

## The Waste (England and Wales) Regulations 2011

<b>Lead department</b>	Department for Environment, Food and Rural Affairs
<b>Summary of measure</b>	The Waste Regulations 2011 transposed several aspects of the revised Waste Framework Directive (rWFD), with the aim to reduce the adverse impacts of the generation of waste and resource use on human health and the environment.
<b>Submission type</b>	Post-implementation review
<b>Implementation date</b>	28 April 2011
<b>Department recommendation</b>	Amend
<b>RPC reference</b>	RPC-DEFRA-5322(1)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	2 February 2024

### RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	The RPC considers the post-implementation review (PIR) to be fit for purpose. The recommendation to keep some measures and repeal others is supported by proportionate evidence given the initial relatively low-level of estimated impacts of the measure. The PIR helpfully separates the elements of the regulations and discusses their objectives, original assumptions, progress against the objectives and any unintended consequences that have been identified from engagement with stakeholders. There are areas for improvement, including providing further justification for the approach taken and further detail on the survey ran by the Department including characteristics of respondents, and considering impacts on small and micro businesses.

<sup>1</sup> The RPC opinion rating is based on whether the evidence in the PIR is sufficiently robust, as set out in the better regulation framework, to support the departmental recommendation. RPC ratings are fit for purpose or not fit for purpose.

## RPC summary

<b>Category</b>	<b>Quality<sup>2</sup></b>	<b>RPC comments</b>
Recommendation	<b>Green</b>	The Department recommends that the 2011 Regulations should be kept with amendments to some elements. This recommendation is supported by sufficient evidence.
Monitoring and implementation	<b>Satisfactory</b>	The PIR outlines the sources of data and evidence that have been used to inform the findings and recommendation, which largely consists of consultations on the separate elements of the regulations. The Department conducted an additional survey to address evidence gaps identified. The PIR would have benefited from providing a critical review of the coverage and quality of the survey, including the representativeness of respondents. The PIR would also benefit from explaining why published data was either unavailable or inappropriate to assist evaluation of the regulations.
Evaluation	<b>Satisfactory</b>	Overall, the PIR provides sufficient evidence and discussion to support the recommendation; however, in some instances the PIR would benefit from further justification. Where negative unintended effects have been identified, the PIR could benefit from providing further detail on plans to mitigate these, as well as considering the potential for non-regulatory actions to improve the effectiveness of the regulations. The PIR would also benefit from proportionately considering the impact on small and micro businesses.

<sup>2</sup> The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. The definitions of the RPC quality ratings can be accessed [here](#).

## Summary of proposal

The Waste Regulations 2011 transpose several aspects of the revised Waste Framework Directive (rWFD). A post-implementation review (PIR) was carried out in 2017 and published in December 2018. This is the second PIR of the 2011 Regulations<sup>3</sup>.

The aim of the 2011 Waste Regulations was to reduce the adverse impacts of the generation of waste and resource use on human health and the environment. Some parts of the 2011 Regulations are amendments to other regulations. These are not in scope of this PIR as they are expected to be addressed in other reviews. For this review, the following elements of the regulations are in scope:

- (1) **Waste Management Plans (WMP):** For the Government to revise the scope and content of waste management plans.
- (2) **Waste Prevention Programmes (WPP):** For the Government to establish waste prevention programmes.
- (3) **Waste Hierarchy:** For organisations to apply the waste hierarchy guidance to create a priority order at the point of waste transfer.
- (4) **Targets for household recycling, construction, municipal waste and landfill:** The regulations set out that the WMP must specify measures to be taken to ensure that targets for recycling of household and construction waste are met. In 2020 the reference to those targets was updated to include requirements that the WMP includes policies to be taken to meet a municipal waste recycling ambition and new landfill reduction target.
- (5) **Separate recycling collections:** For waste collectors to collect paper, metal, plastic and glass separately from each other and other waste materials – where necessary for quality reasons to ensure recovery, and where technically, environmentally and economically practicable (TEEP).
- (6) **Waste infrastructure:** For local authorities to apply the self-sufficiency & proximity guidance for waste catchment areas, to create an integrated and adequate network of installations for waste disposal and for the recovery of mixed municipal waste from household waste.
- (7) **Carrier registration:** For all waste carriers, brokers and dealers (CBDs) to register with the Environment Agency (EA).
- (8) **Waste transfer information:** For organisations to record and retain specific information about waste and its movement, upon its transfer.

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<sup>3</sup> The first PIR and corresponding RPC opinion can be found [here](#).

The Department did not produce an Impact Assessment (IA) for the 2011 Regulations as initial estimates of the costs and benefits were presented in the 2010 IA for the wider rWFD.

## Recommendation

The Department recommends that the 2011 Regulations should be kept with certain elements being repealed. With regards to the specific elements, the Department recommends that (1), (2), (3), (4) and (6) should be kept, and separate recycling collections (5) should also be kept, however, it is expected to be repealed in 2025 for England and replaced with the new Simpler Recycling regulations. The Department recommends that measures (7) and (8) are repealed and later replaced with more effective measures.

Whilst the Department recommends keeping some aspects of the 2011 Regulations, they also acknowledge the areas for improvement identified by stakeholders and actions taken to address these. For example, the PIR recommends keeping the WPP and explains how the revised WPP published in July 2023 addresses the concern raised by stakeholders in the previous PIR and at consultation. Similarly, whilst the PIR recommends retaining a WMP the Department notes the specifics of the plan will be reviewed and updated to reflect stakeholder feedback and progress towards targets.

The recommendations outlined above are supported by a level of evidence and analysis, albeit mainly qualitative, that is reasonable and proportionate to the scale of impacts quantified in the original related IA. This is explained further below.

## Monitoring and implementation

### Proportionality

As mentioned above, the Department did not produce an Impact Assessment (IA) for the 2011 Regulations, therefore it has proven difficult for the Department to ascertain the initial estimated impact on business. The PIR draws on initial estimates from the 2010 impact assessment for the wider rWFD to arrive a central estimate of £4.6 million in annual ongoing costs to business for the measures covered by the PIR. The relatively small initial estimated cost is partly due to the Department assuming local authorities (LAs) were already complying with some of the regulations (i.e. waste infrastructure requirements), and therefore the Department assumed the additional cost to be minimal. However, following engagement, the PIR notes that stakeholders thought waste infrastructure planning generated some cost where time and resources were required. Although difficult to determine, the PIR would have benefited from further exploring the scale of these costs (see 'Original assumptions' below). The WMP and WPP were also determined to pose no additional costs on business following the previous PIR as the measures themselves did not place obligations on business and instead present documentation of the current landscape.

The PIR provides a relatively light-touch assessment of actual impacts on business, which the Department has assessed through consultations and surveys. In the

absence of more robust quantitative evidence, this approach appears to be reasonable. However, the PIR could benefit from providing further justification for the approach taken, drawing on RPC proportionality guidance<sup>4</sup>, especially given the Department was not able to quantify all impacts in the original IA.

### Range of evidence

The PIR outlines the sources of data and evidence that have been used to inform the findings and recommendation. This largely consisted of consultations on the five of the elements of the regulations undertaken since the previous PIR. The Department states they did not seek to repeat engagement with stakeholders that occurred through the various consultations, arguing that it would not add value. The Department then ran an additional survey to address identified evidence gaps.

For the most part, previous consultations and the Department's survey were used to assess whether the policy objectives were achieved. In some instances, the PIR also draws on published statistics, for example, Defra statistics on household recycling and construction in relation to the targets (4). The PIR would benefit from explaining why published data are not available or appropriate to use in relation to assessing the other elements of the regulations.

Given the Department relies heavily on consultation and survey responses to inform the recommendation, the PIR would have benefited from providing a critical review of the coverage and quality of these. For example, the PIR could have discussed the characteristics of the stakeholders who responded to the survey in relation to the industry as a whole, to demonstrate whether the sample is representative. The PIR would have benefitted from providing more of a balanced range of views received from consultations, for example, providing explanation for why a proportion of respondents found the regulations to be ineffective. If this information was not collected, the Department would benefit from consideration of follow-up questions in future surveys.

## Evaluation

### Policy objectives

The Department helpfully separates the PIR into the eight elements (outlined above) covered by the regulations and in turn discusses the extent to which they have met their individual objectives.

Overall, the PIR provides sufficient evidence and discussion to support the recommendations. For some elements, the PIR could benefit from further justification. For example, the evidence the Department presented for waste infrastructure (6) appears to be mixed, with feedback from stakeholders suggesting the usefulness of the regulations relating to planning for waste infrastructure has decreased overtime and the majority of stakeholders surveyed reporting that there had been negative consequences such as additional costs for land and delivery challenges. Whilst the PIR states the Department will continue to work with

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<sup>4</sup> RPC proportionality guidance can be found [here](#).

stakeholders, the PIR would significantly benefit from either providing more evidence to further support the recommendation to keep this element of the regulations or further detail on the actions the Department will take to mitigate the negative impacts identified by stakeholders.

#### Unintended effects

The PIR draws on survey responses to outline any unintended consequences identified by stakeholders. Where negative unintended effects have been identified, the PIR could benefit from providing further detail on the Department plans to mitigate these in future activities (see comments above).

#### Original assumptions

The review has attempted to revisit cost estimates from the original rWFD impact assessment using qualitative survey data. Due to the limited responses from stakeholders and the high proportion of respondents reporting to be unsure of the costs associated with the regulation, the Department is unable to provide updated cost estimates for most elements of the regulations. For clarity, the PIR would benefit from a table summarising the estimated costs and benefits for each element from the original IA, the revised estimates following the PIR, and justification for why these have not been provided where relevant.

#### Impact on small and micro businesses

Whilst not necessarily a specific requirement of the review, the Department could have discussed the impacts of the regulations on small or micro businesses. The review could have used consultation and/or survey responses to assess the impact on SMBs through outlining the characteristics of the stakeholders who responded and whether smaller businesses were more likely to report unintended effects.

#### Future assessments

Given waste management is an active policy area with various pieces of legislation, the PIR could benefit from providing further clarity on how evaluation of related measures will be conducted outside of the specifics of this review, for example, Simpler Recycling in England and mandatory digital waste tracking service, and how these evaluations will feed into the policy landscape.

#### Improvements or alternatives considered

The PIR would benefit from further consideration of other improvements, in particular non-regulatory measures, to improve the effectiveness of the regulations. An example of this could be stakeholder engagement and guidance to improve understanding of and compliance with the waste hierarchy.

### **Regulatory Policy Committee**

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk). Follow us on Twitter [@RPC\\_Gov\\_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website [www.gov.uk/rpc](http://www.gov.uk/rpc). To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).