



A Summary Guide To The Food Waste Regulations

1 July 2010 is the date the Waste Management (Food Waste) Regulations 2009¹ entered into force in Ireland.

The Regulations require all major producers of food waste to place it into a dedicated bin and ensure that it is not mixed with other waste. A brown bin collection service must be used so that the collected food waste is subsequently recycled by composting or by other approved recycling process. Alternatively, businesses affected by this legislation can transport the food waste directly to a recycling plant or can treat it themselves by installing a properly authorised composting unit on the premises where the waste is generated.

At the present time, the recycling rate in Ireland for food waste generated by shops and other businesses is very low – less than 10%. However, this material can be recycled relatively easily. This new legislation is designed to ensure that all major commercial sources of food waste make their contribution to increasing national recycling levels.

Besides resulting in increased recycling, the purpose of the legislation is to comply with EU legislation. The Landfill Directive requires all EU countries to reduce the amount of waste sent to landfill sites by a series of yearly, and increasingly stringent, targets. A failure to meet these targets may cause Ireland having to pay significant fines.

Affected Businesses and Premises

The Food Waste Regulations apply to all major sources of food waste. These are all listed in the legislation and this list is reproduced in the appendix to this guidance document.

The Regulations require food waste to be recycled when it arises in shops and supermarkets, public houses, state and local authority buildings, restaurants, cafés, bistros, wine bars and hot food outlets, canteens in office buildings and on construction sites, hotels, B&Bs and guest houses, hospitals and nursing homes, schools, colleges, railway stations and airports. This obligation also applies at trade shows, exhibitions, music concerts and other similar public events. There are, however, a small number of exemptions (see page 2).

What do Obligated Businesses have to do?

A key requirement of the Food Waste Regulations is that food waste must be kept separate from other waste. This prevents it becoming contaminated and unsuitable for recycling. The legislation also prevents segregated food waste from being disposed of by being sent to landfill.

A business that is subject to this legislation has three alternative options for its segregated food waste:

- ▲ The waste can be collected by a waste collector that is offering a brown bin collection service. The collector always must take it to an approved plant for recycling by composting or by another similar process;
- ▲ The waste can be transported by the business directly to a composting plant or other type of food waste recycling facility; or
- ▲ The waste can be dealt by the business on-site using an authorised composting unit.

Where food waste is collected by a brown bin contractor, that person must have been issued with a waste collection permit that allows this type of waste to be handled. All food waste that has been collected in accordance to the Food Waste Regulations must pass to a recycling facility that is fully compliant with national environmental and animal by-product legislation. Food waste cannot be mixed with other waste after collection; nor can it be landfilled.

If a business decides to take its own food waste to a recycling plant or to set up a composting unit on its own premises, it needs to ensure that there is full compliance with all of the relevant environmental and public health legislation. For example, the establishment of its own composting unit requires the business to apply to its local authority for a certificate of registration to be issued. This is a requirement of the Waste Management Act. In addition, the composting unit must comply with animal by-product rules.

¹: A copy of the Regulations can be downloaded from www.foodwaste.ie

A business that transports its own waste to a recycling plant must ensure that the destination is subject to a waste licence or waste facility permit which allows this material to be handled. In addition a business can transport the food waste to a facility (e.g. transfer station) which is sending food waste to a food waste recycling plant.

In some instances, operators of canteens, restaurants and other similar food outlets located within commercial buildings may not have direct control over the waste collection arrangements serving the premises. In such circumstances, the Food Waste Regulations require compliance by the person responsible for the building in which the canteen or other premises is situated. Both the food outlet operator and the occupier of the building may be liable under the Regulations when offences are committed.

Supermarkets and shops that sell food products and cooked food should already separate their butchers waste from their general waste and have it separately collected. In order to comply with the Food Waste Regulations, they will need to separate the remaining food waste from their other general waste and keep it separate.

Similarly, catering waste that arises from any restaurant or canteen that is located within a large shop or supermarket may need to be kept separate from the other food waste generated by the premises' retail activities. It is important that these businesses check that any contractor used to collect these wastes for delivery to a particular authorised treatment facility is allowed to handle meat-based foodstuffs as well as other waste food and catering waste. This is because, separately from the Food Waste Regulations, strict hygiene-related legislation applies in Ireland to the handling of waste meat and meat-based foodstuffs in order to prevent animal disease.

Macerators

Some businesses have installed food waste macerators that attach to sink units. The use of these and other similar devices to dispose of food waste into the sewerage system is prohibited by the Food Waste Regulations when a food waste collection service is available. This provision applies irrespective of whether a discharge licence has been issued which allows food effluent to pass to a sewer. Again, this is to ensure that food waste is consigned for recycling.

Exemption for Businesses that produce less than 50kg of Food Waste per week

In order to give small businesses additional time to adjust to the new legislation, premises that produce less than 50 kgs of food waste per week do not need to comply until 1 July 2011. However, such businesses are required to send a written declaration of their exemption to their local authority immediately. Once a local authority has been notified, this exemption only lasts under 1 July 2011. This declaration may not be accepted if a particular local authority has made a by-law or placed an obligation upon a waste collector to require this type of premises to recycle its food waste.

It is suggested that the written declaration should include the following information:

- ▲ The address of the premises;
- ▲ The names of the owner and operator;
- ▲ The type of business (e.g. shop, wine bar, guest house etc.);
- ▲ A statement that the premises generates less than 50 kgs of food waste per week; and
- ▲ A statement that this declaration is being made under Article 3 of the Waste Management (Food Waste) Regulations 2009.

It should be noted that this new legislation allows a local authority to demand proof that a premises is generating less than 50 kgs of food waste per week by requesting a competent person to prepare a food waste management implementation report. Additionally, the provision of false and misleading statements in such a declaration is an offence.

Other Exemptions

The Food Waste Regulations also sets out some other exemptions. The most important of these exempt the following types of food waste or their sources from the legislation:

- ▲ Food waste that has arisen from international travel or from isolation wards in hospitals where there is the possibility of transmission of infectious disease;
- ▲ Food waste generated by B&Bs with less than four bedrooms or from student residences on a college campus;
- ▲ Food waste generated by agriculture, food processing and manufacture, with the exception of staff canteens where food is prepared on the premises; and
- ▲ Food waste that arises at office and factory canteens where staff bring in their own food and where no food is actually prepared by the employer.

Handling Food Waste after its Collection

Waste contractors that collect food waste from any of the business that are subject to the Food Waste Regulations also are subject to certain new legal requirements. They are prohibited from mixing collected food waste with other waste, contaminating it or disposing of it. Any collected food waste must pass to a composting or other food waste recycling plant. In addition, food waste must at all times be managed in accordance with the animal by-product legislation governed by the Department of Agriculture, Fisheries and Food

Options for the Recycling of Food Waste

As noted, a key objective of the Food Waste Regulations is to ensure that food waste is recycled. Usually, it will be made into compost, which is then available to be spread on parks, gardens etc. It also can be recovered by a process known as anaerobic digestion and converted into a gas-like fuel. Other recovery options are allowable, although the legislation prohibits segregated food waste passing to incineration.

In all cases, the food waste recycling plant must fall within what the Food Waste Regulations term an "authorised facility". Usually this will mean that the site must be authorised by a waste licence or waste facility permit issued under the Waste Management Act. As noted, small-scale composting plants operated on the site where

the food waste was generated – such as at a hotel or nursing home – instead can be granted a certificate of registration. All of these facilities must also be compliant with any requirement for planning permission; most larger plants will be subject to a permit or other form of approval issued by the Department of Agriculture, Fisheries and Food.

Operators of waste facilities are forbidden from contaminating food waste and from disposing of it. However, the Food Waste Regulations allows a recovery plant operator to blend food waste with other organic wastes and with amendment material to facilitate the recycling process. In instances where the resultant material proves not to be usable or suitable as compost, it can only be disposed of with the consent of the EPA or local authority responsible for the recovery facility's licence or permit.

Trade Shows, Exhibitions, Concerts and Other Public Events

The Food Waste Regulations make a person organising a trade show, exhibition, concert or other event responsible for ensuring that all hot food outlets comply with this new legislation. This makes it much easier to ensure that the individual outlets that sell food to the public segregate their food waste and cause it to be recycled.

The Food Waste Regulations apply at most trade shows and exhibitions where hot food is supplied. In relation to outdoor events and concerts, the legislation applies where an events licence is required under the Planning and Development Act. Such licences must be obtained where 5,000 or more persons are to gather for an open air concert or similar event. However, many other transitional events are excluded from the Food Waste Regulations, and this includes many fairs and funfairs, bazaars, circuses and religious gatherings.

Besides making the event organiser responsible for ensuring that all hot food outlets comply with the legislation, the Food Waste Regulations require that person to prepare a food waste management plan. The food waste management plan would include details such as projected amount of food waste that would be generated and how it will be managed. Where an organiser holds a number of shows in the one year, one of these plans can suffice for the entire year; alternatively separate plans can be drawn up for different shows. The purpose of the plan is to describe the arrangements that will be put in place to ensure that food waste is segregated and recycled.

Each food waste management plan must be sent to the local authority responsible for where the event is being held. This must be done 30 days prior to the event's commencement. The local authority is required to determine its adequacy and revert back to the organiser within 10 working days.

While full details of the content of a food waste management plan is contained in the Food Waste Regulations, in summary the plan is required to describe how food will be supplied and how food waste will be managed at the event. It also must contain an estimate of the expected quantity of food waste and set out the arrangements for the collection and recycling of this material.

In addition, within 28 days of the end of each event, the Food Waste Regulations require the organiser to provide a local authority with a food waste management implementation report. This report must include details on the quantity of food waste generated at the event, information about all waste collectors deployed and of the food waste recycling plant used. While only one food waste management plan need be submitted annually, a food waste management implementation report must be drawn up after each trade show or other public event.

Enforcement

The Food Waste Regulations are enforced by each county council or city council. Officers of such bodies are allowed to enter premises to check that there is compliance with this legislation.

Local authorities can also require businesses to explain how food waste generated at a particular premises is being managed. This request can take a number of different forms, including requiring the submission of a food waste management implementation report or annual environmental report.

A food waste management implementation report provides information on the use, type, quantity, origin, management arrangements and destination of food waste. An annual environmental report covers matters such as the amount of food waste generated, the quantity sent for recycling and measures adopted to reduce food waste over the course of the previous year.

Information supplied to a local authority which is false or misleading is an offence under the Regulations.

The Food Waste Regulations also mandate provide that food waste collectors should inform each local authority of organisations that are refusing to avail of a food waste collection service.

Non-compliance with the Food Waste Regulations is an offence. This can affect business that do not segregate their food waste properly, as well as contractors that dispose of segregated food waste rather than recycle it. Organisers of trade shows and other events that fail to ensure that hot food outlets comply with the legislation are also open to prosecution. This also applies to all businesses that do not submit the required food waste management plans or food waste management implementation reports. As noted, both an operator of a business such as a canteen or restaurant and the occupier of the premises in which it is situated are subject to the legislation and may be liable when offences are committed.

Penalties

Offences relating to the Food Waste Regulations usually will involve an offender being required to appear at the District Court. The relevant maximum penalties are a €3,000 fine per offence or 12 months imprisonment (or both).

Appendix- Affected Businesses and Premises

The following list is a copy of Schedule 1 to the Food Waste Regulations. Readers should be aware of the notes at the end that clarify the various categories. In addition, various terms contained in the Schedule and in the Regulations themselves are defined in Regulation 2(3) of the Food Waste Regulations.

Class 1: "Premises used for the supply of hot food for consumption both on and off the premises, including premises where the supply of such food is subsidiary to any other commercial or retail activity, (including events prescribed under section 230 of the Act of 2000 but excluding other premises located at any fair, funfair, bazaar, circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character where the use for such purposes does not exceed, as the case may be, a period of 10 days continuously or an aggregate of 20 days in any one year). Mobile food outlets, such as vans and caravans, located outside the curtilage of premises so obligated shall be exempted from the requirements of these Regulations".

Class 2: "A public house where food is supplied, which has been prepared in a kitchen or catering facility engaged in the preparation of food for the purposes of supply."

Class 3: "Premises where food is supplied to employees or prepared on the premises for the purposes of supply to employees, including premises which are used for carrying on any industrial, commercial or trade activities as well as office buildings and mixed-use premises."

Class 4: "A guest house, hostel or hotel providing overnight guest accommodation, excluding premises comprising not more than four bedrooms which are used for the purposes of overnight guest accommodation."

Class 5: "A shop or supermarket involved in sale of food to the public, including premises for the sale of sandwiches or hot food where the sale of such food is subsidiary to the main retail use"

Class 6: "A restaurant, café, bistro, wine bar or other similar premises where food is prepared on the premises"

Class 7: "A hospital, nursing home or other premises for the long term residential accommodation of people in need of care where food is prepared on the premises."

Class 8: "An institution providing adult, continuing or further education, a school, college or training centre, or a university or any other third-level or higher-level institution, whether or not supported by public funds, where food is prepared on the premises."

Class 9: "State buildings where food is prepared on the premises, including (a) Garda stations and other buildings; (b) Prisons and other places of detention; (c) Barracks, other buildings and other installations (including airfields and naval yards) used for the purposes of, or in connection with, the operation of the Defence Forces; (d) Office buildings or other premises used for the purposes of, or in connection with, the business of Uachtarán na h-Éireann, Dáil Éireann, Seanad Éireann, the Department of the Taoiseach, the Office of the Tánaiste, the Department of Defence and other Government Departments; (e) Office premises and other buildings used by local authorities

Class 10: "Canteen services where food is supplied to employees or prepared on the premises for the purposes of supply to employees, which— (a) is situated on the site of construction, development or refurbishment works, and (b) where the duration of such works exceeds a period of 9 months."

Class 11: "Stations, Airports, Ports, Harbours and Marinas where trains, planes, and boats which engage in the supply of food to the public (other than food waste originating from means of transport operating internationally) unload food waste from the transportation medium"

Interpretation of Classes

For the purposes of Class 3, "Industrial activity" shall mean any process which is of Classes: carried on in the course of trade or business, other than agriculture, and which is—

- (a) for or incidental to the making of any article or part of an article, or
- (b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,

and for the purposes of this Class, "article" includes—

- (i) a vehicle, aircraft, ship or vessel, or
- (ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database.

For the purposes of Classes 3, 6, 7, 8, 9 and 10 to this Schedule, food is prepared on the premises when it is subject to heating or to other preparation processes undertaken on that premises.

Class 8 to this Schedule excludes food preparation activities by students and other persons in residential accommodation where such preparation activities do not form part of any training or curriculum-based activity.

General Notes

1. In accordance with Regulation 3, these Regulations shall not apply to food waste that has arisen from a means of transport operating internationally.
2. Where a premises fulfils the criteria for inclusion within any class of Schedule 1, it shall be regarded as a "Schedule 1 Activity" for the purposes of the definition of a producer.

Further Information

The website www.foodwaste.ie contains further information about the Food Waste Regulations. This includes:

- ▲ A full copy of the legislation;
- ▲ A set of 'frequently asked questions' on the regulations produced by the Department of Environment, Heritage and Local Government;
- ▲ Tailored factsheets for each type of business affected by the regulations; and
- ▲ Environmental Protection Agency's food waste prevention guide for businesses "Less Food Waste-More Profit".

Disclaimer:

This document is intended to act as a helpful summary of the Waste Management (Food Waste) Regulations 2009. This document does not purport to be and should not be considered a legal interpretation of the legislation referred to herein. It is also not a substitute for legal advice and should not be used for that purpose. Although every effort has been made to ensure the accuracy of the material contained in this publication, complete accuracy cannot be guaranteed. Neither the Department of Environment, Heritage and Local Government or Cré or acknowledged parties accepts any responsibility whatsoever for loss or damage occasioned, or claimed to have been occasioned, in part or in full as a consequence of any person acting or refraining from acting, as a result of a matter contained in this publication. All or part of this publication may be reproduced without further permission, provided the source is acknowledged.