

## **IGBC's submission to the Consultation on Draft Regulations to Reform the End-of-Waste Decision Making Process**

### **Introduction**

The Irish Green Building Council (IGBC) **welcomes the publication of the Draft Regulations to Reform the End-of-Waste Decision-Making Process.**

[The Irish Green Building Council](#) (IGBC) is a registered charity with over [400 members](#) drawn from all parts of the value chain, from occupiers, design professionals, contractors, suppliers, academics, and public authorities. The IGBC provides leadership for a sustainable built environment and is affiliated with a global network of 70 national councils within the World Green Building Council. This allows us to create workable solutions and tools to deliver transformative change towards a sustainable built environment.

Our **submission is informed by extensive stakeholder engagement throughout the development of the “[Building a Zero Carbon Ireland](#)” Roadmap, and our [Roadmap on Circularity in Construction](#)** to be published shortly – More information on our projects relating to circularity and resource efficiency is available in the appendix 1.

This work provided the basis for our consultation submission below, and was complemented by **additional engagement with our members around this public consultation, including a workshop on 3<sup>rd</sup> Oct. 24.** The workshop was attended by building designers, contractors, product manufacturers, sustainability consultants, and local authorities.

### **General Feedback**

In Ireland, construction waste is the fastest-growing waste stream and is increasing at an alarming rate. This has very negative environmental consequences (including on Ireland's carbon emissions) and represents an unnecessary and largely avoidable cost for the construction industry.

EPA's data suggest that there is **significant scope to improve Ireland's material circularity rate**, by reducing the extraction of natural resources and encouraging greater material efficiency and use of secondary materials – State of the Environment (2024). Consultation with our members also indicates a **strong appetite for secondary materials in the industry.**

In addition to the Regulations, **clearer information (e.g., simple factsheets in plain English) is urgently needed to increase certainty and consistency of implementation across the country, and support circularity.** For instance, developing a decision-making tree that can be used as part of pre-demolition audits, to facilitate identification of by-products and end-of-waste, would be useful.

It is also critical to **ensure the EPA have sufficient resources to process article 28 applications quickly and smoothly.** Additional funding is also needed to **support the prompt development of National decisions for the most commonly arising materials** that would be of the greatest benefit to the circular economy, the sector, and our environment.

Furthermore, **additional changes are required to support the growth of national markets for reused materials and green purchasing activities.** In particular,

- The **storage of materials for reuse should be facilitated.** E.g., under art. 28, materials must be brought directly from A to B (and cannot be stored in C). It might be worth reviewing Portuguese<sup>1</sup> and Italian<sup>2</sup> legislations that both facilitate temporary storage, and would facilitate reuse as part of larger re-development projects in Ireland.
- The **identification of materials available for re-use could be facilitated, through the publication of a comprehensive database of materials available for re-use** (published on EPA website). For instance, there is a need to provide a register for people looking for soil to be re-used (and vice-versa). As it stands it's based on local knowledge which is not the most efficient way to do it. Further information on how this is done in Helsinki: [Soil as a reusable good - Helsinkismartt](#).
- **Additional training for key stakeholders, including local authorities and the construction industry to ensure the waste legislation is clearly understood and implemented consistently and coherently across the country.**
- A new **national decision for recycled aggregates is needed to support structural use of recycled aggregates.** *Note: The reuse of crushed concrete aggregates from demolition waste in buildings is already allowed under Irish Engineering Design Standards.*

Finally, the IGBC urges DECC to publish the Draft Regulations for By-Products as soon as possible.

## Part 1 – Preliminary and General

- The **definition of a “national-level decision” needs to be clarified** as there is confusion about industry organisations/groups of companies making application for national end-of-waste decisions for specific use of waste materials, and the single case decisions.

Although this section defines a “national-level decision” as a decision made by the Agency under paragraph (2) of Regulation 28, it seems that most of the text refers to “An industry organisation and/or a group of companies applying for national end-of-waste decision for specific uses of a waste material, or more than one closely related waste materials, that will benefit the entire sector nationally<sup>3</sup>”. If this is the case, the definition provided on the [EPA Website \(End of Waste \(Art. 28\)\)](#) is clearer and should be included here. However, **to support greater resource efficiency, the development of “national -level decision” by the agency (in partnership with the industry) should be prioritised** – See General feedback.

- The IGBC suggest **adding clear definitions of what is meant by:**
  - **Material intended to be used in direct contact with the environment**

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<sup>1</sup> See Decree 57/2012.

<sup>2</sup> See Art. 26 of Legislative Decree 112/1998.

<sup>3</sup> [End of Waste \(Art. 28\) | Environmental Protection Agency \(epa.ie\)](#)

- **Material not intended to be used in direct contact with the environment**

*This refers to Part 1 of the document (p.32)*

- **All definitions included in the document should be fully aligned with the [EU Construction and Demolition Waste Protocol and Guidelines](#) which are more current.**

## Part 2 – Notifications

- While the IGBC understand the need to **demonstrate “evidence that there is a market or demand for the substance or object concerned”** (3.(2)(d)(ii), the agency needs to be careful that a **strict application of this criteria does not prevent innovation and Ireland’s transition to a more circular construction industry.**

## Part 3 – Decisions of the Agency

- While the **suggested timelines are an improvement from the current situation**, the IGBC is concerned that the **suggested timescales are not ambitious enough to support Ireland’s transition to a fully circular economy.**
- In particular, a **6 month’ time-frame to receive a decision from the agency on a single-case decision 5.(1) seems long.** While we do appreciate that some of these decisions may be complex, we **suggest considering reducing this timescale through the following actions:**
  - A greater use of information materials provided by the JRC, including the recently published [Techno-economic and environmental assessment of construction and demolition waste management in the European Union](#).
  - A fast-track process for simpler decisions (to be defined)
  - **Sufficient allocation of resources to the EPA to process all applications quickly and smoothly.**
- “(4) Notwithstanding paragraph (1), the Agency may refuse to consider a notification under these Regulations in the following circumstances: where the substance or object concerned is intended for use outside of the European Union”;

Given Ireland’s specific relationship with Northern Ireland – and the rest of the UK, and Brexit, the **draft regulation should clarify what this means for substance or object intended for use in the UK.**

- 7. (1) (g) “in such other circumstances as the Agency considers appropriate having had regard to all the circumstances of the matter” is vague and could lead to uncertainty and organisations (especially smaller ones) not applying for notifications (especially if the fees are too high – see the section on suggested fees).

## Part 4 – Register

- It's positive that one of the objectives of the register is to encourage "supporting green procurement".
- This could be further supported through the **publication of a comprehensive catalogue of materials available for re-use on the EPA website**. Please see the findings of [the IGBC's Construction Materials Exchange Pilot for further information](#).
- It should be clearer in the draft regulation if the register will only cover single-case decisions or if it will also cover national decisions. The level of information required for each entry only seems relevant for single-case decisions, but the text is ambiguous

## Suggested fees

- As highlighted in our ["Building a Zero Carbon Ireland" Roadmap](#), the **fees for article 28 applications should not be prohibitive**.
- The IGBC is concerned that the **current suggested fees are too high for small businesses, with limited volumes of materials for re-use**.
- A scaling approach based on the size of the organisation and volume may be considered to support our transition to a more circular economy. Alternatively, further support could be provided to these organisations through Local Enterprise Offices or Enterprise Ireland.
- Clear definitions of what is meant by "Material intended to be used in direct contact with the environment", and "Material not intended to be used in direct contact with the environment" are needed.

## Appendix I – Relevant Projects & Experience

Since 2018, the IGBC has been involved in several projects to decarbonise Ireland's built environment across its whole life cycle, and support Ireland's transition to a more circular built environment. These include:

- A large stakeholder engagement process to develop a roadmap to decarbonise our built environment across its whole life cycle. The [Building a Zero Carbon Ireland](#) roadmap calls for a review of the implementation of articles 27 and 28 of the Waste Framework Directive in Ireland to better support re-use, and in the interim for greater resources for the EPA to ensure article 27 or 28 applications are processed quickly and smoothly.
- [CMex](#): IGBC collaborated with Excess Materials Exchange (EME) of Netherlands to create the CMEx platform, with funding from the Circular Economy Innovation Grant Scheme of the Department of the Environment, Climate & Communications. CMEx is a user friendly, digital platform that connects organisations with each other so that they can exchange or trade excess construction materials between them. When recruiting organisations to pilot the platform, the implementation of articles 27 and 28 of the Waste Framework

Directive (WFD) in Ireland was often mentioned as the main barrier to the use of such a system.

- The IGBC is now developing a roadmap for circularity in the construction industry and is involved in a number of projects to support a more circular built environment. [Read more.](#)