

Zero Waste (Scotland) Regulations 2011

February 2011

Introduction

The FSB is Scotland's largest direct-member business organisation, representing around 20,000 members. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper.

We welcome the opportunity to submit our response on the above consultation. As a business organisation, our response will be restricted to the areas of the consultation concerned with business waste.

Broadly speaking, we welcome the strategic and policy objectives of the regulations, which in the long term should bring down the cost of waste collection for businesses. However, we refer back to our previous responses on Zero Waste. In our response to the Zero Waste Plan in November 2009, we highlighted a particular issue emerging from the consultation on the Plan, namely: the suitability of local authority recycling facilities for small businesses. While we have noted some progress on other issues we raised in this consultation, the availability and accessibility of suitable local recycling facilities remains an issue for our members. This issue is central to successful implementation of the Zero Waste Regulations.

Responding to the 2008 consultation on 'Measures to Implement Zero Waste', we advised that: "The Scottish Government should not proceed with plans to force all businesses to recycle, or offer facilities to do so for their customers, until cost-effective facilities are in place to cope with increased demand."

It is not clear from the evidence we have that such concerns have been sufficiently addressed ahead the proposed regulations coming into force. While we recognise that some concessions have been made to protect businesses during this period of transition, these may not go far enough to prevent increased cost to business or to encourage a fairer, more accessible waste management sector in Scotland in the short to medium term.

The FSB has conducted regular surveys of our members' views on waste management and the environment. The latest of these took place in November 2010. Responses showed that:

- Only 43 per cent of our members were content with their local recycling facilities and services. Comparing this to 2008 data, it appeared that there had been no change at all in satisfaction levels since then. This suggests that there is still a way to go to create a waste management landscape that meets the needs of business.
- Only 15 per cent of our members in Scotland use private waste companies for collection and management, compared to 38 per cent in England. Of those Scottish members who did use a private waste provider, the main reason for this was that the businesses' recycling and waste collection needs were not catered for by the local authority. Also cited as a prominent reason for using a private waste collector was cost.
- The same survey cited above also asked members if they would recycle more if there were better local recycling facilities and 98 per cent said they would. It appears therefore that the business community fully supports a move towards higher recycling rates, but needs access to the infrastructure to do it.

This information suggests either that there is less competition in the waste management sector in Scotland than in England, or that there is little awareness amongst the business community about the options open to them. It may be that Scottish businesses - more than English ones - view waste collection, deposit and treatment as a public service and this may be a factor in their relying more heavily on local authorities. Either way, implementation of the Zero Waste Regulations is likely to involve increased cost to business, as waste collectors raise their prices. An open market in this sector cannot be relied upon to regulate price, because it does not currently exist.

The FSB therefore recommends that the Scottish Government put some additional safeguards in place during the implementation of the new regulations to protect businesses from unreasonable increased costs.

These might include:

- A cap on the amount that can be charged for separated business waste collection or deposit from public authorities; and/or
- Grants to support new waste management operators and encourage a wider, more competitive market.

Areas of agreement

The FSB particularly welcomes the following proposed aspects of the Zero Waste Regulations:

- that landfill bans will not apply to unsorted wastes containing banned materials;
- that the 'residual' waste stream is retained for materials that can neither be recycled, or processed in any other way; and
- that clause 2D will state that the duties for waste producers to separate waste ***do not apply to the extent that compliance with them would be unreasonable.***

However, in relation to residual waste we also note that this is likely to require an additional treatment process when the biodegradability ban comes into force. As this is also likely to drive up the cost to business of waste collection/disposal we would urge the Scottish Government to take this into account when consulting on the future ban.

In relation to clause 2D, there seems to be no clarification at this point about what 'unreasonable' means. Might this include exorbitant costs or unreasonable distances to deposit waste? Some guidance on this clause should be developed in order to improve clarity.

Consultation questions

Question 3: Do consultees have any comments on the new draft Duty of Care Code of Practice?

The Duty of Care Code of Practice is clearly drafted and sets out the responsibilities of each party in the process of waste management well. We would seek additional clarification of clause 2D in the Code of Practice and accompanying guidance, however (see above).

Question 4: Do consultees consider that Government should mandate more specifically what actions waste collection authorities must take to improve recycling of waste from households? If so, what are they?

It is important to note that a proportion of waste handled by local authorities as household waste comes from small businesses, for example, where these are home based. The FSB has called for some time for more equitable treatment by local authorities of the smallest businesses with minimal waste management requirements. If specific actions are to be mandated on the collection of household waste these should take account of the requirements of small business.

Question 7: Do consultees consider that banning the listed materials accompanied by a requirement to sort will help support investment in the infrastructure required to achieve high recycling rates?

The FSB agrees that these measures should help support investment in infrastructure and supports moves to improve recycling rates as we have stated above. However, the bans and requirements to sort alone will not improve Scotland's waste management infrastructure. Additional investment and intervention in the market by the Scottish Government is required to ensure that the waste management sector works for small businesses and the costs to business do not become prohibitive in the short to medium term. A clear objective either for a waste management sector

dominated by public sector operators, or for an open market, needs to be made and action taken to support the feasibility of the chosen objective for business users.

Question 12: Do consultees consider that the lead-in times for the landfill bans are reasonable?

The lead-in times are within the realms of the possible but will only be reasonable if arrangements are made to ensure that facilities are there and accessible and if support is provided to allow businesses to fulfil their obligations under the Duty of Care. Significant progress will have to be made by local authorities and other waste management and treatment providers in the two years between implementation of the 'requirement to sort' and introduction of the landfill bans if it is to be successful. The Scottish Government will need to monitor this progress carefully and have enforcement measures in place. We have already seen from the patchy implementation of the European Services Directive how lack of follow-up monitoring and support for public authorities can result in failed implementation.

Question 14: Do consultees have any other comments?

A small percentage of our members are registered with SEPA as waste carriers. Segregation at source will also put pressure on them to monitor waste collection to ensure that it has been correctly separated. The new regulations will, in effect, involve an additional cost, as transfer stations and waste treatment plants require a greater number of materials segregation to be assured by carriers. It is important that the impact of the regulations to each stage of the waste management process is fully assessed and taken account of prior to implementation.

For further information on any of the points raised in this submission, please contact Mary Goodman, Senior Policy Advisor, email: mary.goodman@fsb.org.uk t: 0141 221 0775.