



# Discarded policy options

## Consultation on proposed product stewardship regulations: Agrichemicals, their containers, and farm plastics – Supporting information

The Ministry for the Environment is consulting on proposed regulations to support a national product stewardship scheme for agrichemicals, their containers, and farm plastics. This document gives an overview of the policy options that were considered but ultimately discarded.

We have ruled out several alternatives, including:

- options that are not feasible under current legislation
- options that are unlikely to achieve the policy objective
- options involving Waste Minimisation Act 2008 (WMA) regulations that do not offer effective remedies in this context.

The discarded options and the rationale for their exclusion are explained below.

### Options that are not feasible under current legislation

#### Polluter-pays tax or levy

This option would involve creating a new payment to be made to the Crown by responsible parties for specified purposes. This could include, for example, modulating charges to incentivise changes to material use, including recyclability and recycled content, and/or participation in an accredited scheme. The revenue could be hypothecated (as is the Waste Disposal Levy) to, for example, underwrite or incentivise collection and recycling services and related infrastructure, or could go into the Government Consolidated Account (as does the Synthetic Greenhouse Gas Levy).

This option is not recommended because it cannot be achieved under the WMA and thus would not support achievement of the policy objective in a timely manner.

## **Central government control**

Under this option, the Ministry would collect stewardship fees and contract services, through accredited Product Stewardship Organisations or others, to ensure desired waste minimisation and harm reduction for priority products.

This option would require amendment to the WMA and the Environment Act 1986. Delivering ongoing large scale national schemes is inconsistent with the Ministry's role as a policy agency.

## **Options that are unlikely to achieve the policy objective**

### **Consumer education and awareness-raising**

An education and information campaign could be implemented to raise awareness among farmers of the negative impacts of on-farm disposal of agrichemicals and farm plastics, the potential for enforcement action from the regional council, and available take-back options.

An effective campaign could encourage farmers to participate in the accredited scheme, thereby reducing environmentally harmful practices like burning and burying. This would only address the information-related barriers to effective product stewardship (lack of farmer awareness of the potential impacts of on-farm disposal methods, and of available alternatives). It would not increase the service level of the current schemes or eliminate free-riding opportunities for producers and, therefore, would not ensure that sufficient funds are available to provide a free-to-use and convenient alternative to on-farm disposal for farmers.

The scheme would rely on fees paid voluntarily by participating producers (as do the current voluntary schemes under the status quo), which means its funding would not be sufficient to cover the cost of collecting and treating products at a national scale that farmers are willing to hand over to the scheme. By itself this option would not ensure that agrichemical and farm plastics waste is managed in a way that avoids harm to the environment.

Instead, education and awareness-raising are planned as complementary and necessary measures to regulations. As part of the accreditation process, the scheme has committed to carry out communication and stakeholder-engagement activities to encourage farmer participation in the expanded and more accessible scheme, building on the education programme already in place with the voluntary Agrecovery and Plasback schemes.

### **Strengthening enforcement of regional rules**

Under this option, central government would facilitate enforcement of regional rules regarding burning and burial of farm waste, for example by increasing funding available to regional authorities for enforcement activities.

This would address one of the causes of current disposal practices (limited enforcement of existing rules), but not the other barriers to effective product stewardship. As in the option above, it would not eliminate free-riding by producers, nor ensure farmers have access to free-to-use and convenient alternatives to dispose of their waste.

## **National-level regulation controlling or prohibiting on-farm disposal of agrichemical containers and farm plastics**

WMA section 23(1)(a) enables the making of a regulation for the purpose of “controlling or prohibiting the disposal, or anything done for the purpose of disposing, of products or waste”. This regulation could be used to prohibit on-farm burning and burying of agrichemical containers and farm plastics.

Bans on the burning of plastics are already in place at a regional level under the RMA. The burial of farm waste is also controlled to some extent through regional council requirements for farm dumps. It is unclear what added value national-level regulation would have. In addition, successful monitoring and enforcement of such a regulation would be difficult under WMA provisions.

Moreover, while a ban on burning and burying (if properly enforced) would directly avoid the harms caused by these practices, it would not eliminate free-riding by producers, nor ensure farmers have access to suitable alternatives to burning or burying. As with the two options above, farmers would be able to take eligible wastes to scheme collection sites, but the take-back and treatment services offered by the scheme would be limited by the funds available to it from voluntary producer fees. This option would not ensure that agrichemical and farm plastic waste is managed in a way that avoids harm to the environment.

## **Options involving WMA regulations that do not offer effective remedies in this context**

### **Controlling or prohibiting manufacture or sale of certain plastic products**

WMA section 23(1)(b) enables the making of a regulation for the purpose of “controlling or prohibiting the manufacture or sale of products that contain specified materials”. This regulation cannot be made “unless a reasonably practicable alternative to the specified materials is available” (WMA section 23(2)(b)). This provision has been used to prohibit sale of certain single-use hard to recycle plastic consumer products. It could be used in future for problematic farm plastic products which are not able to be processed by the Green-farms scheme. We are not considering this option at this time because it is unclear whether it would be effective or practicable, and through the implementation of a regulated scheme, producers may shift to more recyclable packaging formats.

### **Deposit-return requirements**

WMA section 23(1)(e) enables the making of a regulation requiring a deposit to be charged on the sale of a product and refund of the deposit in specified circumstances. This approach is used in many jurisdictions for beverage containers to incentivise return for recycling and partially fund the scheme. It may be appropriate for the Category 1 agrichemical container and bag waste streams, however the accredited scheme has been developed based on a different funding model (based on producer fees). Therefore, such a regulation is not considered useful at present.

## Quality standards

WMA section 23(1)(g) and (h) enable the making of regulations prescribing standards to be met when reusing, recycling or recovering any product that has become waste, and requiring persons or classes of person to ensure the standards are met. It is unclear whether such regulations would be useful to address the problem of capturing for recovery and recycling agrichemical and farm plastic waste. The accredited scheme has internal health and safety policies for handling of agrichemicals and their containers and if other standards are required (whether regulated or not) these may be developed and considered on an as-needed basis.

