting suspect illegal exports but be able to use their existing resources to better effect. The improved data will provide better intelligence making it easier to identify illegal shipments and they could focus more on prevention and in taking compliance and enforcement action.
- data is provided in a form technically compatible for sharing and use by the CAs.

Risks:

- non-compliant shipments may be detained unnecessarily such that there could potentially be an increase in storage charges incurred by the exporter. This risk is thought to be minimal as CAs will only detain shipments where the evidence suggests it is illegal.
- notifications to import or export waste into or from NI may take longer to process without additional resource funded by the proposed fee increase, resulting in delays and costs to business.
- the extent of illegal shipment of waste is uncertain. If it were significantly different from expectations this would affect the expected costs and benefits.

Conclusion

Overall we envisage the changes in option 1 will provide better detection of illegal shipments and help improve the enforcement of the WSR.

The increase in fees to import and export waste into or from NI would introduce additional costs for some businesses carrying out these activities. We will in particular seek views on this change as part of a consultation exercise for the regulations.

The exemption for micro-businesses does not need to be applied to these amendments. The only impact on micro-businesses would be in relation to the changes in fees in NI. This change is outside the scope of the exemption because it is simply a change in fees rather than any change to activities and will bring the NI fee structure in line with the rest of the UK.

Option 1 may result in additional impacts on businesses who do not operate within the law but will provide support to the legitimate waste export industry.

Footnotes:

¹ Activities carried out by the Northern Ireland Environment Agency (NIEA) as an agency of DOENI.

² House of Commons Environment, Food and Rural Affairs Committee, Waste strategy for England 2007, Third report of session 2009-2010, volume I, section 10 Tackling waste crime