



Circular Economy (Scotland) Act 2024

2024 asp 13

PROSPECTIVE

Household waste

14 Householder's duty of care

- (1) The Environmental Protection Act 1990 is modified as follows.
- (2) In section 34—
 - (a) in subsection (1), for “subsection (2)” substitute “subsections (1A) and (2)”,
 - (b) after subsection (1) insert—

“(1A) The duty imposed by subsection (1) does not apply to an occupier of domestic property as respects the household waste produced on the property.”,
 - (c) for subsection (2) substitute—

“(2) An occupier of domestic property must, as respects the household waste produced on the property, take reasonable steps to secure that any transfer of waste is only to an authorised person or to a person for authorised transport purposes.”,
 - (d) in subsection (6), after “(1),” insert “(2),”,
 - (e) in subsection (7), after “(1),” insert “(2),”.
- (3) After section 34ZB insert—

“34ZC Fixed penalty notices for offences under section 34(6): Scotland

- (1) This section applies where a constable or an authorised officer has reason to believe that a person has failed without reasonable excuse to comply with the duty relating to the transfer of household waste in section 34(2).
- (2) The constable or authorised officer (as the case may be) may give to the person a notice offering the opportunity of discharging any liability to conviction for an offence under section 34(6) by payment of a fixed penalty.

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Changes to legislation: There are currently no known outstanding effects for the Circular Economy (Scotland) Act 2024, Cross Heading: Household waste. (See end of Document for details)

- (3) A notice under subsection (2) may not be given if, in relation to the same circumstances—
- (a) such a notice has already been given to the person (including by the same or by another local authority), or
 - (b) a penalty or enforcement undertaking has already been imposed on the person by the Scottish Environment Protection Agency by virtue of Part 2 of the Regulatory Reform (Scotland) Act 2014.
- (4) Where a constable gives a notice to a person under subsection (2), the constable must at the same time give a copy of the notice to the local authority in whose area the failure to comply with the duty in section 34(2) took place.
- (5) Where—
- (a) an authorised officer gives a notice to a person under subsection (2), and
 - (b) it appears to the officer that the failure to comply with the duty in section 34(2) took place both in the officer’s area and in another local authority’s area,
- the officer must at the same time give the other local authority a copy of the notice.
- (6) Where a person is given a notice under subsection (2) in respect of an offence—
- (a) no proceedings may be instituted for that offence before the end of the period of 14 days beginning with the date of the notice, and
 - (b) the person may not be convicted of the offence if the fixed penalty is paid before the end of that period.
- (7) A notice under this section must—
- (a) state the particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence,
 - (b) state the period during which, by virtue of subsection (6)(a), proceedings will not be instituted for the offence under section 34(6),
 - (c) state the amount of the fixed penalty,
 - (d) explain that the notice contains an offer to discharge liability to conviction for the offence by payment of a fixed penalty and that the person is not required to accept that offer,
 - (e) state the person to whom the fixed penalty may be paid, and the address and website for doing so,
 - (f) explain that, by virtue of subsection (3), an authorised officer may not give a person a notice under this section if such a notice has already been given to the person in respect of the same offence, and
 - (g) state which other authorities have been sent a copy of the notice in accordance with subsections (4) and (5).
- (8) The fixed penalty payable under this section is £200.
- (9) The Scottish Ministers may by regulations substitute a different amount (not exceeding level 2 on the standard scale) for the amount for the time being specified as the amount of the fixed penalty in subsection (8).

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- (10) A constable or an authorised officer may require an occupier of domestic property to give the occupier's name, address and date of birth, if the constable or officer proposes to give the occupier a fixed penalty notice under this section.
- (11) A person commits an offence if the person—
- (a) fails to give a name, address or date of birth when required to do so under subsection (10), or
 - (b) gives a false or inaccurate name, address or date of birth in response to a requirement under that subsection.
- (12) A person who commits an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (13) In any proceedings a certificate which—
- (a) purports to be signed on the person having responsibility for the financial affairs of the authority to which the fixed penalty is to be paid, and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- is evidence of the facts stated.
- (14) A fixed penalty payable in pursuance of a notice under this section is to be paid—
- (a) in a case where the notice is given by a constable or by an authorised officer of a local authority, to the local authority in whose area the offence was committed,
 - (b) in a case where the notice is given by an officer of Loch Lomond and The Trossachs National Park Authority, to that Authority.
- (15) In this section—
- “authorised officer” means—
- (a) an officer of a local authority who is authorised in writing by the authority for the purpose of issuing notices under this section in relation to an offence under section 34(6) committed in the area of the authority,
 - (b) an officer of Loch Lomond and The Trossachs National Park Authority who is authorised in writing by the Authority for the purpose of issuing notices under this section in relation to an offence under section 34(6) committed in the area designated as the National Park for which the Authority is established,
- “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.
- (16) The Scottish Ministers may by regulations—
- (a) add another category of persons to the definition of “authorised officer” in subsection (15), and
 - (b) modify this section as they consider appropriate in connection with making provision under paragraph (a).”.

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Commencement Information

II S. 14 not in force at Royal Assent, see [s. 27](#)

15 Household waste requirements

- (1) The Environmental Protection Act 1990 is modified as follows.
- (2) Before section 46A insert—

“46ZA Enforcement of household waste requirements: Scotland

- (1) An authorised officer of a waste collection authority may give a written warning to a person if satisfied on the balance of probabilities that—
 - (a) the person has failed without reasonable excuse to comply with a requirement imposed by the authority under section 46(1), (3)(c) or (d) or (4) (a “section 46 requirement”), and
 - (b) the person's failure to comply—
 - (i) has caused, or is or was likely to cause, a nuisance, or
 - (ii) has been, or is or was likely to be, detrimental to any amenities of the locality.
- (2) A written warning under subsection (1)—
 - (a) must—
 - (i) identify the section 46 requirement with which the person has failed to comply,
 - (ii) explain the nature of the failure to comply,
 - (iii) explain how the failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b),
 - (iv) if the failure to comply is continuing, specify the period within which the requirement must be complied with and explain the consequences of the requirement not being complied with within that period, and
 - (v) whether or not the failure to comply is continuing, explain the consequences of the person subsequently failing to comply with the same or a similar section 46 requirement, and
 - (b) may contain such other provision as the waste collection authority considers appropriate.
- (3) An authorised officer of a waste collection authority may require a person to whom a written warning under subsection (1) has been given to pay a civil penalty charge to the authority, if satisfied on the balance of probabilities that the person continued to fail to comply with the section 46 requirement identified in the warning after the end of the period for compliance specified in the warning.
- (4) An authorised officer of a waste collection authority may require a person who has already been required to pay a civil penalty charge under subsection (3) to pay a further civil penalty charge to the authority, if satisfied on the balance of probabilities that the person's original failure to comply still continues during

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the period of 12 months beginning with the day on which the written warning was given.

- (5) But a further civil penalty charge may not be required under subsection (4) where there is an appeal pending against the decision to require a charge under subsection (3).
- (6) An authorised officer of a waste collection authority may require a person to whom a written warning under subsection (1) has been given to pay a civil penalty charge to the authority, if satisfied on the balance of probabilities that, before the end of the period of 12 months beginning with the day on which the warning was given—
 - (a) the person—
 - (i) has again failed without reasonable excuse to comply with the section 46 requirement identified in the warning, or
 - (ii) has failed without reasonable excuse to comply with a section 46 requirement that is similar to the one identified in the warning, and
 - (b) the person's failure to comply—
 - (i) has caused, or is or was likely to cause, a nuisance, or
 - (ii) has been, or is or was likely to be, detrimental to any amenities of the locality.
- (7) An authorised officer may require a person to pay a civil penalty charge under subsection (4) or (6) each time that the authorised officer is satisfied on the balance of probabilities of the matters mentioned in the subsection.
- (8) An authorised officer may not give a person a written warning under subsection (1) where, in relation to the same circumstances—
 - (a) the person has already been given a notice under section 46ZD(2), or
 - (b) proceedings have already been instituted against the person for an alleged offence under section 46(6).
- (9) An authorised officer imposing a requirement to pay a civil penalty charge under subsection (3), (4) or (6) must act in accordance with section 46ZB.
- (10) A civil penalty charge under this section is recoverable in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff for any sheriffdom.
- (11) In this section and sections 46ZB to 46ZD—
 - an “authorised officer” means an employee of a waste collection authority who is authorised in writing by the authority for the purpose of giving written warnings and requiring payment of civil penalty charges under this section,
 - a “civil penalty charge” means a monetary penalty of an amount specified in regulations under section 46ZC.

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46ZB Civil penalty charges under section 46ZA: prior notices of intent and final notices

- (1) Before requiring a person to pay a civil penalty charge under section 46ZA, an authorised officer must serve on the person notice of intention to do so (a “notice of intent”).
- (2) A notice of intent must contain information about—
 - (a) the grounds for requiring payment of a civil penalty charge,
 - (b) the amount of the civil penalty charge, and
 - (c) the person’s entitlement to make representations under subsection (3).
- (3) A person on whom a notice of intent is served may, within a period specified in regulations under section 46ZC, make representations to the authorised officer as to why payment of a civil penalty charge should not be required.
- (4) In order to require a person to pay a civil penalty charge under section 46ZA, an authorised officer must serve on the person a further notice (the “final notice”) in accordance with subsections (5) to (7).
- (5) A final notice may not be served on a person by an authorised officer before the end of the period of 28 days beginning with the day service of the notice of intent on the person was effected.
- (6) Before serving a final notice on a person, an authorised officer must consider any representations made by the person under subsection (3).
- (7) A final notice must contain information about—
 - (a) the grounds for requiring payment of a civil penalty charge,
 - (b) the amount of the civil penalty charge,
 - (c) how payment may be made,
 - (d) the period within which payment is required to be made,
 - (e) the right to appeal by virtue of section 46ZC(1)(i), and
 - (f) the consequences of not paying the civil penalty charge.

46ZC Civil penalty charges under section 46ZA: procedure and amount

- (1) The Scottish Ministers may by regulations make provision about—
 - (a) the amount of the civil penalty charge that a person may be required to pay to a waste collection authority under section 46ZA,
 - (b) discounts and surcharges relating to civil penalty charges under section 46ZA,
 - (c) the procedure to be followed by an authorised officer in requiring payment of a civil penalty charge under section 46ZA,
 - (d) the form and content of—
 - (i) a notice of a civil penalty charge under section 46ZA,
 - (ii) a notice of intent and a final notice under section 46ZB,
 - (e) the period within which representations in response to a notice of intent under section 46ZB may be given, and the form in which they may be given,

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- (f) the matters to be considered by the authority in relation to such representations,
 - (g) the period for payment of a civil penalty charge under section 46ZA(3), (4) and (6),
 - (h) the circumstances in which the requirement of a civil penalty charge under section 46ZA may be withdrawn by a waste collection authority,
 - (i) the appeal procedure in relation to the requirement of a civil penalty charge under section 46ZA.
- (2) Regulations under subsection (1) may—
- (a) make incidental, supplementary, consequential, transitional, transitory or saving provision,
 - (b) make different provision for different purposes or for different waste collection authority areas.

46ZD Fixed penalty notices for offences under section 46

- (1) This section applies where an authorised officer of a waste collection authority has reason to believe that a person has committed an offence under section 46(6) requirement in the area of that authority.
- (2) The authorised officer may give the person a notice offering the person the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the waste collection authority.
- (3) Where a person is given a notice under subsection (2) in respect of an offence—
- (a) no proceedings may be instituted for that offence before the end of the period of 14 days beginning with the date of the notice, and
 - (b) the person may not be convicted of that offence if the person pays the fixed penalty before the end of that period.
- (4) Where a person has already been given a final notice under section 46ZB, and any subsequent civil penalty charge has been paid in full—
- (a) no notice may be given to the person under subsection (2) of this section in relation to the same circumstances,
 - (b) no proceedings may be instituted under section 46(6) against the person in relation to the same circumstances.
- (5) A notice under subsection (2) must—
- (a) state the particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence,
 - (b) state the period during which, by virtue of subsection (3), proceedings will not be instituted for the offence,
 - (c) state the amount of the fixed penalty,
 - (d) explain that the notice contains an offer to discharge liability to conviction for the offence by payment of a fixed penalty and the person is not required to accept that offer, and
 - (e) state the person to whom the fixed penalty may be paid, and the address and website for doing so.

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- (6) The Scottish Ministers may by regulations specify—
- (a) the amount of the fixed penalty payable under this section (not exceeding level 2 on the standard scale),
 - (b) the form of a notice under subsection (2).
- (7) An authorised officer of a waste collection authority may require an occupier of domestic property to give the occupier’s name, address and date of birth, if the officer proposes to give the occupier a fixed penalty notice under this section.
- (8) A person commits an offence if the person—
- (a) fails to give a name, address or date of birth when required to do so under subsection (7), or
 - (b) gives a false or inaccurate name, address or date of birth in response to a requirement under that subsection.
- (9) A person who commits an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the person having responsibility for the financial affairs of the waste collection authority, and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- is evidence of the facts stated.

46ZE Guidance

- (1) The Scottish Ministers must issue guidance on the operation of sections 46ZA to 46ZD.
 - (2) In preparing guidance under subsection (1), the Scottish Ministers must consult waste collection authorities.
 - (3) A waste collection authority, and an authorised officer of a waste collection authority, must have regard to any guidance issued under subsection (1).”
- (3) In section 160A, after the entry relating to section 45AA(10) insert—

“46ZC(1) (civil penalty charges under any regulations under that subsection.”.
section 46ZA: procedure and amount)

Commencement Information

I2 S. 15 not in force at Royal Assent, see [s. 27](#)

16 Code of practice on household waste recycling

- (1) The Environmental Protection Act 1990 is modified as follows.
- (2) Before section 44ZA insert—

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“44ZZA Code of practice on household waste recycling

- (1) The Scottish Ministers must prepare and publish a code of practice setting out the—
 - (a) standards expected of, and
 - (b) steps to be taken by,local authorities in carrying out their waste management functions in so far as they relate to the collection and recycling of household waste.
 - (2) The code may make different provision for different purposes or different local authority areas.
 - (3) The code may in particular make provision about—
 - (a) the receptacles to be used for household waste collection,
 - (b) the frequency of household waste collection,
 - (c) the items of household waste that are to be recycled or composted,
 - (d) managing the contamination of household waste that is capable of being recycled or composted,
 - (e) communicating with the public about the collection and recycling of household waste,
 - (f) access to and operation of any household bulk uplift service,
 - (g) access to and operation of any household garden waste service.
 - (4) The Scottish Ministers may from time to time revise the code.
 - (5) In preparing the code (whether the first version or a revised version), the Scottish Ministers must consult publicly, and in particular solicit the views of—
 - (a) local authorities, and
 - (b) the Scottish Environment Protection Agency.
 - (6) The Scottish Ministers may not complete their preparation of a version of the code until after the end of the period of 40 days beginning with the day that a draft of that version of the code is laid before the Scottish Parliament.
 - (7) In calculating the period of 40 days mentioned in [subsection \(6\)](#), no account is to be taken of any time during which the Parliament is—
 - (a) dissolved, or
 - (b) in recess for more than 4 days.
 - (8) In this section—

“local authority” and “waste management functions” have the meanings given in section 44ZA,
“recycling” includes composting and preparing for re-use.”.
- (3) In section 44ZA(2)—
- (a) in paragraph (a), after “contained in” insert “the”,
 - (b) the word “and” immediately following paragraph (a) is repealed,
 - (c) after paragraph (a) insert—
 - “(aa) sets out how the local authority intends to carry out those functions, in so far as they relate to the collection and

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- recycling of household waste, consistently with the last published code of practice under [section 44ZZA](#), and”,
 (d) in paragraph (b), for “those” substitute “the authority’s waste management”.

Commencement Information

I3 S. 16 not in force at Royal Assent, see [s. 27](#)

17 Targets for local authorities relating to household waste recycling

- (1) The Environmental Protection Act 1990 is modified as follows.
- (2) After section 47A insert—

“47B Targets for local authorities relating to household waste recycling

- (1) The Scottish Ministers may by regulations make provision imposing targets on local authorities in relation to their carrying out of their waste management functions in so far as they relate to the recycling of household waste.
- (2) Regulations under subsection (1) may not make provision imposing targets in relation to any time before 1 April 2030.
- (3) Regulations under subsection (1) may in particular—
 - (a) specify targets to be achieved by local authorities,
 - (b) make further provision about the meaning of “recycling” for the purposes of the regulations,
 - (c) specify indicators by reference to which a local authority’s achievement of targets can be measured,
 - (e) make provision about enforcement of the requirements imposed by the regulations,
 - (f) confer functions on the Scottish Environment Protection Agency in relation to monitoring the achievement of targets,
 - (g) make provision requiring the keeping of records and the provision of information by waste collection authorities.
- (4) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1), the Scottish Ministers must consult publicly, and in particular solicit the views of—
 - (a) local authorities, and
 - (b) the Scottish Environment Protection Agency.
- (5) Regulations under subsection (1) may—
 - (a) make different provision for different purposes, areas or local authorities,
 - (b) modify any enactment (including this Act),
 - (c) make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (6) In this section—

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“local authority” and “waste management functions” have the meanings given in section 44ZA,

“recycling” includes composting and preparing for re-use.”.

(3) In section 160A, in the table in subsection (2), after the entry relating to section 46ZC(1) (as inserted by [section 11\(3\)](#)) insert—

“section 47B(1) (targets for local authorities relating to household waste recycling)	any regulations under that subsection.”.
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Commencement Information

14 S. 17 not in force at Royal Assent, see [s. 27](#)

Status:

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