

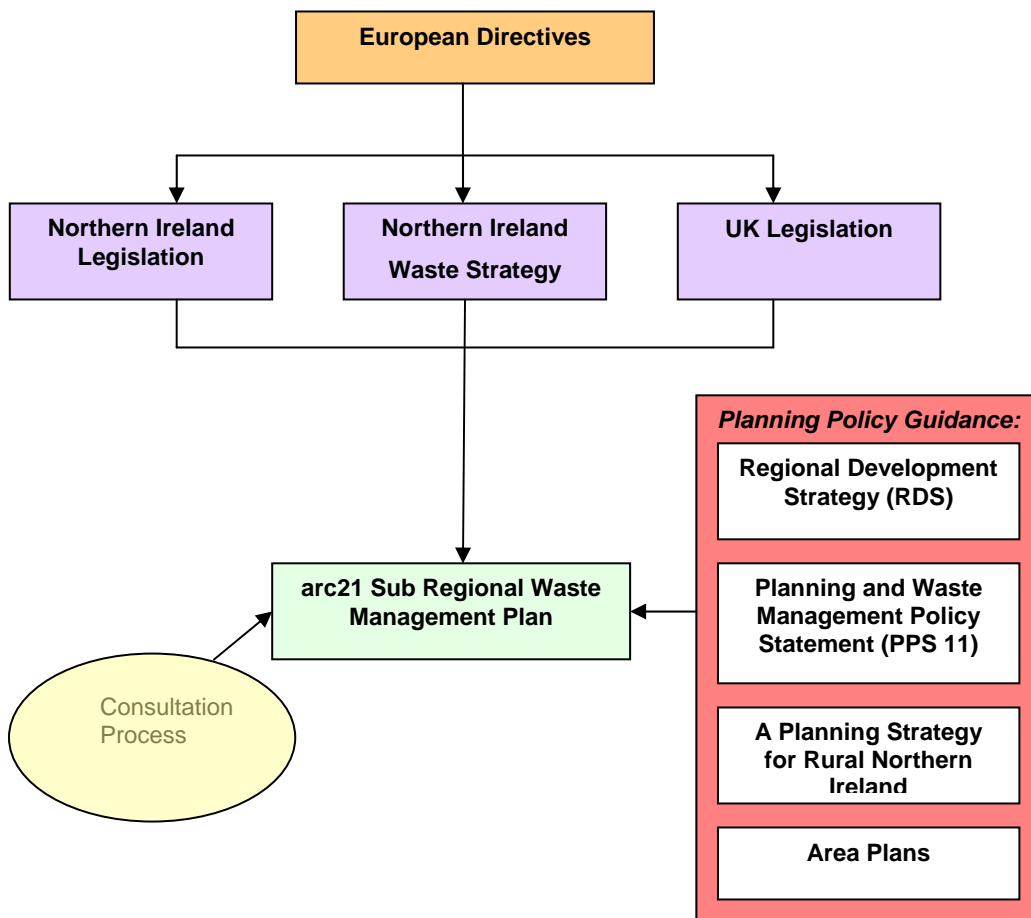
CHAPTER 2: LEGISLATIVE AND POLICY CONTEXT

This chapter sets out the legislative context for the Waste Management Plan and summarises the policies and guidance that the Plan takes into consideration.

INTRODUCTION

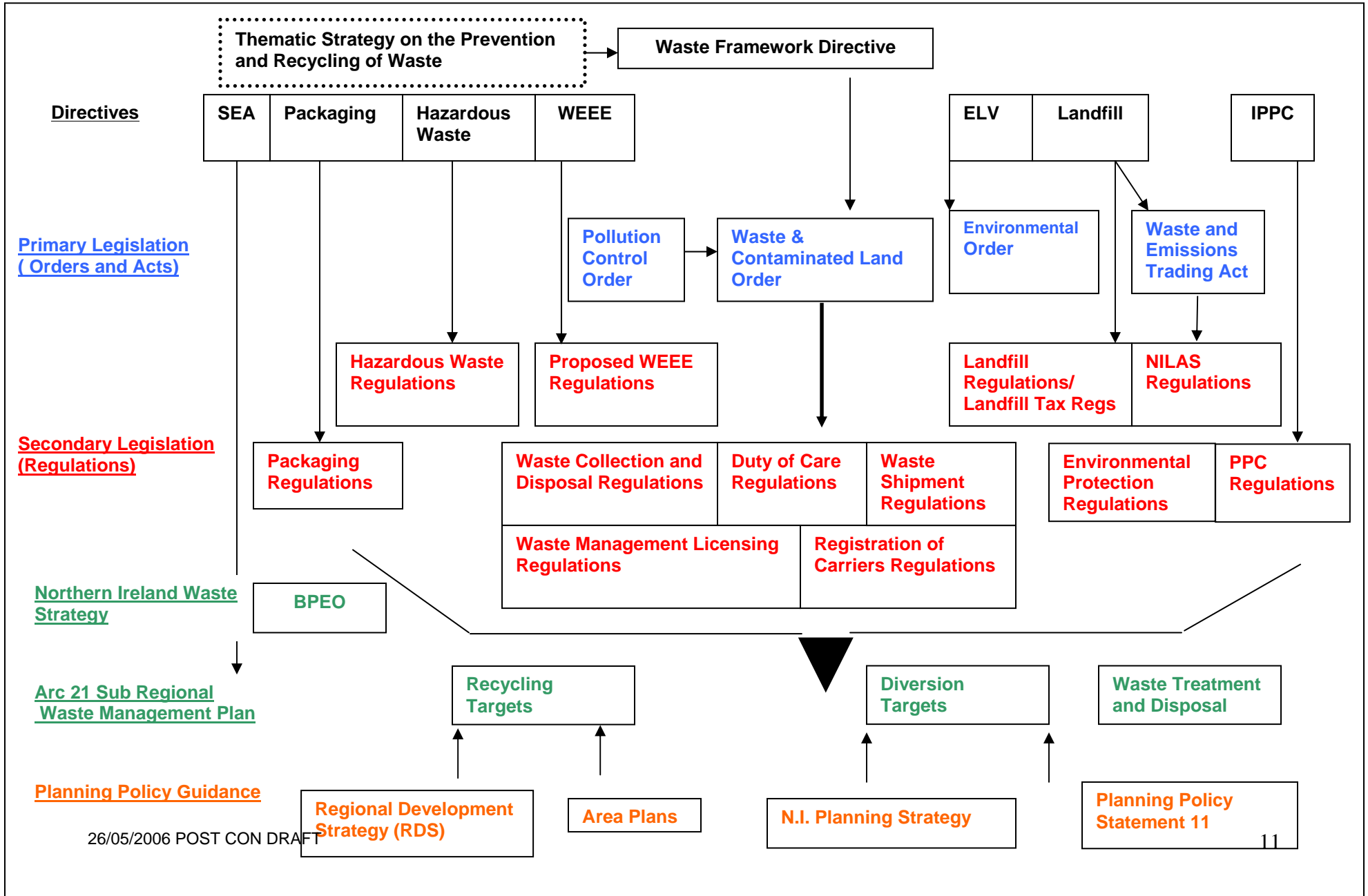
- 2.1 Current and future waste management activities are influenced by decision making at a number of levels. In drawing up the Waste Management Plan, arc21 has considered the legislative and policy framework and taken into account the strategic principles and guidance issued by the European Union (EU), Government and the Department of the Environment. Figure 2.1 summarises the key elements of the legislative and policy framework relevant to the development of the Plan.

Figure 2.1 Legislative and Policy Framework



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- 2.2 Waste legislation is implemented in three levels in Northern Ireland. This comprises EU Directives, UK-wide legislation and Northern Ireland specific legislation and policy (Northern Ireland Orders, Regulations and national planning guidelines).
- 2.3 The majority of waste policy and guidance is based on EU Directives which direct Member States regarding important waste or environmental issues. These are then translated into National Legislation and policy within certain timescales. An additional source of EU law is in the form of Regulations which take direct effect in the domestic law of Member States without any domestic enactment.
- 2.4 In the case of Northern Ireland, EU Directives are implemented through primary and secondary legislation. Primary legislation includes Orders and Acts and secondary legislation includes Regulations and planning guidelines. The flowchart in figure 2.2 summarises the hierarchy of legislation concerning waste as it relates to the arc21 Waste Management Plan.

Figure 2.2: Hierarchy of Legislation



- 2.5 In addition, a number of EU thematic strategies are also being developed for the future of waste management in member states and these are highlighted below in paragraphs 2.30 to 2.33.

EUROPEAN UNION DIRECTIVES

- 2.6 The EU gives strong direction to its member states on waste issues and much of UK waste policy and guidance is based on EU legislation. The main legal instruments that establish law and policy are called Directives. These specify the objectives that the EU seeks to achieve on particular issues. Member states must then translate Directives into national policy and implement their requirements within a prescribed timescale.

Strategic Principles and Waste Framework

- 2.7 EU policy is based on the Commission of the European Communities strategy for waste management produced in 1989. The strategic principles on which the policy is based are:

- Waste prevention;
- Waste recycling and re-use;
- Optimisation of final disposal of waste; and
- Rational organisation of all operations related to waste management.

- 2.8 These principles have been taken forward in the Sixth Environmental Action Programme (2001-2010). This Programme predicts that waste volumes in the EU will continue to rise unless remedial action is taken. In particular, economic growth is leading to greater end-of-life and more complex product wastes and action is needed to reduce the overall amount of waste we produce. A key objective of this Environmental Action Programme in relation to waste management is therefore, to ensure more sustainable patterns of consumption in the future. For wastes that are still generated, EU Objectives continue to focus on:

- Reducing risks to the environment and health;
- Recycling;
- Reducing the quantities of waste that need to go to final disposal; and
- Treating waste as closely as possible to where it is generated.

- 2.9 Overall targets for the EU are proposed to reduce the quantity of waste going to final disposal by 20% by 2010 compared with 2000, and 50% by 2020 compared with 2000.

Waste Framework Directive

2.10 The Framework Directive on Waste (75/442/EEC as amended by 91/156/EEC and 96/59/EC) is the overarching legislative framework and is of particular significance to the development of the Plan. It provides a foundation for sustainable waste management practice and defines waste. The amended framework contains 19 articles that set out requirements for waste management in the European Union. Its main objectives are to:

- Restrict the production of waste by promoting clean technologies and products which can be recycled or re-used;
- Encourage recycling and reuse of raw materials;
- Aim for the European Union to become self-sufficient in waste disposal, and for each member state to provide their own facilities for waste treatment and disposal;
- Harmonise waste disposal and recovery laws between member states;
- Reduce the movements of waste; and
- Prevent pollution caused by waste disposal and recovery operations.

2.11 The Directive requires that each member state produces a Waste Management Plan and adopts a system of waste regulations to protect the environment. Proposed amendments to the Waste Framework Directive are currently being discussed with Member States. The revised Waste Framework Directive is likely to include the following:

- **Definition of Waste** – The concept of material or product becoming a waste when discarded will remain. However clarification is likely to be provided, on a waste specific basis, to identify when certain waste streams will cease to be classified as wastes.
- **Definition of Recovery** – A revised definition of recovery is proposed that will include the concept of recovery as a substitution of resources in the economy with efficiency thresholds to justify recovery. Municipal incineration is likely to be considered as recovery which would reverse a decision of the European Court of Justice dating from 2003. Policy that prioritises the regeneration of waste oils will be removed.
- **Hazardous Waste** – It is proposed that the Hazardous Waste Directive be integrated into the revised Waste Framework Directive
- **Best Available Technique (BAT)** – The concept of BAT will be incorporated to bring the Directive in line with Integrated Pollution Prevention and Control.

The Landfill Directive

2.12 The Landfill Directive (99/31/EC) aims to change the way we dispose of waste and progress up the hierarchy, through the minimisation of waste being sent to landfill sites through diversion. This includes a mix of strategic objectives and targets which are used for finding alternative means of dealing with the high levels of waste sent to landfill. This is implemented in Northern Ireland through the Landfill Regulations (Northern Ireland) 2004. A key objective is to reduce the amount of Biodegradable Municipal Waste (BMW) going to landfill. Countries with a high dependence on landfill (>80% of waste disposed) may postpone the attainment of targets by a period not exceeding four years. The UK has taken up the option of the four years derogation. The UK must therefore reduce the amount of biodegradable waste disposed to landfill to 35% of 1995 levels by 2020.

The additional objectives are to:

- Classify Landfill sites as containing inert waste, hazardous waste or non-hazardous waste;
- Ban on the co-disposal of hazardous and non-hazardous wastes;
- Practice pre-treatment of waste going to landfill;
- Reduce the amount of biodegradable waste sent to landfill;
- Ban the disposal of tyres (in 2006 shredded tyres will be banned); and
- Ban certain types of hazardous waste such as clinical or infectious.

2.13 The key objective for the reduction of BMW to landfill is yet to be fully implemented. The majority of the additional objectives of the Landfill Directive have now been implemented, namely:

- Co-disposal of hazardous and non-hazardous waste has now been banned;
- All hazardous and non-hazardous waste must be pre-treated to reduce volume and the hazardous nature of the waste; and
- Since July 2005 all hazardous and non-hazardous waste going to landfill must meet EC-wide waste acceptance criteria.

2.14 Implementation of the ban on co-disposal means that the number of landfills in the UK that are able to accept hazardous material has been reduced to 11; all of which are located in England. This has resulted in significant transport infrastructure to dispose of hazardous wastes generated in Northern Ireland. In addition, the requirement for the pre-treatment of all hazardous and non-hazardous waste prior to disposal has increased the level of processing required. These factors have contributed to the increased cost of disposal to landfill.

Waste Electrical and Electronic Equipment (WEEE) Directive

2.15 The WEEE Directive (2002/96/EC) provides a framework for the control of Waste Electrical and Electronic Equipment. The aim of the directive is to reduce the quantity of waste from electrical and electronic equipment and increase its re-use, recovery and recycling. By 31 December 2006, the UK must have reached a rate of separate WEEE collection of four kilograms per inhabitant per year from private households. A new target will be established by 31 December 2008. This directive is complimented by the RoHS (Restriction of Hazardous Substances) Directive (2002/95/EC). This encourages WEEE producers to use safe materials when constructing their products so that end-of-life exposure to hazardous substances is minimal. The directives objectives are to:

- Implement systems for separate collection of WEEE;
- Enhanced product design for the environment to comply in relation to RoHS;
- Charges for companies to return WEEE for recycling i.e. producer responsibility for recovery and financing of WEEE collection;
- Treatment and recovery of WEEE using BAT at adequate treatment facilities; and
- Information must be made available to consumers, with clear recycling symbols on electrical and electronic products.

2.16 The Directive was scheduled for implementation in Member States by August 2004 but has been postponed by the UK until June 2006 to ensure that electronic and electrical companies are prepared for the changes in legislation. The WEEE Directive is being transposed into domestic legislation for the UK by the Department of Trade and Industry. The DOE has conducted a consultation considering regulations to implement Article 6 (permits for businesses treating WEEE) and the Environment & Heritage Service (EHS) has recently completed a pilot study¹ that examined collection of WEEE via household waste recycling centres. It is likely that collection of WEEE will be facilitated by local authorities through use of bring recycling networks.

The Packaging and Packaging Waste Directive

2.17 The Packaging and Packaging Waste Directive (94/62/EC) seeks to reduce the impact of packaging and packaging waste on the environment by requiring businesses to contribute towards the cost of minimising this waste. It does this by introducing the following objectives:

¹ Waste Electrical and Electronic Equipment (WEEE) Pilot Scheme Report, Producer Responsibility Unit, EHS, May 2005

- Introduce recycling and recovery targets for packaging waste;
- Encourage reduction and reuse of packaging; and
- Reduce the final disposal of packaging waste.

2.18 New targets have recently been introduced for 2008 specifying that each member state must recover 60% of packaging waste and recycle between 55% and 80% of packaging waste. The Directive is implemented into Northern Ireland through the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2005, SR 329.

End of Life Vehicles Directive

2.19 Directive 2000/53/EC on End-of-Life Vehicles (ELV's) aims to reduce the environmental impact of scrapped vehicles. It targets cars, vans and certain three-wheeled vehicles. Its primary target is for 95% of all ELV's to be reused or recovered by 2015. In order to reach this target a number of objectives have been established including:

- Facilitate and increase the re-use, recycling and recovery of ELV's;
- Reduce the incidence of hazardous waste within vehicles and their components and encourage 'Design for Disassembly';
- Ensure producer responsibility for ELV's; and
- ELV's can only be scrapped by authorised treatment facilities under the right environmental standards

This Directive does not apply to lorries, coaches and other large commercial vehicles that are being scrapped. ELV regulations are being implemented in Northern Ireland through the End-of-Life Vehicles (Producer Responsibility) Regulations 2005 (SI263).

The Integrated Pollution Prevention and Control Directive

2.20 The Integrated Pollution Prevention and Control (IPPC) Directive, (96/61/EC), aims to protect the environment from pollution arising from industrial activities such as waste facilities. The Best Available Technique (BAT) concept is used to prevent any emission to the air, water or land. It also focuses attention on techniques to make best use of resources, raw materials and energy and to minimise waste. The activities listed for control with this Directive are:

- Landfills receiving more than 10 tonnes per day or with a total capacity exceeding 25,000 tonnes (excludes landfills of inert waste);

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- Installations for the disposal or recovery of hazardous wastes with a capacity exceeding 10 tonnes per day;
 - Installations for the incineration of municipal waste with a capacity exceeding 3 tonnes per hour; and
 - Installations for the disposal of non-hazardous waste with a capacity exceeding 50 tonnes per day

Revisions are currently being considered for this Directive alongside changes to the Waste Framework Directive and this is proposed to include extending the requirement for BAT to a wider range of waste treatment facilities. The IPPC Directive is implemented in Northern Ireland through the Pollution Prevention and Control (PPC) Regulations (Northern Ireland) 2003.

The Strategic Environmental Assessment Directive

2.21 The SEA directive is officially called the Directive on the Assessment of Certain Plans and Programmes on the Environment and is commonly known as Directive 2001/42/EC. The Directive considers the environmental effects that may arise as a result of the preparation of certain plans or programme. It includes promoting sustainable development and taking environmental factors into account in the decision making process

- Collecting and presenting baseline environmental information;
- Predicting the significant environmental effects of the plan and addressing them during its preparation;
- Identifying strategic alternatives and their effects;
- Consulting the public and authorities with environmental responsibilities as part of the assessment process; and
- Monitoring the actual environmental effects of the plan during its implementation.

2.22 This Directive is implemented in Northern Ireland through the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004.

The Waste Incineration Directive

2.23 The Waste Incineration Directive (2000/76/EC) aims to minimise impact to the environment and human health from the process of incineration. This could be a result of emissions to air, soil, surface and ground water. It applies to all new installations from December 2002, and to installations that already existed at that date from December 2005. This Directive covers both incineration and co-incineration plants and incorporates operational, control and monitoring requirements for substances released into the air. This Directive is implemented

in Northern Ireland through the Waste Incineration (Amendment) Regulations (Northern Ireland) 2004, and requires operators to apply for an authorisation or variation of existing permits issued under the Industrial Pollution Control (Northern Ireland) Order 1997 (SR 1998/28) or the Pollution Prevention and Control Regulations (Northern Ireland) 2003 (SI 2003/46, as amended).

The Hazardous Waste Directive

- 2.24 The Hazardous Waste Directive (91689/EEC) plans to minimise the effect of hazardous waste on the environment and human health. Its objectives are to define which waste is hazardous and provide controls on its tracking, movement and management. This is implemented in Northern Ireland through the Hazardous Waste Regulations (Northern Ireland) 2005.

The Environmental Impact Assessment Directive

- 2.25 Directive 85/337/EC as amended by Directive 97/11/EC, concerns the impact of development on the environment prior to the granting of planning permission for a proposed development. This directive is implemented in Northern Ireland by the Planning (Environmental Impact Assessment) Regulations (NI) 1999. Projects subject to this are shown in Table 2.1.

Table 2.1 Projects subject to Environmental Impact Assessment

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| <p>Projects specified in Schedule 1 require an environmental impact assessment (EIA) in all circumstances. These include the following types of waste facility:</p> <ul style="list-style-type: none"> • waste disposal installations for incineration, chemical treatment or landfill of hazardous waste; • waste disposal installations for the incineration or chemical treatment of non-hazardous waste with a capacity exceeding 100 tonnes per day; • wastewater treatment plants with a capacity exceeding 150,000 population equivalent. <p>Schedule 2 projects require an EIA if the applicable thresholds and criteria specified are met and the development is likely to have significant effects on the environment due to nature, size or location. Schedule 2 projects (unless included in Schedule 1) include:</p> <ul style="list-style-type: none"> • installations for the disposal of waste if the disposal is to be incineration or the area of the development exceeds 0.5 hectare; or the installation is to be sited within 100 metres of any waterway or water in underground strata or marine waters; • wastewater treatment plants if the area of development exceeds 1,000 square metres; • Sludge-deposition sites and storage of scrap iron, including scrap vehicles if the area of the deposit or storage exceeds 0.5 hectare or a deposit is to be made or scrap stored within 100 metres of any waterway or water in underground strata or, marine waters. |
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- 2.26 The EU is continuing to introduce new proposals for strategic management of particular waste streams and is also undertaking a major review of the principles underlying waste management. Many of these controls are likely to be introduced within the next few years and will become operational within the lifetime of the Plan. Current EU proposals are detailed below.

The Battery and Accumulators Directive (2003) 723

- 2.27 The Directive focuses on encouraging the recycling of redundant batteries and encourages producer responsibility. The Directive is proposing to create an EU-Framework for National battery collection and recycling schemes. Targets are likely to be set for the collection of household batteries and local authorities may be involved in the operation of collection systems. The Directive has been in revision for a number of years and is anticipated to come into force in 2008.

Directive on Environmental Liability

- 2.28 The directive is proposing to introduce stricter liability requiring polluters to pay for the remediation of environmental damage. This will be relevant to a number of sectors including waste management. Waste producers' responsibility would be extended beyond the current Duty of Care regime. This Directive is due to come into force in 2007.

Proposed Management of Waste from Extraction Industries Directive

- 2.29 This proposed Directive introduces specific controls for waste management resulting from activities of extraction. The directive will include guidance on:
- Setting a series of requirements for site sustainability;
 - Preventing or reducing waste generation;
 - Promoting waste recovery; and
 - Operators will employ BAT when dealing with extraction waste.

EU Communications

- 2.30 Thematic Strategies are currently being developed to re-organise the legislation concerning the environment with an aim of simplifying the increasingly complex legislative package. Seven separate strategies have been created. These strategies will focus on key environmental impacts and the three that are relevant to Waste Management in Northern Ireland are listed below.

Thematic Strategy on the Sustainable Use of Natural Resources

- 2.31 This strategy identifies that the environmental impacts from consumption and production patterns continue to be severe and inefficient use of resources is impairing economy and business. The main objectives of this strategy include improving resource efficiency, introducing policy measures for resource consumption and improving recycling rates.

Thematic Strategy for Soil Protection

- 2.32 This strategy identifies eight threats to soil including: erosion, decline in organic matter, local and diffuse contamination, sealing (i.e. rendered impermeable), compaction, decline in biodiversity, salinisation and landslides. The strategy aims to impede these threats using a number of objectives including integrating soil protection concerns into major EU policies and the introduction of soil monitoring legislation.

Thematic Strategy on the Prevention and Recycling of Waste

- 2.33 This strategy is concerned with the environmental impact of emissions from poorly managed waste and inefficient consumption and production patterns. Additionally the Strategy intends to encourage more recycling within member states. To do this, the strategy will introduce a number of policies as detailed below:
- **Apply life-cycle approach** – this will involve an analysis of the environmental impacts and benefits throughout the life cycle of a material, to ensure negative environmental impacts are minimised at all phases of the life cycle of a material (e.g. from extraction, processing, use and through to final waste management).
 - **Waste prevention** – future policy should be based on fuller scientific analysis, in particular the relationship between weight / volume, hazardousness and impact. The Commission intends to launch a debate on the fundamental analysis that can justify waste prevention targets and, in particular, the link between waste prevention, resource management and Integrated Product Policy (IPP).
 - **Lack of a comprehensive approach to recycling** – new initiatives on recycling should aim to overcome economic barriers but take cost / benefit analysis into account.
 - **Harmonised standards for recycling operations** – current concern that treatment standards depend on local interpretation of BAT. They vary widely and this affects waste flows to the extent that recycling installations in countries with high standards do not receive critical volumes and cease to be viable.
 - **Other aspects of the legal framework** – the Strategy identifies the need for further work on the definition of waste.
 - **Measures for quantitative prevention** – the Strategy identifies the need for changes in production and consumption, and the link to the IPP and resource management fields. The Commission asks for stakeholder input rather than preferring a specific policy route.
 - **Measures for qualitative prevention** - in view of the link between the use of dangerous substances and hazardous waste generation, risk management should be done through Registration, Evaluation, Authorisation and Restriction of

- Chemicals (REACH). Additional measures could also be taken for specific waste stage risks.
- **Instruments to promote recycling** - the report states that economic and market based instruments are considered to be the most promising way to increase recycling, but if they should be ineffective the Commission will propose further legislative measures. Tradable certificates are generally seen as a cost effective means of implementing environmental objectives, but the report states that the UK is the only Member state using this method, and suggests Europe wide coordination and implementation. Views are also invited about incentive systems and prescriptive instruments as alternative or additional waste policy options.
 - **A level playing field for recycling** – the report invites comments on whether the IPPC directive should be extended to the whole waste sector and other ways to ensure harmonisation of standards for recycling operations.
 - **Accompanying measures** – the Strategy considers a range of additional measures relating to improving the legal framework (including clarification on definition of waste), promoting Research & Development (R&D), and promoting demand for recycled materials.

NATIONAL AND LOCAL WASTE POLICY AND GUIDANCE

- 2.34 The Government recognises that waste management has a key role to play in moving towards sustainable development. The main thrust of the Government policy is to provide new waste management facilities to deal with waste responsibly where they are needed, while protecting the public and the environment. A framework of legislation, policy and guidance is provided that seeks to achieve this. The framework includes how the above principles, set down by the EU and described above, have been put into practice.
- 2.35 Strategic guidance for Northern Ireland is based on the Government White Paper *A Better Quality of Life* (1999), which is currently under review in order to prepare a new UK strategic framework for sustainable development. The DOE have begun to develop the new Northern Ireland approach towards sustainable development.
- 2.36 The legislative basis for the production of the Plan is the *Waste and Contaminated Land (Northern Ireland) Order 1997* (as amended). This makes a number of provisions both for the strategic planning of waste management facilities through the requirement for district councils to prepare waste management plans, and measures relating to the licensing and control of waste management collection, transfer and disposal operations.

- 2.37 The Northern Ireland Best Practicable Environmental Option (BPEO) is a core principle of the Northern Ireland Waste Management Strategy, entailing a systematic assessment of waste management options to identify the best solution for Northern Ireland. The BPEO study covered the three main waste streams of municipal solid waste, commercial & industrial waste and construction, demolition and excavation waste. The findings revealed that the leading options include challenging but achievable recycling rates; a significant reduction in landfill; and use of a balanced mix of proven technologies to treat residual waste, including biological and thermal treatment.
- 2.38 The planning of future waste management facilities must also have regard to the planning framework under the *Planning (Northern Ireland) Order 1991*. The Plan takes into account the potential polluting effects of waste management facilities and the sensitivity of land, and land uses, to pollution. Strategic principles are set out in the Regional Development Strategy for Northern Ireland 2025.
- 2.39 Planning guidance on particular aspects of land use planning in Northern Ireland is developed in a series of Planning Policy Statements (PPS). At the local level, the Plan must be consistent with policies in Area Plans.

Northern Ireland Waste Management Strategy 2006

- 2.40 This document sets a waste management strategy for Northern Ireland to meet the objectives of the EU Framework Directive. It offers a long-term vision for the development of waste management practices and provides a framework to enable this to become reality. The NI Waste Management Strategy was first issued in 2000. Following consultation, a revised Waste Management Strategy was published on March 30th 2006.

The Waste Management Strategy has ten objectives:

- To move from waste towards resources management;
- To demonstrate Government's commitment by setting an example to other sectors of good waste management practice and by using its purchasing power to drive change;
- To prevent waste, where possible;
- To use the necessary Government powers (legislative, regulatory and economic) to ensure improved waste management practices
- To maximise recycling and recovery of those materials which enter the waste stream;

- To develop an integrated network of regional waste management facilities that represent value for money for Northern Ireland;
- To attract investment, support economic development and create opportunities for increased employment and wealth creation
- To improve data to support investment and facilitate monitoring;
- To maintain a regulatory framework which supports those businesses that work towards more efficient and sustainable use of resources; and
- To promote, encourage and facilitate public action through providing the opportunity to contribute to environmental protection at individual and household levels.

2.41 The Waste Management Strategy is based on a life cycle approach that reflects current and emerging waste policy at European level. The Strategy is based on the core principles of the Waste Management Hierarchy, the Polluter Pays Principle, the Proximity Principle, Self Sufficiency, Best Available Techniques (BAT) and Best Practicable Environmental Option (BPEO) (see Table 2.2).

Table 2.2: Core Principles

- **The Waste Management Hierarchy** indicates the relative priority of the different methods of managing waste.
- **The Polluter Pays Principle** means that waste generators should pay the costs of providing services to manage their wastes.
- **The Proximity Principle** emphasises the need to treat or dispose of waste as close as practicable to the point of generation, to minimise the environmental impacts of waste transport.
- **Self Sufficiency** requires Member States, as far as possible, to manage their waste within their own borders, unless export offers significant environmental gains. The UK's commitment to self sufficiency is outlined in the UK Management Plan for Exports and Imports of Waste.
- **Best Available Techniques (BAT)**, are the most effective and advanced processes and technologies designed to prevent or reduce the impact of waste on the environment. BAT takes into account the balance between financial costs and environmental benefit.
- **The Best Practicable Environmental Option (BPEO)** is a systematic and balanced assessment of a range of waste treatment and management options in order to identify which option, or options, provides the maximum environmental, economic and social benefits.

2.42 The main policy strands discussed in the Waste Management Strategy include:

- Waste Prevention;
- Recycling and Recovery;
- Waste Planning;
- Data and Research;
- Legislation and Enforcement; and
- Learning and Communication.

2.43 The Waste Management Strategy requires that an integrated regional network of facilities is developed for waste recycling, recovery and disposal in Northern Ireland, and that these facilities are planned, designed and operated to provide a high level of protection for the environment and public health. Regional co-operation is a key issue in delivering the required network of facilities, meeting recycling targets and recovery targets, and ensuring that waste is managed at an acceptable cost to the community.

2.44 The Waste Management Strategy sets a number of statutory targets as shown in Table 2.3. Additionally, the following targets are set for the recycling and composting of household waste:

- 35% by 2010
- 40% by 2015
- 45% by 2020

2.45 The Waste Management Strategy maintains the fundamental principles of the 2000 Waste Management Strategy whilst introducing a number of areas where the plan required strengthening in order to drive implementation. These are:

- Greater focus on resource management and waste prevention;
- Effective leadership by Government to set an example to all sectors;
- Streamlining the process for determining planning applications for waste management facilities;
- Clear recognition of the roles, responsibilities and actions for all stakeholders;
- Provision and funding of an integrated network of waste management facilities;
- Further integration of the Strategy and the three Waste Management Plans for Northern Ireland;
- Consideration of all types of waste;
- Improved data collection;
- New measures to combat illegal waste activities; and
- Better mechanisms for monitoring and measurement.

Table 2.3: Summary of Statutory Targets

Landfill Directive:

Reduce the quantity of biodegradable municipal waste being landfilled to:

- 75% of the 1995 level by 2010;
- 50% of the 1995 level by 2013; and
- 35% of the 1995 level by 2020.

The Northern Ireland Landfill Allowances Scheme has translated these into annual allowances for each district council.

Producer Responsibility Directives (See Annex 2)

Packaging Waste:

The UK national target for recovery of packaging waste is 65% for 2005. This gradually increases to 70% by 2008. 95% of the recovery figures for 2008 must be achieved by recycling. Under this overall 2008 target, there are material specific recycling targets as follows:

- Paper 70% Steel 61.5% Aluminium 35.5%
- Glass 71% Plastic 23.5% Wood 21%

Waste Electrical and Electronic Equipment (WEEE):

Producers are required to introduce separate collection systems for household WEEE to meet a minimum annual collection target of 4kg of WEEE per person by 31 December 2006. For 2006, recovery targets for separately collected WEEE are set between 50 and 80%, depending on the product category. New EU targets will be set for the recovery, reuse and recycling of WEEE by 31 December 2008.

End of Life Vehicles:

From 2006-2014, each vehicle producer must achieve 85% reuse and recovery of ELVs (80% of which must be achieved by reuse and recycling). For vehicles marketed before 1 January 1980, 75% reuse and recovery must be achieved (70% of which must be achieved by reuse and recycling).

Batteries:

The draft EU Batteries Directive proposes that collection targets for spent portable batteries will be 25% of average annual sales, increasing to 45% after 8 years. 50-75% of collected batteries will be recycled, depending on battery type. Landfilling or incineration of untreated automotive or industrial batteries will be banned.

UK Management Plan for the Import and Export of Waste

- 2.46 The current UK plan came into force on 1st June 1996 and takes into account the UK obligations under the Waste Shipment Regulations, the EC Framework Directive on Waste and the UN Basle Convention. Significant changes have taken place since 1996 in relation to transfrontier shipments of waste and so the Plan is currently being revised and a consultation paper has been produced. The European Commission issued a proposal for a revised Waste Shipment Regulation at the end of July 2003. However this has not yet been incorporated into a revised National Plan. As well as reflecting the changes above, their aim was to improve the structure and clarity of the existing regulation.
- 2.47 In October 2005, DEFRA issued a scoping letter in respect of re-enacting the consultation on proposed changes to the UK Management Plan. This consultation is anticipated to include the potential for shipments of waste under heavy control between Northern Ireland and the Republic of Ireland for disposal. Such shipments could be permitted provided they are for local disposal (i.e. consistent with the proximity principle) and in accordance with the waste management plans pertaining to Northern Ireland. Imports will be permitted for the following operations:
- Landfill (operation D5, as detailed in the Waste Framework Directive, only);
 - Biological, chemical and physico-chemical treatment (operation D8/9 only) prior to landfill;
 - Incineration other than high temperature incineration (operation D10 only);
 - Blending or mixing of waste as long as wastes are disposed of in NI or returned to Ireland;
 - Repackaging of waste as long as repackaged wastes are disposed of in NI or returned to Ireland; and
 - The UK Management Plan for Exports and Imports of Waste does not allow the import of hazardous waste into the UK for disposal, except in a few specific circumstances. The UK does not export hazardous waste for disposal. Hazardous waste for recovery can be shipped into and out of the UK but only to non-OECD countries, and such shipments are subject to prior written notification and consent.

Primary Legislation

Waste and Contaminated Land (Northern Ireland) Order 1997

- 2.48 The Order came into force in March 1998 and implements the EC Framework on Waste in Northern Ireland. It makes a number of provisions such as:

- Transfer of responsibility for waste regulation from district councils to Department of the Environment, focused within the Environment and Heritage Service;
- Introduction of measures designed to increase control over the processing and handling of waste including Waste Management Licensing, Duty of Care, Registration of Carriers, Special Waste and Producer Responsibility;
- Introduction of measures relating to the identification of contaminated land, designation of special sites, duties of enforcing authorities to require remediation, determination of appropriate persons to bear responsibility for remediation, liability of contaminating substances which escape to other land and contaminated land registers;
- Requirement for a waste management strategy containing its policies in relation to the recovery and disposal of waste in Northern Ireland; and
- The Order also requires that each district council shall create a waste management plan including what arrangements are appropriate for dealing with controlled waste arising in its district by separating, baling or otherwise packaging it for the purpose of recovering it. Plans should also include what arrangements are needed for the purpose of treating or disposing of controlled waste, which is situated in its district, to prevent or minimise pollution of the environment or harm to human health.

2.49 The Order provides the context for the approach to waste management planning and controls set out in this Plan.

Environment (Designation of Relevant Directives) Order (Northern Ireland) 2003 SR 2003/209

2.50 This order designates the following directives as relevant for the purposes of the *Environment (Northern Ireland) Order 2002* (SI 2002/3153): Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations; Directive 2000/53/EC on End-of-Life vehicles (ELVs); Directive 2000/76/EC on the incineration of waste; and Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants.

The Waste and Emissions Trading Act 2003

- 2.51 The Act is intended to facilitate UK meeting its European obligations under the Landfill Directive for the diversion of biodegradable waste from landfill. The Act involves the allocation by the government of 'landfill allowances' to waste disposal authorities. Northern Ireland can then either use their landfill quota each year, or trade (buy or sell) to meet the target.

Secondary Legislation

The Landfill Allowances Scheme (Amendment) (Northern Ireland) Regulation 2005

- 2.52 The Northern Ireland Landfill Allowance Scheme (NILAS) involves a proposal to reduce the level of penalty for excess landfilling by district councils from £200/tonne to £150/tonne. The NILAS commenced on the 1st of April 2005. The initial penalty was set to act as a strong deterrent for excess landfilling. Following discussions with the 3 sub-regional waste management partnerships it has been concluded that £200 per tonne is excessive and a new rate of £150/tonne has been implemented. The allowances for arc21 Councils are considered as part of the arc21 Waste Management Plan. The system allows transfer of allowances between Councils but no trading.

The Landfill Regulations (Northern Ireland) Regulations 2003 SR496

- 2.53 The Landfill Regulations (Northern Ireland) Regulations 2003 came into operation in January 2004 and provide the powers necessary to implement the majority of the objectives of EC Directive 99/31 (the Landfill Directive). These include:
- Classification of landfill sites as hazardous, non-hazardous and inert;
 - Issue of permits for operation of landfill sites;
 - Ban on wastes specified in the Directive;
 - Introduction of waste acceptance criteria;
 - Minimum monitoring requirements for landfill; and
 - General requirements for development of landfill sites.

The PPC Regulations (Northern Ireland) 2003

- 2.54 The PPC Regulations (Northern Ireland) 2003 came into operation in March 2003 and implement the majority of provisions identified in Directive 96/61/EC (IPPC). In particular, the Regulations provide the measures necessary to:
- Identify activities (permanent and mobile) that are covered by the PPC Regulations (this includes waste activities);
 - Issue PPC Permits;
 - Implement the requirement for BAT, promotion of low waste technologies and recycling and recovery;
 - Define prescribed dates and transitional arrangements ;
 - Identify suitable/proper persons in relation to granting of a permit;
 - Identify main pollutants and thresholds in relation to each process covered by the Regulations;
 - Implement an application process for variation of PPC permits; and
 - Provide powers of entry for Inspectors.

Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004

- 2.55 Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 implement the requirements of EC Directive 2001/42 (also known as the SEA Directive). The Regulations apply to plans and programmes that relate only to Northern Ireland. The strategic environmental assessment of the arc21 waste management plan will take account of the requirement of these regulations and will be prepared accordingly.

Animal By-Products Regulations (Northern Ireland) 2003

- 2.56 The Animal By-Products Regulations (Northern Ireland) 2003 came into operation on 3 December 2003 and provide the powers necessary to enforce the EU Animal By-Products Regulation No. 1774/2002 which lays down health rules concerning animal by-products.

The Animal By-Products Regulations tighten the rules on the processing, use, disposal, trade and import of animal by-products. The main objectives are as follows:

- Ban the routine burial of fallen stock;
- Allow the treatment of animal by-products in approved composting or biogas plants;
- Maintain the existing UK ban on swill feeding;
- Introduce controls on animal carcase incinerators; and

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- Require the treatment of previously uncontrolled animal by-products such as blood and feathers.

Controlled Waste (Northern Ireland) Regulations 2002 Statutory Rule 2002 No. 248

- 2.57 The Controlled Waste Regulations 2002 came into force on 27th August 2002. The Regulations define the various wastes to be classed as household, industrial and commercial waste and exclusions from these categories. The types of household waste for which a charge for collection may be made by local authorities is provided, which includes clinical, garden, bulky and asbestos wastes, etc.

Landfill Tax Regulations SI 1996/1527

- 2.58 These Regulations came into force on 1 October 1996 and apply to Northern Ireland. They outline various administrative procedures relating to the operation of the landfill tax. Specifically they deal with the registration of those organisations that intend to make disposals covered by the tax and the payment of the tax. These regulations have been amended by Landfill Tax (Amendment) Regulations, SI 1996/2100, Landfill Tax (Amendment) Regulations, SI 1998/61 and Landfill Tax (Amendment) Regulations, SI 1999/3270.

Transfrontier Shipment of Waste (Fees) Regulations (Northern Ireland) 2005

2.59 These regulations legislate on the supervision and control of movements of waste within, into, and out of, the European Union. They amend the *Transfrontier Shipment of Waste Regulations 1994* (SI 1994/1137, as partially revoked by SI 1996/972), and provide that the competent authorities of dispatch and destination, for the purposes of Council Regulation (EEC) No. 259/93 shall be the DOE rather than the district councils. This will also introduce a charging scheme to enable EHS to recover its costs for carrying out this responsibility, which includes:

- Notifications of shipments of waste from their area;
- Financial guarantees and insurance to be obtained prior to shipment;
- Confer powers to ensure that waste is returned to the UK where so obliged;
- Confer powers on customs officers to detain shipments of waste; and
- Set out offences and penalties for non-compliance.

Environmental Protection (Controls on Ozone-Depleting Substances) Regulations (Northern Ireland) 2003 SR 2003/97

2.60 These regulations implement EC Regulation 2037/2000, as amended, to establish a system that controls the production, placing on the market and use of, trade in, and emission of certain substances that deplete the ozone layer. It also requires the removal of ozone-depleting substances (ODS) from all discarded domestic and commercial refrigeration units.

Waste Management Licensing Regulations (Northern Ireland) 2003

2.61 The Waste Management Licensing Regulations (Northern Ireland) 2003 came into operation on 19 December 2003, transferring the responsibility for waste management licensing from district councils to the DOE. EHS will issue licences, set conditions on licensed activities and monitor sites to ensure compliance with licence conditions.

2.62 Licences will be required to authorise:

- The deposit of controlled waste in or on land;
- The disposal and treatment (including recovery) of controlled waste; and
- The use of certain mobile plant to dispose of or treat controlled waste.

Duty of Care Regulations (Northern Ireland) 2004

2.63 The basis of Duty of Care is that any person who imports, produces, carries, keeps, treats or disposes of controlled waste, or as a broker, has control of such waste, must take all measures applicable to him in that capacity as are reasonable in the circumstances to:

- Avoid the deposit of controlled waste on land except under the terms of a waste management licence;
- Prevent the escape of waste from their control, or that of any other person in contact with the waste;
- Ensure that any transfer of the waste is only to an authorised person; and
- Be accompanied by an adequate description to help any subsequent holder avoid breaching the duty concerning the waste.

Transfer notes will also be needed to document waste movements.

Registration of Carriers Regulations (Northern Ireland) 1999

2.64 This is a legal requirement under the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999. This means companies or individuals, who are transporting controlled waste, have to register with EHS. If transport is conducted without a valid registration license this will be treated as a criminal offence with a maximum fine of £5,000. This legislation is also linked to a Duty of Care that is needed when transporting waste.

Hazardous Waste Regulations (Northern Ireland) 2005

2.65 The Hazardous Waste Regulations (Northern Ireland) 2005 (SR 2005/300) and the List of Waste Regulations (Northern Ireland) 2005 (SR 2005/301) came into force on 16 July 2005 and will revoke the Special Waste Regulations (Northern Ireland) 1998 (SR 1998/289). These new Regulations were introduced to implement the provisions of EC Directive 91/689/EEC as amended and Commission Decision 2000/532/EC.

2.66 Hazardous wastes are considered those that are difficult to handle and possess specified hazardous properties including asbestos waste, fluorescent tubes, fridges containing fcfs, used engine oil, used oil filters, brake fluid, lead acid batteries, some printer toner cartridges and waste paint and thinners. In order to overcome this, the following considerations should be met:

- Practice a 'cradle to grave' approach;
- Provide an effective system of control; and
- Ensure minimum exposure to hazardous substances

2.67 The List of Wastes replaces the old European Waste Catalogue and provides a scheme for determining if wastes are "hazardous wastes" using a classification system.

Packaging and Packaging Waste Regulations (Northern Ireland) 1999

2.68 The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) SR 1999/115 came into force on the 1 June 1999 and apply to Northern Ireland only. They are made under the Producer Responsibility Obligations (Northern Ireland) Order SI 1998/1762 and implement Directive 94/62/EC on packaging and packaging waste. This means all products made of any materials of any nature to be used for the containment, protection, handling, delivery and preservation of goods.

Businesses are obligated if:

- They have an annual turnover of greater than 2 million per annum; and
- They handle more than 50 tonnes of packaging annually; and
- They perform at least one of the activities specified below.
 - Manufacture of packaging raw materials e.g. the manufacture of plastic powder flakes.
 - Converting materials into packaging e.g. converting plastic granules into rolls of film.
 - Using packaging to pack products e.g. stacking goods onto a pallet and wrapping them in film.
 - Selling packaging to the final consumer e.g. selling a product in a plastic tray.
 - Importing of packaging or packaging materials into the United Kingdom.

PLANNING POLICY GUIDANCE

Shaping our Future –Regional Development Strategy (RDS) for Northern Ireland 2025

2.69 The DOE published the RDS in September 2001. The strategy sets out a vision for the future development of Northern Ireland, up to the year 2025. The RDS recognises the economic and social importance of physical development, but

also stresses the importance of sustainable development as an integral part of long term, strategic vision for Northern Ireland.

- 2.70 The RDS sets out a number of Strategic Planning Guidelines (SPG) which provide long-term policy directions for Northern Ireland. Chapter 12 of the RDS (Caring for the Environment) establishes SPG-ENV 5:

'To respond to the implications of climate change and promote more prudent and efficient use of energy and resources, and effective waste management.'

- 2.71 The measures following this SPG, relating to waste management, support the Waste Management Plan for Northern Ireland. This includes promotion of sustainable waste practices, reducing the amount of waste, providing for recycling and recovery, developing an integrated regional network of landfill sites and providing waste treatment facilities close to major centres of waste production.

A Planning Strategy for Rural Northern Ireland

- 2.72 The DOE published the planning guidance in 1993. The strategy contains two policies that are directly relevant to this waste management plan and the consideration of waste management policies; these are PSU 8 and PSU 14. These policies have been superseded by policy provided in Planning Policy Statement 11.

Planning Policy Statements

- 2.73 Planning Policy Statements (PPS) are prepared by the DOE and contain policies on land-use and other planning matters, for example waste management or telecommunications, and apply to the whole of Northern Ireland. They set out the main planning considerations that the DOE takes into account in assessing proposals for the various forms of development.
- 2.74 PPS are gradually replacing the policy provisions of the Planning Strategy for Rural Northern Ireland published in September 1993. PPS 11 – Planning and Waste Management supersedes policies PSU 8 and PSU 14 of the Planning Strategy for Rural Northern Ireland.
- 2.75 PPS 11 should be considered in the context of the EC Framework Directive on waste, the Landfill Directive, the Northern Ireland RDS and the Northern Ireland Waste Management Plan. It sets out the seven key principles (see Table 2.5) of sustainable waste management that underpin the Waste Management Plan for Northern Ireland. Together with the strategic principles and targets for waste

management set out in European Directives and the Regional Strategy, these are the core guiding principles for developing waste facilities in the arc21 Region.

- 2.76 PPS 11 sets out planning policies that the DOE will take into account in assessing proposals for the development of facilities for the treatment, disposal or management of waste and assessing waste management issues associated with other forms of development. These considerations have been taken into account in the development of waste polices for the Plan in Chapter 10, and criteria for the location of future waste management facilities in Chapter 11.

Area Plans

- 2.77 Area Plans, prepared by the Planning Service for each district council area, develop the regional planning strategy for Northern Ireland and reflect guidance in Planning Policy Statements and Development Control Advice Notes.
- 2.78 The Area Plans deal with settlements, housing, industry and commerce, transportation, utilities, tourism, recreation and minerals and include the allocation of land and zoning to meet future needs. They also provide specific polices and proposals for the protection of the local natural and man-made environments.
- 2.79 General constraints for waste disposal and other waste management facilities are referenced in some of these plans, but none of the Area Plans provide policies on preferred methods of management or siting of facilities. Where policies exist, the main theme for waste development is to ensure that it does not harm other land uses and the environment.

Summary

- 2.80 The review of European, national and regional legislation and policy, highlights the key drivers that are anticipated to impact on the development of the Waste Management Plan. The matrix below (Figure 2.3) summarises the key legislative drivers and anticipated impact dates to be considered in the preparation of the Waste Management Plan.

Fig 2.3: Matrix Identifying Key Milestones for Legislation and Policy Implementation

| Legislation | Year | | | | | | | | | | | | | Actions to be considered by arc21 | | | |
|---|------|------|------|------|------|------|------|------|------|------|------|------|------|-----------------------------------|------|------|---|
| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | | 2019 | 2020 | |
| The Landfill Directive | X | | | | X | | | X | | | | | | | | X | -Ban on shredded tyres to landfill - BMW diversion targets |
| The WEEE Directive | X | | X | | | | | | | | | | | | | | - Recycling Targets for WEEE |
| The RoHS Directive | | | X | | | | | | | | | | | | | | Restriction on heavy metals and brominated flame-retardants in EEE. |
| The Packaging and Packaging Waste Directive | | | X | | | | | | | | | | | | | | Each member state must recover 60% of packaging waste and recycle between 55% and 80% of packaging waste. |
| The ELV Directive | | | | | | | | | | X | | | | | | | 95% of all ELV's to be reused or recovered by 2015 |
| Incineration Directive | X | | | | | | | | | | | | | | | | Directive requirements applied to existing facilities |
| The Battery and Accumulators Directive | | | X | | | | | | | | | | | | | | Due to come into force in 2008 |
| Directive on Environmental Liability | | X | | | | | | | | | | | | | | | Due to come into force in 2007 |
| IPPC Directive | | X | | | | | | | | | | | | | | | Deadline for licensing of waste landfill facilities |