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PUBLICATION

Consultation on the Separate Collection of Waste Materials for Recycling: A Code of Practice for Wales

Proposals for the Separate Collection of Waste Materials for Recycling – A Code of Practice for Wales. The separation requirements are set out in the Waste (England and Wales) Regulations 2011, as to be amended by the proposed Waste (Amendment) (Wales) Regulations 2023.

First published: 23 November 2022

Last updated: 23 November 2022

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Date of issue: 23 November 2022

Action required: Responses by 15 February 2023

Overview

The purpose of this Wales-only consultation is to seek your views on the code of practice (“the code”) and whether it provides sufficient practical guidance on how to meet the separation requirements set out in the Waste (England and Wales) Regulations 2011 (as amended, including to be amended by the proposed Waste (Amendment) (Wales) Regulations 2023).

The code will be issued under section 45AB of the Environmental Protection Act 1990 (“EPA”) in relation to the separate collection of waste under section 45AA of the EPA.

The responses to this consultation will inform the final drafting of the code and the proposed Waste (Amendment) (Wales) Regulations 2023.

The code is drafted in anticipation of section 45AA being commenced, and regulations under this power having been made.

How to respond

Please complete the questionnaire at the end of the document. Responses can be submitted by email or post to the addresses below by 15 February 2023.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

See the related consultation on the **proposals relating to the Enforcement and Sanctions of the regulations** (https://gov.wales/consultations?keywords=&field_consultation_status=1&Pob_pwnc=All&published_after=&published_before=&_ga=2.63913967.1556671775.1669027411-1826154286.1657818798) which will close on 15 February 2023.

Please see link to related consultation which closed 13 December 2019: **Increasing recycling by businesses** (<https://gov.wales/increasing-recycling-businesses>).

Contact details

For further information:

Email: **RecyclingReformsConsultations@gov.wales**
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UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these

published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail: Data.ProtectionOfficer@gov.wales
(<mailto:Data.ProtectionOfficer@gov.wales>)

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane

Wilmslow
Cheshire SK9 5AF

Tel: 01625 545 745 or 0303 123 1113

Website: **Information Commissioner's Office** (<https://ico.org.uk/>)

What is this consultation about?

The purpose of this consultation is to seek your views on the draft code of practice (“the code”) and the practical guidance it provides on how to meet the separation requirements in Wales for recyclable waste materials from non-domestic premises.

It also seeks views on the proposed phasing in of certain waste streams in future years.

The code will be issued under section 45AB of the Environmental Protection Act 1990 (“EPA”) in relation to the separate collection of waste under section 45AA of the EPA.

Background

Summary of the business, public and third sector recycling regulations requirements

Provisions in Part 4 of the Environment (Wales) Act 2016, when commenced,

will amend the EPA to give Welsh Ministers the power to make regulations – collectively referred to as the business, public and third sector recycling regulations – the purpose of which is to increase recycling from non-domestic premises in Wales. Following the commencement of those provisions, we plan on introducing the Waste (Amendment) (Wales) Regulations 2023, that will set out separation requirements in connection with non-domestic premises in Wales.

There are three sets of proposed regulations that will set out:

1) The separation requirements (the subject of the code) (“the separation regulations”), specifically to:

- Require the occupiers of non-domestic premises (including businesses, charities and public sector bodies) to present specified recyclable materials for collection separately from each other and separate from residual waste;
- Require those that collect the specified recyclable materials to collect them separately from other recyclable materials; and
- Require those separately collected recyclable materials to be kept separate and not mixed;
- Provide for civil sanctions to be available in relation to criminal offences associated with these requirements

2) Incineration and landfill bans, specifically to:

- Ban specified separately collected recyclable materials from non-domestic and domestic premises from incineration and landfill;
- Ban all wood waste from non-domestic and domestic premises to landfill; and
- Provide for civil sanctions to be available in relation to criminal offences associated with these requirements.

3) A ban on the disposal of food waste to sewer, specifically to:

- Commence a ban on disposal of food waste to sewer from non-domestic premises; and
- Provide for civil sanctions to be available in relation to criminal offences associated with these requirements.

Recyclable materials to be covered by the separation requirements

The recyclable materials specified to be presented separately for collection, collected separately, and kept separate post collection, that were consulted on as the preferred policy option in 2019 were:

- glass;
- paper and card;
- metal and plastic;
- food waste from premises producing 5kg of food waste and more/week;
- small waste electrical and electronic equipment (sWEEE);
- textiles.

Revised proposals on the planned phasing in of the requirements relating to sWEEE and textiles

Concerns have been raised about the feasibility and effectiveness of including a requirement within the regulations for the separate presentation and collection of sWEEE and textiles from the outset of the regulations coming into force.

This is because the kerbside collection of sWEEE and textiles is not yet widely established. For sWEEE there is also a risk of locking-in' poor quality recycling of non-domestic small electronic goods to the detriment of achieving greater rates of re-use and repair.

In relation to textiles, the UK re-processing market is still relatively immature with a high reliance on exports, incineration and landfill. There is therefore a lack of capacity to effectively re-process textiles in the UK, meaning a requirement to separate out waste textiles from all non-domestic premises on day one of the regulations coming into force could lead to an increase in exports of textiles or potentially in waste crime.

In response, it is intended that separation and collection requirements for sWEEE and textiles from non-domestic premises are phased in after the coming into force date, by up to two and three years respectively. This will allow the waste collection, reuse, repair and recycling services to gear themselves up and to align with the planned changes in the Regulations.

To note that unsold sWEEE and unsold textiles will be excluded from these proposals: such items will be required to be presented and collected separately for recycling from the outset of the regulations coming into force.

The intention is that the proposed bans on separately collected sWEEE from all premises going to incineration and landfill will commence as originally planned when the regulations come into force. Though we do not intend to require non-domestic premises to separate out all sWEEE initially, there will be instances where this material is collected separately through other routes (e.g., household recycling centres). The intended ban will therefore ensure that where sWEEE is separately collected it will go to recycling as a minimum, rather than incineration or landfill.

It is also intended that the proposed ban on separately collected textiles from all premises going to landfill will commence as originally planned, i.e., when the regulations come into force. However, due to the relative immaturity of the UK textiles re-processing market and the poor recyclability of many textiles, we do not intend to proceed with the proposed ban on separately collected textiles going to incineration initially. Unsold textiles will be banned from incineration from the date the regulations come into force. Though we do not intend to

require non-domestic premises to separate out all textiles initially, there will be instances where this waste is collected separately through other routes (e.g textiles banks, household recycling centres). The intended ban will therefore ensure that separately collected textiles that cannot be re-used or recycled go to incineration as a minimum, rather than landfill, whilst minimising the risk of increasing waste crime and/or exports of low-quality textiles causing environmental problems elsewhere in the world.

The proposal is that separately collected unsold sWEEE and separately collected unsold textiles will be banned from going to incineration and landfill immediately when the regulations come into force. This will prevent retailers sending unsold sWEEE and unsold textiles to incineration or landfill and for it to go for recycling as a minimum.

Summary of proposals regarding specified separately collected recyclable materials

Separate collection from 1st October 2023^{^*}

Unsold small waste electrical and electronic equipment (sWEEE)

Unsold textiles

Ban on incineration from 1st October 2023^{}**

Unsold small waste electrical and electronic equipment (sWEEE)

Unsold textiles

All other small waste electrical and electronic equipment (sWEEE)

Ban on Landfill from 1st October 2023

Unsold small waste electrical and electronic equipment (sWEEE)

Unsold textiles

All other small waste electrical and electronic equipment (sWEEE)

All other textiles

^ policy intention to include all other small waste electrical and electronic equipment (sWEEE) within 2 years

* policy intention to include all other textiles within 3 years

** policy intention to include all other textiles in future

Clarification regarding proposed handling of cartons

Following the previous consultation, engagement on the proposed classification with the cartons industry, waste collectors and re-processors and WRAP have identified that cartons, and similar packaging, are best collected in the metal and plastic stream – this provides the best solution for the subsequent separation of cartons for re-processing. We therefore propose that cartons (and similar packaging) are placed in the metals and plastics material stream.

Therefore, under the current proposals, the recyclable materials specified to be presented separately for collection, collected separately, and kept separate post collection when the regulations come into force initially are:

i) glass;

- ii) paper and card;
- iii) metals, plastic, and cartons and other fibre-plastic composite packaging of a similar composition;
- iv) food produced by premises producing more than 5kg of food waste a week;
- v) unsold small waste electrical and electronic equipment (sWEEE); and
- vi) unsold textiles.

Revised proposals regarding planned phasing in of the requirement for hospitals to present specified recyclable materials for collection

In response to engagement with the NHS following the previous consultation, it is proposed that hospitals will have an additional two-years to comply following the coming into force date of the regulations to reflect the additional complexity of bringing the regulations into force in wards and operating theatres. The ban on sending food waste to sewer will apply to hospitals from day one of the regulations coming into force.

Coming into force date

Our intention is for the regulations to come into force on 1 October 2023. This date may be subject to change depending on the outcome of the consultation and required notification and legislative processes.

The aim of the proposed regulations

The aim of the regulations is to improve the quantity and quality of recycling from non-domestic premises in Wales and, in doing so, support Wales' commitments to reach zero landfill by 2025, and zero waste and net zero carbon emissions by 2050. This will support Wales' progress towards a circular economy, where resources are kept in use for as long as possible, waste is avoided, and products and materials are recovered and regenerated at the end of their life. As such, these reforms bring benefits for the economy and the environment by:

- Increasing the quantity of recycling from non-domestic premises: estimated to result in an additional 3.8 million tonnes of recyclate over a 10-year period[1 (#1)];
- Reducing greenhouse gas emissions: estimated reduction in emissions of 3.2 million tonnes CO2 equivalent over 10 years[2 (#2)];
- Creating overall savings to the Welsh economy: modelled to be £452.5 million NPV over 10 years[3 (#3)];
- Creating opportunities for jobs in the waste management sector;
- Giving greater security of supply of resources to our manufacturing sector;
- Accelerating progress towards a circular economy for Wales through the use by Welsh manufacturing businesses of recyclate collected in Wales;
- Reducing pollution.

In order to maintain a high resource value and avoid contamination, it is important that recyclable materials are kept separate from other wastes at source. This supports market demand for high quality and high value recyclate, which in turn acts as a further stimulus to recycling rates. Higher quality recyclate is also more likely to be used in manufacturing operations than lower quality recyclate. Producing high quality recyclate in Wales also reduces the likelihood of materials being sent overseas for treatment. Recycling and recovery of high-quality materials also helps tackle the environmental impacts of

the global demand for resources. By using resources more efficiently through waste prevention and high reuse and recycling rates, material security is also improved and dependence on primary resources (whether from inside or outside the UK) is reduced.

Considerable progress has been made with recycling in Wales, particularly from households. However, at non-domestic premises, such as businesses and in the public sector, significant amounts of recyclable materials are still disposed of as a part of the residual waste stream or co-mingled with other recyclable wastes. This reduces the recycle capture and value and prevents their use as a high-quality source of input material to industry.

1 Regulatory Impact of Options to Increase Business Recycling in Wales (gov.wales) (<https://gov.wales/sites/default/files/consultations/2019-10/regulatory-impact-of-options-to-increase-business-recycling-in-Wales.pdf>)

2 Regulatory Impact of Options to Increase Business Recycling in Wales (gov.wales) (<https://gov.wales/sites/default/files/consultations/2019-10/regulatory-impact-of-options-to-increase-business-recycling-in-Wales.pdf>)

3 Regulatory Impact of Options to Increase Business Recycling in Wales (gov.wales) (<https://gov.wales/sites/default/files/consultations/2019-10/regulatory-impact-of-options-to-increase-business-recycling-in-Wales.pdf>)

Previous related consultations

These reforms have previously been consulted upon twice. Firstly, as part of the consultation on the Environment Bill which took place between 23 October 2013 and 15 January 2014, culminating in the Environment (Wales) Act 2016. Then subsequently with the consultation on the preferred policy option between 23 September and 13 December 2019.

See the [summary of responses to the 2019 consultation](https://gov.wales/increasing-recycling-businesses) (https://gov.wales/increasing-recycling-businesses).

Current related consultations

We are also consulting on [proposals regarding the proposals for enforcing business, public and third sector recycling regulations in Wales](https://gov.wales/consultations?keywords=&field_consultation_status=1&Pob_pwnc=All&published_after=&published_before=&_ga=2.63913967.1556671775.1669027411-1826154286.1657818798) (https://gov.wales/consultations?keywords=&field_consultation_status=1&Pob_pwnc=All&published_after=&published_before=&_ga=2.63913967.1556671775.1669027411-1826154286.1657818798) associated with these regulations.

The closing date for this consultation is 15 February 2023.

Consultation questions

Part I: The code of practice

Application of the code

The code sets out practical guidance on how to meet the separation requirements of the separation regulations. Specified recyclable waste materials need to be separated for collection in specified streams, collected separately, and kept separate after collection.

The code applies to:

- i) the occupiers of non-domestic premises (including businesses, the public sector and charities) to present specified recyclable waste materials for collection in separate recyclable waste streams;
- ii) those collecting, or arranging for the collection of, waste to collect, or arrange for collection of, the separate recyclable waste streams separately; and
- iii) those who collect, receive, keep, treat or transport waste to not mix the separately collected recyclable waste streams with any other recyclable waste stream or with other types of waste or other substances or articles.

Question 1: Please specify which sector you are representing:

- i) A business
- ii) A third sector organisation
- iii) A public sector organisation
- iv) Local Authority waste collection service
- v) A waste management company (e.g., private waste collector, waste handler, or re-processor, operators of incineration and co-incineration facilities, operator of landfill facilities)
- vi) None of the above (please specify)

Separation requirements

Under the proposed separation regulations, occupiers of non-domestic premises, including businesses, and the public and third sectors, have a duty when they present waste for collection to ensure that certain recyclable waste materials are presented separately in specified separate recyclable waste streams.

The following waste materials will need to be collected separately, and kept

separate after collection, in six separate waste streams:

- i) food waste produced by premises producing more than 5kg of food waste a week;
- ii) paper and card;
- iii) glass;
- iv) metal, plastic and cartons and other fibre-plastic composite packaging of a similar composition;
- 12
- v) unsold small waste electrical and electronic equipment (sWEEE); and
- vi) unsold textiles.

Question 2: How useful is the code in explaining the separation requirements?

- i) Very useful
- ii) Mostly useful
- iii) Some sections useful/others not so useful
- iv) Not very useful
- v) No use at all

If you answered iii-v, please explain why and what would help improve this.

Am I obligated to comply with the separation requirements?

The code provides illustrative examples of the types of non-domestic premises covered by the separation requirements. This applies to any premises except a domestic property and a caravan that someone lives in as a home.

Question 3: Do you understand which premises are covered by the proposed separation regulations?

- i) Yes

- ii) No
- iii) No opinion

If you answered 'No', please explain.

Question 4: Do you understand the explanation of an 'occupier', who is required to comply with the separation requirements?

- i) Yes
- ii) No
- iii) No opinion

If you answered 'No', please explain.

Question 5: There are some exemptions from the separation requirements explained in the code, for example for reasons of national security, hazardous or clinical waste or to protect confidentiality or personal data. Are you aware of any other areas that should be exempt from the separation requirements?

- i) Yes
- ii) No
- iii) Don't know

If you answered 'Yes', please explain what these are and why they should be exempt.

Complementary legislation

The separation requirements operate alongside other legal requirements, including, for example, the waste duty of care requirements. This requires anyone producing or dealing with waste to keep it safe, make sure it is dealt with responsibly and only given to businesses authorised to take it.

Question 6: Do you find the inclusion of information about other complementary legislation operating alongside the regulations (e.g., duty of care) useful?

- i) Very useful
- ii) Mostly useful
- iii) No opinion
- iv) Not useful

Is there anything else you would like to see included?

Glossary

The glossary provides an explanation of terms used in the code to help aid understanding and clarity, for example 'closed loop' and 'open loop' recycling.

Question 7: Are you satisfied with the definitions provided in the glossary?

- i) Yes
- ii) No
- iii) No opinion

If you have answered 'No', please identify how the definitions could be improved.

Annex 1-6: List of waste sub-fractions

Following the consultation in 2019, respondents identified they wanted the separation requirements to detail the sub-fractions of waste materials that should be included in each recyclable waste stream. For all non-domestic premises, the sub-fractions that should be placed into separate containers for paper/card, metal/plastic/carton, glass, food, and unsold textile and sWEEE are included in the proposed separation regulations and have been outlined in the Annex 1-6 of the code, respectively.

Question 8: Are you satisfied with the explanation of sub-fractions that should be placed into separate streams?

- i) Very satisfied
- ii) Somewhat satisfied
- iii) Neither satisfied nor dissatisfied
- iv) Not satisfied

If you answered 'iii' or 'iv' please explain why and what could be done to improve the clarity of this section.

Part II: Proposed Policy Changes

Revised proposals on the planned phasing in of the requirements relating to sWEEE and textiles

Concerns have been raised about the feasibility and effectiveness of including a requirement within the regulations for the separate presentation and collection of sWEEE and textiles from the outset of the regulations coming into force. In response, it is proposed that the separation and collection requirements for sWEEE and textiles from non-domestic premises are phased in up to two and up to three years respectively, after the coming into force date. This will exclude unsold sWEEE and unsold textiles, where it is proposed that such items will be required to be presented and collected separately for recycling from the outset.

Small Waste Electrical and Electronic Equipment (“sWEEE”)

Question 9: We propose excluding most sWEEE (apart from unsold sWEEE) initially from the separation requirements but intend to include them up to two years after the regulations come into force. Do you agree with this approach?

i) Yes

ii) No

If you answered 'No', what other approach would you like to see and why?

Textiles

Question 10: We propose excluding most textiles (apart from unsold textiles) initially from the separation requirements but intend to include them up to three years after the regulations come into force. As a consequence, we also propose to not proceed with the proposed ban on separately collected textiles (apart from unsold textiles) going to incineration initially but intend to do so in the same timeframe. Do you agree with this approach?

i) Yes

ii) No

If you answered 'No', what other approach would you like to see and why?

Carton sub-fraction

Discussions with representatives of the cartons industry, waste collectors and re-processors and WRAP have identified that cartons are best collected in the metal and plastic stream – this provides the best solution for the subsequent separation of cartons for re-processing. The capacity also currently exists within the market to take all household and commercial cartons arising in Wales.

Question 11: We intend to include cartons in the metal and plastic stream. Do you agree this is the best stream to place cartons in?

i) Yes

ii) No

iii) Don't know

If you answered 'No or 'Don't know', please explain why.

Question 12: Should this material stream (i.e., metal/plastic/cartons) also include 'other fibre-plastic composite packaging of a similar composition to cartons'? This wording is intended to capture materials such as rigid paper containers (for example packaging used for crisps) and cups used for hot drinks?

- i) Yes
- ii) No
- iii) Don't know

If you answered 'No' or 'Don't know' please explain your reasons. Is there anything else that ought to be included?

Phasing in for hospitals

We intend for hospitals to be subject to the separation requirements two years after the regulations come into force, meaning that hospitals will have to comply with the separation requirements from 1 October 2025. This phasing in is intended to reflect the pressures that hospitals have faced during the recent pandemic.

Question 13: Do you agree with this approach for hospitals?

- i) Yes
- ii) No
- iii) Unsure

If you have answered 'ii' or 'iii', please explain your reasons.

Conclusion

Question 14: If you have any comments in respect of the code or the proposed regulations which aren't addressed directly in the above-mentioned questions, please outline these in the response form below.

Next steps

Following this consultation, we will consider responses and take these into account when making the Statutory Instruments (the legislation). Once all responses have been considered a Government Response will be published on our website.

Our intention is to lay legislation to bring the regulations into effect 1 October 2023.

This date may be subject to change depending on the outcome of the consultation and required notification and legislative processes.

This document may not be fully accessible.

For more information refer to our [accessibility statement](https://gov.wales/accessibility-statement-govwales) (<https://gov.wales/accessibility-statement-govwales>).