

WASTE MANAGEMENT (FOOD WASTE) REGULATIONS 2009

FREQUENTLY ASKED QUESTIONS

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FREQUENTLY ASKED QUESTIONS & ANSWERS

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Food Waste Regulations – Frequently Asked Questions & Answers

Regulation 2 – Clarifications on Definitions

Q.1. Does the scope of the definition of “food waste” apply only to animal by-products or to all wastes falling within the definition of “food”?

Answer: The scope of the definition of “food waste” applies equally to all wastes falling within the definition of “food” and all obligated producers are required to comply with the provisions of the Regulations for the management of such food waste.

Q.2 While the definition of “authorised treatment process” explicitly omits only incineration, are all residual waste treatment processes effectively excluded from treating source separated biodegradable waste through the provisions of Regulations 7 and 8, including options like MBT or autoclaving?

Answer

Regulation 7 requires food waste generated on an obligated producer’s premises to be source segregated.

Treatment facilities designed for the processing of mixed municipal waste, such as MBT and autoclaving, are also excluded as preferred “authorised treatment processes” under the Food Waste Regulations as there is a prohibition on the mixing of source segregated food waste with other wastes/substances in Regulation 8.

However, just like incineration, MBT and autoclaving are , in principle , permissible under the definition of “authorised treatment” in circumstances where the Agency certifies that adequate capacity in “preferred” processing facilities is not available.

Q.3. Does treatment in the following Plants constitute an authorised treatment process?

- Composting plants (licensed under EU Reg 1774/2002)
- Anaerobic digestion plants (licensed under EU Reg 1774/2002)
- Rendering plants (licensed under EU Reg 1774/2002)
- Biodiesel plants (licensed under EU Reg 1774/2002)

Answer: Yes under circumstances where :

- **there is an appropriate level of treatment provided at the Plant enabling the outputs to fulfill the definition of “authorized treatment process” - refer to the criteria contained in paragraph (a)(i) in the definition, and**
- **the use of the outputs will not lead to overall adverse environmental or human health impacts – refer to the criteria contained in paragraph (a)(ii) in the definition, which includes e.g. rendering.**

Q.4 There are a number of potential uses of food waste which are primarily animal by-product operations regulated by the Department of Agriculture, Fisheries and Food (DAFF), including:

- a) The manufacture of pet food in a plant authorised by DAFF, and
- b) The use of food waste in accordance with a meat feeder’s licence issued by DAFF.

A number of questions arise with these operations:

- 1) Would each be considered an 'authorised treatment process' within the meaning of the Food Waste Regulations?
- 2) What are the specific authorization requirements for these operations under animal by-products legislation?

Answer: Use of food waste for pet food manufacture or for feeding purposes would be an acceptable "authorised treatment process" only in circumstances where the activity is in strict accordance with animal by-products legislation and is carried out to the entire satisfaction of DAFF.

DAFF is preparing further detailed advice on the implementation of these aspects of the Animal By-products legislation.

Q.5. What is the position if there is an inadequate capacity of the preferred authorised treatment facilities to accept and manage a segregated food waste stream.

Answer:

The definition of "authorised treatment process" within the Regulations makes specific provision for a situation where adequate preferred authorized treatment capacity is genuinely not available by allowing that -
" (b) *Where the Agency certifies that adequate processing facilities under (a) are not available, treatment in other authorised facilities*".

This provision empowers the Agency to allow the material to be directed to other approved facilities in appropriate circumstances - subject, of course, to the fulfillment of all prevailing legal obligations including the separate requirements of the Agency's Technical Guidance Document on Pre-treatment and the conditions imposed on the waste licenses of individual facilities.

Q. 6. What is a competent person in relation to the preparation of food waste management plan or a food waste implementation report?

Answer:

A competent person is defined in the Food Waste Regulations and essentially is a suitably qualified person with the relevant experience, training and/ or educational qualification.

Regulation 3 – 1 year exemption for small producers

Q.1 Is there a lower limit on the amount of food waste that has to be produced before a facility has to make provision for source segregation and treatment? e.g. if the amount of waste produced is less than 10kgs per week, will it come under the scope of this legislation in 2011.

Answer:

In accordance with the provisions of Regulation 3 (2), an exception to the Regulations is available upon prior notification to the local authority, until 1 July 2011 for those premises (within the meaning of Schedule 1) which produce less than 50kg of food waste per week.

From 1 July 2011 all scheduled premises will be required to segregate food waste for appropriate management in accordance with the provisions of the Food Waste Regulations.

Enforcement efforts should, in any event, be focussed on the major producers and the Clean Technology Institute has produced some useful information which will be of assistance to local authorities in focussing enforcement initially-see answer on pages 35 and 36 of this document in the section titled “Miscellaneous”.

Concerning the date of 1 July 2010, it has been represented to the Department that not all producers will be aware of their responsibilities due to a lack of awareness generally of the Regulations and that they will not be in a position to submit their declaration prior to 1 July 2010. The Department accepts this point and advises local authorities that they may exercise discretion on the date (in effect disregard it) but should, nonetheless, request such a written declaration from any person wishing to avail of the derogation for the purposes of enforcement of the Regulations.

Q.2 Is a local authority entitled to refuse a derogation in circumstances there is a three bin system in the area.

Answer: Regulation 3(2) provides that the derogation for premises generating less than 50 kg of food waste per week is available upon prior notification to the local authority, unless the premises is otherwise obligated through

- the objectives of a Waste Management Plan, or**
- the conditions of a Waste Collection Permit or a Waste Presentation Bye-law.**

Regulation 6 – Food Safety & Hygiene

Q.1. Guidance is sought on implementing the Food Waste collections in kitchens where hygiene standards and food safety are paramount, particularly in relation to the role of the Environmental Health Officers.

Answer: In accordance with Regulation 6, food safety and hygiene standards and obligations must take priority over the general requirements of the Food Waste Regulations. Accordingly, the Environmental Health Officers are best placed to provide guidance to individual premises on the appropriate measures to implement the food waste management requirements without detriment to food safety and hygiene standards.

Regulation 7 - Collection of Packaged Foods

Q.1 Do the requirements for the source segregation of food waste as set out in Regulation 7 necessitate the removal of all packaging from the food waste prior to its presentation for collection or authorised treatment?

Answer: Packaging must be removed prior to the submission of food waste into a treatment process at an authorised facility. Depending upon the intended treatment process and the technology available at a particular Plant, it may already be the established practice that there is specialist equipment provided at the facility that is designed to remove the packaging in a manner approved by DAFF prior to it being subjected to the treatment operation.

In such circumstances – where it is certain that the packaged food waste will be directed to a treatment facility that will definitely and routinely unpackage the food in a manner approved by DAFF and which is not likely to cause harm to the environment or to human/ animal health – it is reasonable that such existing arrangements be maintained and that it is not now necessary to unpackage the food waste at the place of production solely as a consequence of the new Food Waste Regulations.

However, in other circumstances it is essential that the packaging be removed by an obligated waste producer as part of the source segregation of all food waste under Regulation 7.

Q.2. What is the appropriate storage and treatment for packaged out-of-date fruit and vegetable, non-animal by-product, former foodstuff?.

Answer: “fruit and vegetables” do not fall within the scope of the definition of “former foodstuffs” as they do not contain products of animal origin.

A range of treatment options are available within the scope of the definition of “authorised treatment process” and it is open to an obligated food waste producer to keep “fruit and vegetable” waste separate from other food waste if it is intended to subject it to a different form and quality of authorised treatment.

Q. 3. Where a Premises produces both catering waste and packaged products containing products of animal origin (former foodstuff), are these wastes to be stored together?

Answer

Where catering waste and former foodstuffs are stored in a manner

whereby they become mixed, the entire mixture would be regarded as having the risk assignment of former foodstuffs.

As some treatment facilities have an animal by-product authorisation allowing them to treat both catering waste and former foodstuffs (e.g. Composting or Biogas Plants operated to EU processing standards in accordance with the DAFF “Conditions” documents), Regulation 7(4) of the Food Waste Regulations provides that a producer is not required to keep catering waste separate from former foodstuffs when the mixture is being directed to such facilities.

Conversely, where facilities are being used which do not have an animal by-product authorisation allowing them to treat both catering waste and former foodstuffs, then the segregated catering waste and the segregated former foodstuffs must be kept completely separate.

Q. 4 Are there different requirements for storage of packaged meat products and other out-of-date packaged non-meat products such as cereal, bread, yogurt etc?

Answer

In general, food waste consisting of non-animal by-products would not fall within the scope of Regulation (EC) No. 1774 of 2002 or Regulation (EC) No. 1069 of 2009 (the Revised EU Animal By-products Regulation). The particular status of specific products should always be confirmed with the Department of Agriculture, Fisheries and Food (DAFF) and the DAFF “Frequently Asked Questions” on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agri-foodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

A range of treatment options are available within the scope of the definition of “authorised treatment process” and it is open to an obligated food waste producer to keep “non-animal by-product” waste separate from other food waste if it is intended to subject it to a different form and quality of treatment.

Regulation 7 – Separation of Food Waste from other brown bin wastes

Q.1 Does the stipulation in Regulation 7(1) (a) requiring that “food waste be kept separate from ‘other waste’ “ mean that food waste should not be mixed with other ‘Brown Bin’ type wastes that may arise on a premises and be kept separate from other waste?

Answer: Yes – Regulation 7(1) (a) requires that food waste must be source segregated and set aside from other waste, as well as from non-biodegradable materials and contaminants. The source segregated food waste must then be brought for submission to an authorised treatment process.

Q. 2. Does the obligation to source segregate food waste for submission to an authorised treatment process mean that some commercial establishments will be required to

- keep a number of food waste fractions separately in two or more brown bins?; and
- arrange discrete collections of such wastes?

Answer: The requirements of Regulation 7(1) are essentially that food waste be source segregated and submitted to an authorised treatment process. An authorised treatment process requires, inter alia, that the

facility must be appropriately authorised for the treatment of waste in accordance with the provisions of animal by-product rules.

Food waste arising on premises where food is supplied for consumption may be generated in three broad classifications of animal by-product:

- Catering waste,
- Former foodstuff, and
- Butchery waste.

Different rules exist for the processing of each of these types of animal by-product. For example:

- A. Catering waste treated at a composting or biogas plant must be processed in accordance with national processing standards (refer to DAFF “Conditions” documents).
- B. Former foodstuffs treated at a composting or biogas plant must be processed in accordance with the more onerous EU processing standards (refer to DAFF “Conditions” documents).
- C. Butchery waste is classified as Category 3 material in accordance with Article 6. 1 (a) and (b) of Regulation (EC) No 1774/2002 and is not a permitted feedstock in a composting/biogas plant – instead, it is required to be sent to a rendering plant for treatment.

Accordingly, the types of food wastes generated and the animal by-product approval granted for the treatment plant(s) for which the food waste is destined will determine the extent of source segregation needed.

For example, if a premises produces “catering waste” and “former foodstuffs” only and proposes to use an authorized composting facility that has animal by-product approval for EU processing standards (refer to DAFF “Conditions” documents), then the source segregation arrangements can combine the “catering waste” and “former foodstuffs” as these can both be treated together at the Plant of destination.

Conversely, if a premises produces “catering waste”, “former foodstuffs” and “butchery waste” and chooses to use three separate authorized treatment processes approved to receive and treat “catering waste”, “former foodstuffs” and “butchery waste” respectively, then source segregation arrangements will need to be made to provide for these three discrete streams of animal by-product to be separately set aside.

Q.3 Does Regulation 7 (1)(b)(i) allow an authorised waste collector transport food waste to a transfer station for bulking up rather than transferring directly for an authorised treatment process?

Answer

Yes- it is acceptable for an authorized waste collector to deliver the food waste to an appropriately authorised transfer station

Regulation 7 – Animal By-products Aspects

Q.1 Is there a distinction in the animal by-product classification of “Raw Meat” dependent upon the different premises in which this “food waste” may be generated? - Is it always the case that

- all “raw meat” waste generated at restaurants/ kitchens is to be regarded as “catering waste”?,
- all “raw meat” waste generated in supermarkets is to be regarded as “former foodstuffs”?, and
- all “raw meat” waste generated at butchery counters is to be regarded as “butchery waste”?

Answer:

The scope of the definition of “Catering Waste” is considered to be very clear as it includes all food waste “originating in restaurants, catering

facilities and kitchens, including central kitchens and household kitchens”. This should not cause any complications either in interpretation or practice, as the Food Waste Regulations will require it to be source segregated at the point it is generated.

The relevant descriptions of “former foodstuff” and “butchery waste” are as follows:

“former foodstuffs” means former foodstuffs or products of animal origin or foodstuffs containing products of animal origin, other than catering waste, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects which do not present any risk to humans or animals; and

“butchery waste”, in accordance with the descriptions in Article 6(1)(a) and 6(1)(b) of EU Animal By-products Regulation 1774/2002, means animal by-products consisting of parts of slaughtered animals, or any material containing such by-products which are

- (a) fit for human consumption in accordance with Community legislation, but are not intended for human consumption for commercial reasons;
- (b) rejected as unfit for human consumption but are not affected by any signs of diseases communicable to humans or animals and derive from carcasses that are fit for human consumption in accordance with Community legislation;

All meat waste generated at a “butchery counter” is to be regarded as “butchery waste” and packaged meat waste arising on sales' display shelves is to be regarded as "former foodstuffs”.

Q.2 Is it proposed that the current animal by-product requirement, supervised by the Health Service Executive, for butcher’s waste to be sent to a rendering plant will change under the Food Waste Regulations?

Answer:

It is not proposed that there would be any change in the current requirement for “butchery waste” to be sent for treatment in a Rendering Plant as a result of the Food Waste Regulations.

The Food Waste Regulations are drafted in a way so as to be aligned with animal by-products legislation, by making appropriate reference to the relevant provisions within Regulation (EC) No. 1774/2002 and national legislation on animal by-products. The Food Waste Regulations are deliberately not attempting to re-iterate these very detailed provisions, thereby avoiding the creation of inconsistencies between veterinary and waste legislation. Animal by-product obligations must be fulfilled at all times. Accordingly, knowledge of animal by-products legislation is essential when interpreting and implementing the requirements of the Food Waste Regulations.

Q.3 What further clarification can be provided on the management requirements of catering waste, former food stuffs and categories of animal by-products (ABP) in relation to their storage, transport and treatment?

Answer:

The specific provisions of the Food Waste Regulations do not extend to

- **Category 1 Animal By-products (refer to Regulation 3(2)(b) of the Food Waste Regulations) which must instead be managed strictly in accordance with Regulation 1774/2002- in this regard, Category 1 Animal By-products include "catering waste" that has arisen from a means of transport operating internationally.**

- **Category 2 Animal By-products (refer to Regulation 3(2)(c) of the Food Waste Regulations) which must instead be managed strictly in accordance with Regulation 1774/2002 - in this regard, the three Category 2 animal by-products permitted to be accepted as feedstocks in Composting/ Biogas Plants under the DAFF "Conditions" documents (Manure, Digestive tract content separated from the digestive tract and Milk) do not constitute food within the meaning of the Food Waste Regulations.**

The overall management requirements that prevail for animal by-Products are set out in Article 3 of Regulation (EC) No. 1774/ 2002, providing that "Animal by-products, and products derived therefrom, shall be collected, transported, stored, handled, processed, disposed of, placed on the market, exported, carried in transit and used in accordance with this Regulation (1774/2002)"

For the storage of animal by-products on the site of production, Articles 4 (Category 1 ABP), 5 (Category 2 ABP) and 6 (Category 3 ABP) of Regulation (EC) No. 1774/ 2002 each provide that the animal by-products "shall be collected, transported and identified without undue delay" - thus the animal by-product must be removed for the purposes of authorised treatment in an efficient manner.

Collection, transportation and storage of animal by-products should be undertaken in accordance with Article 7 of Regulation (EC) No. 1774/2002.

Treatment must take place in an authorised treatment process (see definition in Food Waste Regulations) within an authorised facility (see definition in Food Waste Regulations) possessing the requisite waste authorisations, planning permissions and animal by-products approvals as appropriate.

The particular rules applicable to the management of animal by-products should always be confirmed with the Department of Agriculture, Fisheries and Food (DAFF) and the DAFF “Frequently Asked Questions” on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agri-foodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

Article 6 of the Food Waste Regulations further requires that food safety and hygiene standards/ obligations shall be fulfilled at all times and these take precedence over the Food Waste Regulations.

Q. 3 What takes precedence if there is a conflict between the Animal By-Products regulations and the Food Waste Regulations?

Answer:

The Food Waste Regulations are drafted in a way so as to be aligned with animal by-products legislation, by making appropriate reference to the relevant provisions within Regulation (EC) No. 1774/2002 and national legislation on animal by-products. The Food Waste Regulations are deliberately_not attempting to re-iterate these very detailed provisions, thereby avoiding the creation of inconsistencies between veterinary and waste legislation. Animal by-product obligations must be fulfilled at all times Accordingly, knowledge of animal by-products legislation is essential when interpreting and implementing the requirements of the Food Waste Regulations. In this regard:

- the definitions of "catering waste" and "former foodstuffs" are taken directly from Regulation (EC) No. 1774/2002;**
- Category 1, Category 2 and Category 3 Animal By-products are referred to within the Food Waste Regulations - knowledge of the relevant animal by-products legislation is essential for the interpretation and implementation of the resultant obligations on producers, collectors, treatment facilities**

etc.

Q.4 When is a catering waste a category 3 ABP?

Answer: Article 6.1(l) of Regulation (EC) No. 1774/ 2002 provides that "Catering Waste", other than catering waste from means of transport operating internationally, is a Category 3 Animal By-product

Q.5 Can waste material currently sent for rendering e.g. bones and raw meat from butchers, now be suitable for composting through a brown bin collection system?

Answer: The "Conditions" Documents published by DAFF prescribe the permitted feedstocks that may be accepted at composting/ biogas plants - in this regard, Butcher shop waste is classified as Category 3 material in accordance with Article 6. 1 (a) and (b) of Regulation (EC) No 1774/2002 and is not specified as a permitted feedstock in a composting/biogas plant – instead it is required to be sent to a rendering plant for treatment.

The Composting/ Biogas Plant “Conditions” documents provide a full schedule of the animal by-product (ABP) materials that may be used as feedstock in Composting and Biogas Plants in Ireland (note: animal by-product classification as set out in EU Regulation No. 1774/2002 in italics)

- 1. .CATEGORY 2 MATERIAL comprising the following:**
 - **Manure (*Article 5, 1 (a)*)**
 - **Digestive tract content separated from the digestive tract, (*Article 5, 1(a)*)**
 - **Milk (*Article 5, 1 (c)*)**
- 2. CATEGORY 3 MATERIAL comprising the following:**
 - **Feathers (*Article 6, 1(c)*)**

- Former foodstuffs of animal origin, or former foodstuffs containing products of animal origin, other than catering waste, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects, which do not present any risk to humans or animals, (*Article 6, 1 (f)*)
- Raw milk, originating from animals that do not show clinical signs of any disease communicable through that product to humans or animals (*Article 6, 1 (g)*)
- Fish or other sea animals, except sea mammals, caught in the open sea for the purposes of fishmeal production (*Article 6, 1 (h)*)
- Fresh by-products from fish from plants manufacturing fish products for human consumption (*Article 6,1 (i)*)
- Shells, hatchery by-products and cracked eggs by-products originating from animals which did not show clinical signs of any disease communicable through that product to humans or animals (*Article 6, 1 (j)*)
- Catering waste which is defined as '*all waste food including used cooking oil originating in restaurants, catering facilities and kitchens, including central kitchens and household kitchens.*'(*Article 6, 1(l)*)

3. Other Acceptable Feedstocks

Processed animal protein, as defined in Annex 1 of EU Regulation No. 1774/2002.

Q.6 When does the exemption for a waste collection permit apply in respect of food waste under Article 30 (1) (g) of the Waste Collection Permit Regulations 2007-2008?

Answer: Waste collection permit legislation only applies to the collection of animal by-products in respect of "catering waste". The collection and transport of all other types and categories of animal by-products is subject only to the requirements of Regulation (EC) No. 1774/2002 (i.e. as per Article 30(1)(g) of the Waste Collection Permit Regulations). All other food waste that is a non-animal by-product is subject to the Waste Collection Permit Regulations.

The legal requirements for animal by-product should always be confirmed with the Department of Agriculture, Fisheries and Food. The DAFF "Frequently Asked Questions" on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agri-foodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

8. Hotels that have a small scale composting unit which might generate excess compost beyond its own needs. Will the Department of Agriculture, Fisheries and Food allow this compost to be sent to a waste collector/composter?.

Answer: Formal animal by-product approval is currently not required for a small-scale composting plant situated on the grounds of a hotel under conditions where

- **The input material is generated on the premises where the plant is situated; and**
- **the output material from the composting process is applied only to land at those premises in situations where pigs, ruminants and poultry do not have access in accordance with the provisions of the Diseases of Animals Act, 1966 (Prohibition on the Use of Swill) Order, 2001 (S.I. No. 597 of 2001).**

It should also be noted that the Diseases of Animals Act 1966 (Prohibition on the Use of Swill) (Amendment) Order 2009 (S.I. No. 12 of 2009) provides that these particular restrictions do not automatically apply to a composting plant that operates in accordance with a formal animal by-products' approval granted by DAFF for the purposes of Article 15 of Regulation (EC) No. 1774/2002 (subject to the specific conditions that may attach to a DAFF approval).

The legal requirements for animal by-product should always be confirmed with the Department of Agriculture, Fisheries and Food. The issue of small-scale Plants operated on the grounds of premises is currently under review by DAFF and the DAFF “Frequently Asked Questions” on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agrifoodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

Regulation 9 – Disposal of Food Waste

Q.1. What is the position in relation to food waste (non-raw meat/fish) being donated to animal shelters or kennels, or staff in commercial premises taking plate scrapings home to feed household pets?

What Guidance can be provided regarding the collection of food by dog owners from restaurants etc. in relation to the requirements for a waste collection permit or special permit?

Can a waste producer give the food waste to dogs, i.e. a greyhound breeder?.

Answer: Use of waste food for feeding purposes would be an acceptable "authorised treatment process" only in circumstances where the activity is undertaken in strict accordance with animal by-products legislation and is carried out to the entire satisfaction of DAFF.

The legal requirements for animal by-products should always be confirmed with the Department of Agriculture, Fisheries and Food. The DAFF "Frequently Asked Questions" on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agrifoodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

DAFF is preparing further detailed advice on the implementation of these aspects of the Animal By-product legislation.

Q. 2. The Food Waste Regulations require waste collectors to inform Local Authorities of persons or organisation that refuse to avail of a source segregation waste collection service. What clarification can be provided in relation to the limit of responsibility in sharing customer information and data with any such Local Authority request in the context of Data Protection legislation and the manner by which an authorised collector is expected to know whether a customer is availing of a source segregated brown bin collection service, as such service may be provided by another company under separate contract.

Answer: The Department will give further consideration to the above point , which refers to the provisions of Regulation 9(4) of the Food Waste Regulations in the context of Data Protection and Competition legislation and also in the context of other service providers and the administrative burden on waste collectors. Further Guidance on this provision will be issued before the end of 2010.

Q. 3. If there are a number of food producing units on one site (e.g. a university or a small retail park) can they compost communally?

Answer: Formal animal by-product approval is currently not required for a small-scale composting plant situated on the grounds of a premises under conditions where

- **The input material is generated on the premises where the plant is situated; and**
- **the output material from the composting process is applied only to land at those premises in situations where pigs, ruminants and poultry do not have access in accordance with the provisions of the Diseases of Animals Act, 1966 (Prohibition on the Use of Swill) Order, 2001 (S.I. No. 597 of 2001).**

It should also be noted that the Diseases of Animals Act 1966 (Prohibition on the Use of Swill) (Amendment) Order 2009 (S.I. No. 12 of 2009) provides that these particular restrictions do not automatically apply to a composting plant that operates in accordance with a formal animal by-products' approval granted by DAFF for the purposes of Article 15 of Regulation (EC) No. 1774/2002 (subject to the specific conditions that may attach to a DAFF approval).

The legal requirements for the management of animal by-products should always be confirmed with the Department of Agriculture, Fisheries and Food. The issue of small-scale Plants operated on the grounds of premises is currently under review by DAFF and the DAFF "Frequently Asked Questions" on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agri-foodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

- Q.4. Can a facility that currently operates a maceration system, has a Trade Effluent Discharge Licence, and is in compliance with the licence, continue to use this system in circumstances where**
- (a) there is a separate food waste collection available?, or**
 - (b) there is a not separate food waste collection available?**

Answer: The Food Waste Regulations contain two separate obligations that are relevant to this situation:

- Regulation 7 requires that obligated producers source segregate food waste arising on their premises and make appropriate arrangements for it to be submitted to an authorized treatment process, and**
- Regulation 9 further requires that an obligated producer of food waste shall not use purpose built mechanical devices to shred or hydrate or otherwise alter the structure of food waste for the purposes of facilitating its discharge to the sewerage system.**

Accordingly, Regulation 7 imposes a clear duty on obligated producers to introduce a system of source segregation of food waste irrespective of whether a separate collection service currently exists or not.

Furthermore, Regulation 9 prohibits the use by obligated food waste producers of purpose built mechanical devices to hydrate or alter the structure of food waste for the purposes of flushing solid food waste into the sewerage system irrespective of whether the premises has a Trade Effluent Discharge Licence.

Q.5. In circumstances where a separate collection service is not available for food waste, can an obligated premises that currently does not have maceration install a maceration system, and apply for a Trade Effluent Discharge Licence?.

Answer: No – Regulation 7 requires that obligated producers introduce source segregation arrangements for food waste arising on their premises, while Regulation 9 prohibits the use by obligated food waste producers of purpose built mechanical devices to hydrate or alter the structure of food waste for the purposes of flushing solid food waste into the sewerage system irrespective of whether the premises has a Trade Effluent Discharge Licence.

Q.6. In situation where catering facilities already have food waste maceration systems and on-site waste water treatment systems in place who are meeting the requirements of their Trade Effluent Discharge Licence. Will-

- (a) such obligated premises be required to discontinue use of these treatment systems?, and
- (b) obligated premises now be precluded from installing such systems in the future?

Answer: Regulation 7 requires that obligated producers introduce source segregation arrangements for food waste arising on their premises, while Regulation 9 prohibits the use by obligated food waste producers of purpose built mechanical devices to hydrate or alter the structure of food waste for the purposes of flushing solid food waste into the sewerage system.

In circumstances where an on-site Waste Water Treatment Plant is provided in tandem with a macerator on an obligated premises and the effluent is then discharged to the sewerage system under the terms of a Trade Effluent Discharge Licence, the use of a macerator¹ would be acceptable where the following controls apply:

- **The effluent is discharged to the sewerage system in accordance with any control arrangements that may be stipulated in a Discharge Licence (e.g. filtration system, grease trap etc.),**
- **The volume of effluent being discharged to the sewerage system is kept below maximum flow rates that may be prescribed in a discharge licence,**
- **The concentrations within the effluent being discharged to the sewerage system are below the emission limit values specified for the various parameters (e.g. BOD, COD, Suspended Solids, FOGs etc.) within a Discharge Licence, and**
- **The sludge generated in the on-site Waste Water Treatment Plant is managed in accordance with the provisions of a Discharge Licence.**

¹ Such devices may, additionally, require to be permitted under the Waste Management (Facility Permit and Registration) Regulations 2007.

Q.7. In situations where catering facilities already have food waste dewatering systems in place which are meeting the requirements of their Trade Effluent Discharge Licence will-

- (a) such premises be required to discontinue these treatment systems, and
- (b) obligated premises now be precluded from installing such devices in the future?.

Answer: Regulation 7 requires that obligated producers introduce source segregation arrangements for food waste arising on their premises, while Regulation 9 prohibits the use by obligated food waste producers of purpose built mechanical devices to hydrate or alter the structure of food waste for the purposes of flushing solid food waste into the sewerage system.

In accordance with the guidance provided in Department Circular L8/03², it is appropriate that effluent from restaurants and other food preparation outlets liable to give rise to an additional loading or increased risk of blockage would be the subject of trade effluent discharge licensing. In this context, it is clear that a premises involved in the preparation of food to such an extent that it deploys a food waste dewatering unit would be subject to trade effluent discharge licensing.

Accordingly, the use of a dewatering device³ would be acceptable in a situation where:

- **The device is designed and used solely for the purposes of reducing the moisture content of the food waste,**

² Circular L8/03 dated 29 April 2003 from the Department of the Environment, Heritage and Local Government on “Licensing of Trade Effluent Discharges to Sewers under Section 16 of the Local Government (Water Pollution) act 1977”.

³ Such devices may, additionally, require to be permitted under the Waste Management (Facility Permit and Registration) Regulations 2007.

- **The excess moisture extracted from the food waste is discharged as effluent to the sewerage system in accordance with any control arrangements that may be stipulated in a discharge licence (e.g. filtration system, grease trap etc.),**
- **The volume of effluent being discharged to the sewerage system is kept below maximum flow rates that may be prescribed in a discharge licence,**
- **The concentrations within the effluent being discharged to the sewerage system are below the emission limit values specified for the various parameters (e.g. BOD, COD, Suspended Solids, FOGs etc.) within a discharge licence, and**
- **The solid food waste remaining following reduction of the moisture content is managed in accordance with the provisions of the Food Waste Regulations.**

Q.8. Can businesses use food waste dryers that thermally dry the food waste?

Answer: The use of a Thermal drying device⁴ would be acceptable in a situation where:

- **The device is designed and used solely for the purposes of reducing the moisture content of the food waste,**
- **The excess moisture extracted from the food waste is discharged to the sewerage system in accordance with any control arrangements that may be stipulated in a discharge licence (e.g. filtration system, grease trap etc.),**
- **The volume of effluent being discharged to the sewerage system is kept below the maximum flow rates that may be prescribed in a discharge licence,**

⁴ Such devices may, additionally, require to be permitted under the Waste Management (Facility Permit and Registration) Regulations 2007.

- **The concentrations within the effluent being discharged to the sewerage system are below the emission limit values specified for the various parameters (e.g. BOD, COD, Suspended Solids, FOGs etc.) within a discharge licence,**
- **The solid food waste remaining following reduction of the moisture content is managed in accordance with the provisions of the Food Waste Regulations.**

Q.9. What responsibilities exist for an obligated producer if there is no collection service available?

Answer

If there is no segregated collection service currently available to an obligated food waste producer, the Regulations impose a duty on the producer to engage a segregated collection service, unless other appropriate and satisfactory arrangements can be made in accordance with the alternative options allowed under Regulation 7(1)(b)(ii) and 7(1)(b)(iii).

Q.10. Will hotels, which have an authorised treatment process, be required to engage a segregated food waste collection service?

Answer:

The use of a segregated waste collection service is not the only alternative for an obligated producer that has introduced source segregation arrangements for food waste on the premises where it was generated. Regulation 7(1)(b)(ii) provides that source segregated food waste may be subjected to an authorized treatment process on the premises where the food waste is generated.

Such facilities will require an appropriate waste authorization:

- Where the annual treatment capacity does not exceed 50 tonnes per annum and the amount of material on site at any time does not exceed 20 tonnes, they will need a Certificate of Registration from the local authority.
- Larger facilities will require a Waste Facility Permit or Waste Licence as appropriate.

In addition, the facility must satisfy the requirements of animal by-products legislation as applied by the Department of Agriculture, Fisheries and Food. In general, where catering waste is subjected to small-scale composting on the premises where it originates, the premises does not need ABP approval in circumstances where the resulting material is applied only to land at those premises in situations where pigs, ruminants and poultry do not have access in accordance with the provisions of the Diseases of Animals Act, 1966 (Prohibition on the Use of Swill) Order, 2001 (S.I. No. 597 of 2001).

It should also be noted that the Diseases of Animals Act 1966 (Prohibition on the Use of Swill) (Amendment) Order 2009 (S.I. No. 12 of 2009) provides that these particular restrictions do not automatically apply to a composting plant that operates in accordance with a formal animal by-products' approval granted by DAFF for the purposes of Article 15 of Regulation (EC) No. 1774/2002 (subject to the specific conditions that may attach to a DAFF approval).

The legal requirements for animal by-product should always be confirmed with the Department of Agriculture, Fisheries and Food. The issue of small-scale Plants operated on the grounds of premises is currently under review by DAFF and the DAFF "Frequently Asked Questions" on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agri-foodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

Q.11. Do collections have to be weekly?

Answer

Not necessarily. However, Regulation 7(5) imposes a duty on producers of food waste to take all reasonable steps to minimize the creation of nuisance and odours in discharging their obligations arising from the Food Waste Regulations.

Accordingly, the source segregated collections must be of sufficient frequency to minimize the creation of nuisance/ odours and at least as frequent as the minimum level of service prescribed by the service provider and/or local authority.

Regulation 11- Food Waste Management Plans

Q.1 Can the waste producer prepare the Food Waste Plan for their premises?.

Answer: Under Regulation 11, the obligation to prepare and submit a Food Waste Management Plan rests with the organiser of an obligated trade show, exhibition or event.

Regulation 11 requires that the Food Waste Management Plan is of adequate scope, detail and standard to comply with the specific provisions of Regulation 11 and Schedule 2: Part I.

The organiser may himself prepare a satisfactory Food Waste Management Plan. Alternatively, other persons may be engaged to prepare it on his/ her

behalf, including those obligated producers of food waste that may be participating in the trade show, exhibition or event.

Regulation 12 - Submission of Information to the Local Authority

Q.1 Can further clarification be provided on the Food Waste Management Implementation Report requirement?

Answer

Regulation 12 provides that a Food Waste Management Implementation Report will only be asked for when a producer does not produce satisfactory information to a local authority that they are managing their waste adequately in accordance with the requirements of Regulation 7.

Q.2 Can further clarification be provided on the Annual Environmental Report requirement?

Answer

Regulation 12 provides that a local authority may request a producer, by notice in writing, to furnish an Annual Environmental Report for the previous year by 28 February of the following year.

Regulation 12 requires that the Annual Environmental Report is of adequate scope, detail and standard to comply with the specific provisions of Regulation 12(9).

Q.3 What documentation must a producer maintain to comply with Regulation 12?

Answer

The producer is required to maintain, in case of inspection by the local authority, the documentation used in the preparation of the Food Waste Management implementation Report and an Annual Environmental Report.

Regulation 13 - Offences

Q.1. If
(a) a waste producer, or
(b) a waste collector
is not compliant with the regulations, what are the fines etc?.

Answer: Regulation 13 sets out a schedule of offences that may be committed by a waste producer and a waste.

An offence committed under the Food Waste Regulations represents an offence under the Waste Management Acts: 1996, as amended. The potential penalties are set out in Section 10 of the Waste Management Act:

Section 10.—(1) A person guilty of an offence under this Act (other than an offence referred to in subsection (2)) shall be liable—

(a) on summary conviction, to a fine not exceeding € 3000 or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment, or

(b) on conviction on indictment, to a fine not exceeding €15,000,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and such imprisonment.

(2) A person guilty of an offence under section 16 (5), 32 (6) (where the offence consists of a contravention of regulations under subsection (4) of that section), 33 (8), 38 (7) or 40 (13) shall be liable on summary conviction to a fine not exceeding € 3000 or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment.

(3) If the contravention in respect of which a person is convicted of an offence under this Act is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding - € 1000 or (in the case of an offence to which subsection (1) applies) on conviction on indictment, to a fine not exceeding € 130,000

Miscellaneous

Q.1 Is there a provision for financial remuneration in respect of site inspections and administration costs?.

Answer: There is no specific provision within the Food Waste Regulations for financial reimbursement in respect of site inspections and administrative costs.

However, when conditions, in accordance with the provisions of Regulation 15 and Regulation 16, are imposed on waste collection permits and waste facility authorisations regarding the implementation of the requirements of the Food Waste Regulations, then the relevant provisions of the Permit Regulations will apply. Accordingly, necessary and reasonable costs incurred by the local authority for the purpose of ensuring compliance by the holder of a waste authorization may be recouped in accordance with the provisions of

- Article 14 of the Waste Management (Collection Permit) Regulations, and
- Article 44 of the Waste Management (Facility Permit and Registration) Regulations

In addition, local authorities should note the terms of Circular WP 12.10 of 19 April 2010, under which costs associated with staff deployment for enforcement related activities (in effect travel/subsistence costs) will receive additional funding this year from the Department, through an additional grant contribution based on certified returns.

Q.2 Is it possible to provide a “Ready Reckoner” as used in relation to packaging regulations to define threshold for specific sectors would be useful e.g. No. of rooms is equivalent to x kg of Biowaste per week?

Answer: The Environmental Protection Agency has carried out some research studies into the characterisation of commercial waste. These include the 2002 Commercial Waste Characterisation Study, the 2005 Municipal Waste Characterisation Survey, the 2008 Municipal Waste Characterisation Survey and studies carried out in the course of the Environmental Protection Agency Local Authority Prevention Demonstration Programme. These studies are available at www.epa.ie

In the 2008 Municipal Waste Characterisation Survey, sector specific factors were developed that could be used to estimate the amount of waste generated by an individual “unit” within each of the major commercial sectors. Employee numbers were used as the “unit” in some sectors, while other different unitary factors were considered more appropriate in some other sectors to provide an estimate of overall waste generation levels (e.g. student numbers in educational institutions, patient nights in hospitals etc.)

There will be a very wide range of practical factors that will strongly influence the amount of food waste that will be generated and amounts can fluctuate significantly. For example -

- A hotel with large conferencing facilities will not generate food waste simply in proportion to the bednights;
- A 'holiday' hotel, a conferencing hotel and a city or town hotel (with many lunches) all have very different characteristics; and
- Acute and non-acute hospitals are different.

Corresponding differences exist in food waste generation trends across each commercial sector.

Caution therefore needs to be exercised when attempting to apply such simplified factors to individual situations within a commercial sector to provide an indication of the quantities of food waste likely to be generated per week.

Based on national statistics on the number of units within each commercial sector, a typical “unitary factor” was developed in the Environmental Protection Agency Surveys for the amount of waste generated in these sectors. This unitary factor can be further segmented, based on the composition of the waste within each individual commercial sector (as set out in the 2008 Programme of Municipal Waste Characterisation Study) to provide an estimate of the typical organic waste arisings per “unit” for the main commercial sectors:

➤ Hotels:	20.4 kg/ bednight sold per week
➤ Food Retailers (Small):	12.9 kg/ employee per week
➤ Food Retailers (Large):	9.8 kg/ employee per week
➤ Filling Stations (with deli):	9.9 kg/ employee per week
➤ Restaurants (incl fast food):	15.6 kg/ employee per week
➤ Hospitals (acute):	6.4 kg/ bed patient per week
➤ Hospitals (non-acute):	3.2 kg/ bed patient per week
➤ Canteens:	1.1 kg/ employee per week
➤ Offices (without canteens):	0.1 kg/ employee per week
➤ General Retailers:	1.0 kg/ employee per week

It is important to re-iterate that while these are typical values, the details for individual premises will vary dependent upon the particular circumstances that apply in each situation.

Q.3 Number of bins required for sample business types i.e. large supermarket, corner store, butcher shop. Guidance required on how many bins does each sector require.

Answer:

The capacity of receptacles to be provided would be dependent upon the quantity of food waste to be presented for collection. At the Workshop on the Food Waste Regulations held on 14 April 2010 in the Heritage Hotel, an experienced biowaste collector advised that a 140 litre capacity wheeled bin would accommodate some 85 kg of food waste. This corresponds to a density of some 600 kg per cubic metre and this factor could be used to calculate the likely capacity of receptacles to be provided for an anticipated weight of food waste generation between collections.

Q.4 Regarding the status of food waste returned to the supplier

- a) Does food waste returned to the supplier fall under the Food Waste Regulations and is it an acceptable practice or require authorisation under animal by-products and waste legislation?
- b) Does a company offering this take back service require a waste collection permit?

Answer:

(a) Food waste falls under the scope of the Food Waste Regulations. Proposals to return food waste containing animal by-products to the supplier would need to obtain prior approval from DAFF, who would need to be fully satisfied that arrangements fulfilled animal by-products requirements in all respects and eliminated the potential for cross-contamination of fresh food. Dependent upon the particulars of the case in question, it may also be required to obtain authorisation for the supplier premises to which returns are made as

- an Intermediate Plant under EU Animal By-Products Regulation (European Commission) No. 1774/2002, and/or
- a Waste Facility under the Waste Management (Waste Facility Permit and Registration) Regulations.

(b) In cases where food waste is being returned to the supplier in full compliance with animal by-products legislation and with the prior approval of DAFF to an authorised facility, a waste collection permit is required unless otherwise exempted from this requirement in accordance with an exception under:

- Article 30 of the Waste Management (Collection Permit) Regulations, or
- Regulation 7(2) of the Food Waste Regulations.

Q.5 Could clarification be provided in relation to:

- (a) any planned national campaign and the proposed timelines for such a programme?.
- (b) The responsibility of local authorities in relation to awareness?
- (c) The responsibility for raising awareness of these Regulations with stakeholders?

Answer:

Circular letter WP 18.10 of 23 June 2010 details the response in this regard.

Q.6 What is the basis upon which waste bye-laws should specify requirements for the levels of waste presentation and collection that must be provided?

Answer: As outlined in Section 11.2 of the National Strategy on Biodegradable Waste, bye-laws governing waste presentation are adopted

locally and primarily support the implementation of separate collection systems as proposed under the Waste Management Plan of the particular region. Bye-laws should place an obligation on the waste producer (householder or business) to comply with the local collection system as implemented through Waste Collection Permits and / or implemented by local authority waste collection services. Bye-Laws should be used, inter alia, to make provision for:

- What recyclable materials have to be separated;
- Details of what container type / colour is acceptable; and
- Timetable / frequency for presentation of the material.

Q. 7 Do you need a waste discharge licence if you are washing bins that contained food waste?

Answer: There is no specific restriction within the Food Waste Regulations regarding the washing of bins that are used for the presentation of food waste.

However, waste water from any washing of bins must be treated in accordance with the relevant national and EU legislation. For example under the Water Pollution Act 1977, as amended, there is a general prohibition on entry of polluting matter to waters

Q. 8 How do the Food Waste Regulations affect the bye-laws?

Answer: Bye-laws governing waste presentation are adopted locally and are designed to support the implementation of separate collection systems as proposed under the Waste Management Plan of the particular region.

The Food Waste Regulations introduce legal obligations on obligated premises to source segregate food waste and specify that the producers makes appropriate arrangements to have it treated in an authorized treatment facility. The Regulations allow that Waste Presentation Bye-laws may apply more onerous conditions for waste presentation and collection practices.

Q.9 Is there a de-minimus level below which a Certificate of Registration (COR) is not required, particularly in respect of small-scale on-site composting operations?

Answer:

There is no de-minimus provision in national or EU legislation for establishments or undertakings carrying out waste-related activities.

Regulation 7(1)(b)(ii) provides that source segregated food waste may be subjected to an authorized treatment process on the premises where the food waste is generated.

Such facilities will require an appropriate waste authorization:

- Where the annual treatment capacity does not exceed 50 tonnes per annum and the amount of material on site at any time does not exceed 20 tonnes, they will need a Certificate of Registration from the local authority.**
- Larger facilities will require a Waste Facility Permit or Waste Licence as appropriate.**

In addition, the facility must satisfy the requirements of animal by-products legislation as applied by the Department of Agriculture, Fisheries and Food. In general, where catering waste is subjected to small-scale

composting on the premises where it originates, the premises does not need ABP approval in circumstances where the resulting material is applied only to land at those premises in situations where pigs, ruminants and poultry do not have access in accordance with the provisions of the Diseases of Animals Act, 1966 (Prohibition on the Use of Swill) Order, 2001 (S.I. No. 597 of 2001).

It should also be noted that the Diseases of Animals Act 1966 (Prohibition on the Use of Swill) (Amendment) Order 2009 (S.I. No. 12 of 2009) provides that these particular restrictions do not automatically apply to a composting plant that operates in accordance with a formal animal by-products' approval granted by DAFF for the purposes of Article 15 of Regulation (EC) No. 1774/2002 (subject to the specific conditions that may attach to a DAFF approval).

The legal requirements for animal by-product should always be confirmed with the Department of Agriculture, Fisheries and Food. The issue of small-scale Plants operated on the grounds of premises is currently under review by DAFF and the DAFF "Frequently Asked Questions" on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agri-foodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

Q.10 Will the solids extracted following the subjection of food waste to masceration, dewatering or enzyme systems still be considered food waste and not be allowed to be disposed of to landfill?

Answer: Yes – the solid food waste remaining after the application of these systems is subject to the requirements of the Food Waste Regulations regarding treatment in an authorized treatment facility.

Q.11 Are pre-cooked out-of-date meat products from a distribution warehouse covered by the Food Waste Regulations?

Answer:

The Food Waste Regulations are directed primarily at premises from which food is supplied to consumers. A stand alone "distribution warehouse" that is outside of the curtilage of the premises where food is supplied to consumers would not be included within the scope of the Regulations. However, it would not be anticipated that large quantities of food would become "out of date" in a "distribution warehouse" without ever being dispatched to a retail or employment premises - once dispatched to an obligated producer's premises from the "distribution warehouse", the food waste generated on those premises falls within the scope of the Regulations.

Q.12 Can these former foodstuffs still go to landfill? (Assuming they are pre-cooked and fully packaged, i.e. collected in a residual bin)

Answer:

The Animal By-products Regulation (EC) No. 1774/2002 would preclude the consignment of "former foodstuff" containing raw meats to landfill. Former foodstuffs consisting of cooked meats can be disposed of to landfill provided it is not contaminated with raw meats. This must be done in accordance with environmental legislation.

The particular status of specific products should always be confirmed with the Department of Agriculture, Fisheries and Food (DAFF) and the DAFF "Frequently Asked Questions" on Animal By-products should also be consulted at

<http://www.agriculture.gov.ie/agri-foodindustry/animalbyproducts/frequentlyaskedquestionsfaqs/>

Q. 13. Is it necessary for a national public service body (e.g. hospitals), with a number of premises that wishes to transport the food waste for treatment from all premises, to hold a waste collection permit?

Answer: In order to collect and transport such food waste, the producer must hold an appropriate waste collection permit unless otherwise exempted from this requirement in accordance with an exception under:

- **Article 30 of the Waste Management (Collection Permit) Regulations, or**
- **Regulation 7(2) of the Food Waste Regulations.**

Q.14. Can waste producers give the food waste to transfer stations, which subsequently send the food waste to an authorised treatment plant?

Answer: Yes- it is acceptable for an authorized waste collector to deliver the food waste to an appropriately authorised transfer station, provided that the producer holds an appropriate waste collection permit unless otherwise exempted from this requirement in accordance with an exception under:

- **Article 30 of the Waste Management (Collection Permit) Regulations, or**
- **Regulation 7(2) of the Food Waste Regulations.**

Q.15 Can an authorised treatment plant mix source segregated food waste collected under these regulations with mixed organic residual waste into one batch?

Answer: There is a prohibition on the mixing of source segregated food waste with other wastes/substances under Regulation 8 and any person that is not in compliance with these provisions is committing an offence under Regulation 13.

Q.16. Should local authorities provide a separate area for food waste at their civic amenity centres?

Answer:

In circumstances where the local authorities decide to provide this service and hold the appropriate authorisation to accept food waste at these facilities, it is recommended that convenient arrangements are provided to facilitate producers who choose to bring food waste to the Civic Amenity Centre.

Schedule 1 – Classes of Premises subject to the Regulations

- Q.1 Do the following types of facilities require food segregation and recycling systems in place:
- a) A Nursing home where the meats are prepared in another hospital and sent in for consumption.
 - b) Offices that have kitchenettes, where staff may bring in their own lunches e.g. sandwiches, rolls, biscuits etc.

Answer:

The Food Waste Regulations are designed to target large quantities of food waste that are not currently being source segregated to facilitate beneficial use and are directed primarily at premises (within

the meaning of Schedule 1) from which food is supplied to consumers.

- (a) In the case of Nursing Homes, Class 7 of Schedule 1 is defined as “A hospital, nursing home or other premises for the long-term residential accommodation of people in need of care where food is prepared on the premises”

Accordingly, the decisive criterion is “prepared on the premises”. Schedule 1 sets out the scope of “prepared” as follows: “food is prepared on the premises when it is subject to heating or to other preparation processes undertaken on that premises.” In the case of a Nursing Home where the meals are prepared in another hospital and sent in for consumption, the premises is outside the scope of the Regulations If no “preparation” of food within the meaning of the Regulations takes place in the nursing home premises.

- (b) In the case of Offices with kitchenettes where staff may bring in their own lunches e.g. sandwiches, rolls, biscuits etc., the premises is outside the scope of the Regulations unless the food is supplied to employees. Furthermore, the action of a person in re-heating a frozen dinner that they had brought in themselves in a microwave within an office does not fall within the definition of “supply” and would not in itself result in the premises being obligated.

Q.2 Does the meaning of “food prepared on the premises when it is subject to heating” as detailed in Class 11 include reheating of cooked meals?.

Answer;

The wording of Class 11 of Schedule 1 is as follows:

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

Accordingly, the relevant criterion is “engaged in the supply of food to the public” and “preparation” or “heating” of the food are not conditions that need to be considered in determining whether an obligation exists under the Food Waste Regulations.

Q.3. Class 1 of Schedule 1 of the Food Waste Regulations provides exclusions for a number of events.

- Will the Regulations not apply to premises located at any funfair, bazaar, circus, or religious, cultural, educational, political, social, recreational or sporting event where the use of such purposes does not exceed a period of 10 days continuously or 20 days in any one year?
- Will music festivals be exempt if they are less than 10 days?

Answer:

The intention of the Regulations is to capture premises used for the supply of hot food for consumption which generate significant quantities of food waste. Class 1 does include all events prescribed under section 230 of the Planning and Development Act 2000, at which the audience comprises 5,000 or more. Such events would include certain music festivals where the audience threshold of 5,000 people is exceeded.

Furthermore, the named exclusions relate to “other premises located at any fair, funfair, bazaar etc..... where the use of such purposes does not

exceed a period of 10 days continuously or 20 days in any one year”. Accordingly, to qualify for an exemption, such premises must both

- **not exceed the thresholds for duration and frequency of event, and**
- **fall below the threshold attendances for Section 230 Events.**

Q.4 Does a supermarket come under the scope of the Food Waste Regulations and have to implement source segregation for all food waste that arises on the premises if

- (a) it supplies hot food/sandwiches?
- (b) If it does not supply hot food/sandwiches?

Answer: Schedule 1 Provides that

“Where a premises fulfils the criteria for inclusion within any class of Schedule 1, it shall be regarded as a “Schedule 1 Activity” for the purposes of the definition of a producer.”

Accordingly, both of the above situations would be obligated premises under the Food Waste Regulations through the description of Class 5 of Schedule 1 and are duly:

“A shop or supermarket involved in the sale of food to the public, including premises for the sale of sandwiches or hot food where the sale of such food is subsidiary to the main retail use.”

Q.5 Do food wholesalers come under the scope of the Regulations, including consideration of circumstances where their canteen supplies food to employees or food is prepared on the premises for the purposes of supply to employees"? If a canteen results in the premises being obligated, does all food waste generated at the wholesaler premises then come under the scope?

Answer: A Food Wholesaver is itself not specifically listed as an obligated premises in Schedule 1. However, Schedule 1 also provides that

“Where a premises fulfils the criteria for inclusion within any class of Schedule 1, it shall be regarded as a “Schedule 1 Activity” for the purposes of the definition of a producer”

Accordingly, if there are not specific facilities within the Wholesale premises that are involved in the supply of food for consumption – for example, a canteen that meets the description of Class 3 of Schedule 1 - the premises is not obligated.

If there are facilities within the Food Wholesale premises that are involved in the supply of food for consumption, then the premises is obligated from the 1 July 2010 if the aggregate amount of food waste generated at these facilities exceeds 50 kg per week. The Food Wholesale premises will be obligated from 1 July 2011 if such facilities generate less than an aggregate of 50 kg of food waste per week.

Q. 6 Does a college that has a large campus that comes under the Regulations because food is prepared on the premises have to implement segregation for all food waste that arises on the campus i.e. not just canteen areas but all areas?

Answer: A college where food is prepared on the premises listed as an obligated premises in Class 8 of Schedule 1.

Premises is widely defined in the Food Waste Regulations and the campus that is included in the college premises as a result of being obligated under Class 8 of Schedule 1 would also be subject to the provisions of the Regulations.

Q.7 Could clarification of “prepared on the premises” be provided in respect of Class 3 of Schedule 1, particularly in respect of employees who prepare their own food in canteen facilities?

Answer: In the case of canteens where staff may bring in their own lunches e.g. sandwiches, rolls, biscuits etc., the premises is outside the scope of the Regulations unless the food is supplied to employees. Furthermore, the action of a person in re-heating a frozen dinner that they had brought in themselves in a microwave within an office does not fall within the definition of “supply” and would not in itself result in the premises being obligated.

However, Schedule 1 also provides that

“Where a premises fulfils the criteria for inclusion within any class of Schedule 1, it shall be regarded as a “Schedule 1 Activity” for the purposes of the definition of a producer”

Accordingly, all other activities at the premises – including other canteen facilities - would have to be taken into account in the context of Schedule 1 to determine whether the premises is obligated under the Food Waste Regulations.

Q. 8 Are crèches one of the premises which fall under the remit of the Regulations?

Answer:

A Crèche is itself not specifically listed as an obligated premises in Schedule 1. However, Schedule 1 also provides that

“Where a premises fulfils the criteria for inclusion within any class of Schedule 1, it shall be regarded as a “Schedule 1 Activity” for the purposes of the definition of a producer”

Accordingly, any other activities at the premises would have to be taken into account in the context of Schedule 1 to determine whether the premises is obligated under the Food Waste Regulations.

Q.9 What about co-ops, marts, agricultural shows, in relation to the likes of chip vans etc?

Answer:

The Food Waste Regulations apply except for those activities excluded from the scope of the Regulations. If the event requires an outdoor events licence under section 230 of the Planning and Development Act 2000 it is included but other premises located at a fair, for example, are among the excluded activities that are mentioned in Class 1 of Schedule 1 dependent the nature of the activity and where the event is of short or infrequent duration.

Where a “chip van” is located beyond the cartilage of an obligated premises, no additional food waste management obligations are imposed by the Regulations.

Q.10 Are all guest houses, hostels and self catering premises obligated under the Regulations?.

Answer:

Yes- other than the small premises excluded from the scope - see Class 4 in Schedule 1.

Q.11 Are Caravan Parks obligated. under the Food Waste Regulations, including the situation where there are other facilities within the curtilage of

the Caravan Park that fall within the description of a class of activity contained in Schedule 1 of the Regulation?

Answer: A Caravan Park is itself not specifically listed as an obligated premises in Schedule 1. However, Schedule 1 also provides that

“Where a premises fulfils the criteria for inclusion within any class of Schedule 1, it shall be regarded as a “Schedule 1 Activity” for the purposes of the definition of a producer.

Accordingly, if there are not specific facilities within the Caravan Park that are involved in the supply of food for consumption, the premises is not obligated.

If there are facilities within the Caravan Park that are involved in the supply of food for consumption, then the Caravan Park is obligated from the 1 July 2010 if the aggregate amount of food waste generated at these facilities exceeds 50 kg per week. The caravan Park will be an obligated premises from 1 July 2011 if such facilities generate less than an aggregate of 50 kg of food waste per week.