



Environmental Protection Act 1990

1990 CHAPTER 43

PART II

WASTE ON LAND

Collection, disposal or treatment of controlled waste

[^{F1}44A National waste strategy: England and Wales.

- (1) The Secretary of State shall as soon as possible prepare a statement (“the strategy”) containing his policies in relation to the recovery and disposal of waste in England and Wales.
- (2) The strategy shall consist of or include—
 - (a) a statement which relates to the whole of England and Wales; or
 - (b) two or more statements which between them relate to the whole of England and Wales.
- (3) The Secretary of State may from time to time modify the strategy.
- (4) Without prejudice to the generality of what may be included in the strategy, the strategy must include—
 - (a) a statement of the Secretary of State’s policies for attaining the objectives specified in Schedule 2A to this Act;
 - (b) provisions relating to each of the following, that is to say—
 - (i) the type, quantity and origin of waste to be recovered or disposed of;
 - (ii) general technical requirements; and
 - (iii) any special requirements for particular wastes.
- (5) In preparing the strategy or any modification of it, the Secretary of State—
 - (a) shall consult the Environment Agency,
 - (b) shall consult—

Status: Point in time view as at 12/01/2010.

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- (i) such bodies or persons appearing to him to be representative of the interests of local government, and
 - (ii) such bodies or persons appearing to him to be representative of the interests of industry,

as he may consider appropriate, and

 - (c) may consult such other bodies or persons as he considers appropriate.
 - (6) Without prejudice to any power to give directions conferred by section 40 of the Environment Act 1995, the Secretary of State may give directions to the Environment Agency requiring it—
 - (a) to advise him on the policies which are to be included in the strategy;
 - (b) to carry out a survey of or investigation into—
 - (i) the kinds or quantities of waste which it appears to that Agency is likely to be situated in England and Wales,
 - (ii) the facilities which are or appear to that Agency likely to be available or needed in England and Wales for recovering or disposing of any such waste,
 - (iii) any other matter upon which the Secretary of State wishes to be informed in connection with his preparation of the strategy or any modification of it,

and to report its findings to him.
 - (7) A direction under subsection (6)(b) above—
 - (a) shall specify or describe the matters or the areas which are to be the subject of the survey or investigation; and
 - (b) may make provision in relation to the manner in which—
 - (i) the survey or investigation is to be carried out, or
 - (ii) the findings are to be reported or made available to other persons.
 - (8) Where a direction is given under subsection (6)(b) above, the Environment Agency shall, in accordance with any requirement of the direction,—
 - (a) before carrying out the survey or investigation, consult—
 - (i) such bodies or persons appearing to it to be representative of local planning authorities, and
 - (ii) such bodies or persons appearing to it to be representative of the interests of industry,

as it may consider appropriate; and

 - (b) make its findings available to those authorities.
- [The Environment Agency shall publicise any direction given to it under subsection (6)^{F2}(8A) above in such manner as it considers appropriate.]
- (9) In this section—
 - “local planning authority” has the same meaning as in the ^{M1}Town and Country Planning Act 1990;
 - “strategy” includes the strategy as modified from time to time and
 - “statement” shall be construed accordingly.
 - (10) This section makes provision for the purpose of implementing Article 7 of the ^{M2}directive of the Council of the European Communities, dated 15th July 1975, on waste, as amended by—

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- (a) the ^{M3}directive of that Council, dated 18th March 1991, amending directive [75/442/EEC](#) on waste; and
- (b) the ^{M4}directive of that Council, dated 23rd December 1991, standardising and rationalising reports on the implementation of certain Directives relating to the environment.]

Textual Amendments

- F1** Ss. 44A, 44B inserted (1.4.1996) by 1995, c. 25, s. 92(1) (with ss. 7(6), 115, 117); [S.I. 1996/186, art.3](#)
- F2** S. 44A(8A) inserted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, **Sch. 21 para. 12** (with reg. 72, Sch. 4)

Modifications etc. (not altering text)

- C2** S. 44A applied (6.3.1997) by [S.I. 1997/648](#), reg. 12(3)(d)(e), **Sch. 4 Pt. IV para. 11(b)**

Marginal Citations

- M1** 1990 c. 8.
- M2** 91/692/EEC.
- M3** 91/156/EEC.
- M4** 75/442/EEC.

^{F3}**44B National waste strategy: Scotland.**

- [^{F4}(1) SEPA shall as soon as possible prepare a statement (“the strategy”) containing its policies in relation to the recovery and disposal of waste in Scotland.
- (2) SEPA may from time to time modify the strategy.
 - (3) Without prejudice to the generality of what may be included in the strategy, the strategy must include—
 - (a) a statement of SEPA’s policies for attaining the objectives specified in Schedule 2A to this Act;
 - (b) provisions relating to each of the following, that is to say—
 - (i) the type, quantity and origin of waste to be recovered or disposed of;
 - (ii) general technical requirements; and
 - (iii) any special requirements for particular wastes.
 - (4) In preparing the strategy or any modification of it SEPA shall consult—
 - (a) such bodies or persons appearing to it to be representative of the interests of industry as it may consider appropriate;
 - (b) such local authorities as appear to it to be likely to be affected by the strategy or modification,and may consult such other bodies or persons as it considers appropriate.
 - (5) Without prejudice to any power to give directions conferred by section 40 of the Environment Act 1995, the Secretary of State may give directions to SEPA—
 - (a) as to the policies which are to be included in the strategy;
 - (b) requiring it to carry out a survey or investigation into—
 - (i) the kinds or quantities of waste which it appears to it is likely to be situated in Scotland,

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- (ii) the facilities which are or appear to it likely to be available or needed in Scotland for recovering or disposing of any such waste,
 - (iii) any other matter which the Secretary of State considers appropriate in connection with its preparation of the strategy or any modifications of it.
- (6) A direction under subsection (5)(b) above—
- (a) shall specify or describe the matters or the areas which are to be the subject of the survey or investigation; and
 - (b) may make provision in relation to the manner in which—
 - (i) the survey or investigation is to be carried out, or
 - (ii) the findings are to be reported or made available to other persons.
- (7) Where a direction is given under subsection (5)(b) above SEPA shall, in accordance with any requirement of the direction—
- (a) before carrying out the survey or investigation, consult—
 - (i) such bodies or persons appearing to it to be representative of planning authorities, and
 - (ii) such bodies or persons appearing to it to be representative of the interests of industry,
 as it may consider appropriate; and
 - (b) make its findings available to those authorities.
- (8) In this section—
- “planning authority” means an authority within the meaning of section 172 of the ^{M5}Local Government (Scotland) Act 1973;
 - “strategy” includes the strategy as modified from time to time and
 - “statement” shall be construed accordingly.
- (9) This section makes provision for the purpose of implementing Article 7 of the ^{M6}directive of the Council of the European Communities dated 15th July 1975 on waste, as amended by—
- (a) the ^{M7}directive of that Council dated 18th March 1991 amending directive [75/442/EEC](#) on waste; and
 - (b) the ^{M8}directive of that Council dated 23rd December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment.]

Textual Amendments

- F3** Ss. 44A, 44B inserted (1.4.1996) by 1995, c. 25, s. 92(1) (with ss. 7(6), 115, 117); [S.I. 1996/186](#), [art. 3](#)
- F4** S. 44B repealed (S.) (23.3.2007) by [The National Waste Management Plan for Scotland Regulations 2007 \(S.S.I. 2007/251\)](#), {reg. (8)(1)(a)}

Modifications etc. (not altering text)

- C3** S. 44B applied (6.3.1997) by [S.I. 1997/648](#), [reg. 12\(3\)\(d\)\(e\)](#), [Sch. 4 Pt. IV para. 11\(b\)](#)

Marginal Citations

- M5** [1973 c. 65](#).
- M6** [91/692/EEC](#).
- M7** [91/156/EEC](#).

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M8 75/442/EEC.

45 Collection of controlled waste.

- (1) It shall be the duty of each waste collection authority—
 - (a) to arrange for the collection of household waste in its area except waste—
 - (i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and
 - (ii) as to which the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste; and
 - (b) if requested by the occupier of premises in its area to collect any commercial waste from the premises, to arrange for the collection of the waste.
- (2) Each waste collection authority may, if requested by the occupier of premises in its area to collect any industrial waste from the premises, arrange for the collection of the waste; but a collection authority in England and Wales shall not exercise the power except with the consent of the waste disposal authority whose area includes the area of the waste collection authority.
- (3) No charge shall be made for the collection of household waste except in cases prescribed in regulations made by the Secretary of State; and in any of those cases—
 - (a) the duty to arrange for the collection of the waste shall not arise until a person who controls the waste requests the authority to collect it; and
 - (b) the authority may recover a reasonable charge for the collection of the waste from the person who made the request.
- (4) A person at whose request waste other than household waste is collected under this section shall be liable to pay a reasonable charge for the collection and disposal of the waste to the authority which arranged for its collection; and it shall be the duty of that authority to recover the charge unless in the case of a charge in respect of commercial waste the authority considers it inappropriate to do so.
- (5) It shall be the duty of each waste collection authority—
 - (a) to make such arrangements for the emptying, without charge, of privies serving one or more private dwellings in its area as the authority considers appropriate;
 - (b) if requested by the person who controls a cesspool serving only one or more private dwellings in its area to empty the cesspool, to remove such of the contents of the cesspool as the authority considers appropriate on payment, if the authority so requires, of a reasonable charge.
- (6) A waste collection authority may, if requested by the person who controls any other privy or cesspool in its area to empty the privy or cesspool, empty the privy or, as the case may be, remove from the cesspool such of its contents as the authority consider appropriate on payment, if the authority so requires, of a reasonable charge.
- (7) A waste collection authority may—
 - (a) construct, lay and maintain, within or outside its area, pipes and associated works for the purpose of collecting waste;

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- (b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works connecting with pipes provided by the authority under paragraph (a) above.
- (8) A waste collection authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with commercial or industrial waste before it is collected under arrangements made by the authority under subsection (1)(b) or (2) above.
- (9) Subject to section 48(1) below, anything collected under arrangements made by a waste collection authority under this section shall belong to the authority and may be dealt with accordingly.
- (10) In relation to Scotland, sections 2, 3, 4 and 41 of the ^{M9}Sewerage (Scotland) Act 1968 (maintenance of public sewers etc.) shall apply in relation to pipes and associated works provided or to be provided under subsection (7)(a) above as those sections apply in relation to public sewers but as if—
- [^{F5}(a) the said section 2 conferred a power on a waste collection authority rather than a duty on [^{F6}Scottish Water] ;
- (b) in the said section 3—
- (i) references to [^{F6}Scottish Water] were references to a waste collection authority; and
- (ii) in references to public sewers and public sewage works the word “public” were omitted;
- (c) in the said section 4, the reference to [^{F6}Scottish Water] were a reference to a waste collection authority and the words from “by virtue” to the end were omitted; and
- (d) in the said section 41, the reference to [^{F6}Scottish Water] were a reference to a waste collection authority,]
- and the ^{M10}Pipe-lines Act 1962 shall not apply to pipes and associated works provided or to be provided under the said subsection (7)(a).
- [^{F7}(10A) Where a waste collection authority, in the exercise of its powers under subsection (7) (a) above, proposes to execute works outside its area, it shall, in addition to any notice served under section 3(2) of the Sewerage (Scotland) Act 1968 as applied by virtue of subsection (10) above, serve notice of its intention on the waste collection authority within whose area it is proposed to execute the works together with a description of the proposed works and if, within two months after the service of the notice, the waste collection authority on whom it was served objects to the proposed works, and that objection is not withdrawn, the first-mentioned authority shall not proceed to execute the works without consent aftermentioned but may refer the matter for the determination of the Scottish Ministers who may grant consent to the proposed works either unconditionally or subject to such terms and conditions as they think just, or who may withhold their consent, and their decision on the matter shall be final.]
- (11) In the application of this section to Scotland, subsection (5)(b) and the references to a cesspool occurring in subsection (6) shall be omitted.
- (12) In this section “privy” means a latrine which has a moveable receptacle and “cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings.

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Textual Amendments

- F5** S. 45(10)(a)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 167(6)**; S.I. 1996/323, **art. 4(1)(c)**
- F6** Words in s. 45(10) substituted (S.) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 20(2)(a)**; S.S.I. 2002/118, **art. 2(3)**
- F7** S. 45(10A) inserted (S.) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 20(2)(b)**; S.S.I. 2002/118, **art. 2(3)**

Commencement Information

- I2** S. 45 partly in force; s. 45 in force for certain purposes at 14.2.1992, s. 45(1)(3)-(12) wholly in force and s. 45(2) in force (S) at 1.4.1992 see s. 164(3) and S.I. 1992/266, **arts. 2, 3**.

Marginal Citations

- M9** 1968 c. 47.
- M10** 1962 c. 58.

[^{F8} 45A Arrangements for separate collection of recyclable waste

- (1) This section applies to any waste collection authority whose area is in England (an “English waste collection authority”).
- (2) Where an English waste collection authority has a duty by virtue of section 45(1)(a) above to arrange for the collection of household waste from any premises, the authority shall ensure that the arrangements it makes in relation to those premises include the arrangements mentioned in subsection (3) below, unless it is satisfied that (in that case)
 - (a) the cost of doing so would be unreasonably high; or
 - (b) comparable alternative arrangements are available.
- (3) The arrangements are arrangements for the collection of at least two types of recyclable waste together or individually separated from the rest of the household waste.
- (4) The requirement in subsection (2) above shall apply from 31st December 2010.
- (5) The Secretary of State may, if requested to do so by an English waste collection authority, direct the authority that subsection (4) above shall have effect in relation to that authority as if the date mentioned there were such later date as may be specified in the direction (being a date no later than 31st December 2015).
- (6) In this section, “recyclable waste” means household waste which is capable of being recycled or composted.]

Textual Amendments

- F8** S. 45A inserted (E.W.) (30.12.2003) by Household Waste Recycling Act 2003 (c. 29), **ss. 1, 5(2)**

[^{F9} 45B Power to apply section 45A to Welsh waste collection authorities

- (1) The National Assembly for Wales may by order made by statutory instrument provide that section 45A above shall apply, subject to subsection (2) below, to all waste

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collection authorities whose areas are in Wales, as it applies to English waste collection authorities.

- (2) Where the Assembly provides as mentioned in subsection (1) above, the reference to the Secretary of State in section 45A(5) above shall be read for these purposes as a reference to the National Assembly for Wales.
- (3) Section 161(3) below (which relates to order-making powers) shall not apply to the making of an order under this section.]

Textual Amendments

F9 S. 45B inserted (E.W.) (30.12.2003) by [Household Waste Recycling Act 2003 \(c. 29\)](#), ss. 2, 5(2)

46 Receptacles for household waste.

- (1) Where a waste collection authority has a duty by virtue of section 45(1)(a) above to arrange for the collection of household waste from any premises, the authority may, by notice served on him, require the occupier to place the waste for collection in receptacles of a kind and number specified.

[^{F10}(1A) Where—

- (a) subsection (1) applies to a waste collection authority, and
- (b) a waste reduction scheme under Schedule 2AA to this Act is in operation in the authority's area,

the authority may require the occupier to place the waste for collection in receptacles identified by such means as may be specified.

(1B) A requirement under subsection (1A)—

- (a) must be imposed by notice served on the occupier;
- (b) may be imposed instead of, or in addition to, any requirement imposed on the occupier under subsection (1).]

- (2) The kind and number of the receptacles required under subsection (1) above to be used shall be such only as are reasonable but, subject to that, separate receptacles or compartments of receptacles may be required to be used for waste which is to be recycled and waste which is not.
- (3) In making requirements under subsection (1) above the authority may, as respects the provision of the receptacles—
 - (a) determine that they be provided by the authority free of charge;
 - (b) propose that they be provided, if the occupier agrees, by the authority on payment by him of such a single payment or such periodical payments as he agrees with the authority;
 - (c) require the occupier to provide them if he does not enter into an agreement under paragraph (b) above within a specified period; or
 - (d) require the occupier to provide them.
- (4) In making requirements as respects receptacles under subsection (1) above, the authority may, by the notice under that subsection, make provision with respect to—
 - (a) the size, construction and maintenance of the receptacles;

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- (b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
 - (c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;
 - (d) the substances or articles which may or may not be put into the receptacles or compartments of receptacles of any description and the precautions to be taken where particular substances or articles are put into them; and
 - (e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.
- (5) No requirement shall be made under subsection (1) above for receptacles to be placed on a highway or, as the case may be, road, unless—
- (a) the relevant highway authority or roads authority have given their consent to their being so placed; and
 - (b) arrangements have been made as to the liability for any damage arising out of their being so placed.
- (6) A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (1), [F11(1A)],(3)(c) or (d) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where an occupier is required under subsection (1) above to provide any receptacles he may, within the period allowed by subsection (8) below, appeal to a magistrates' court or, in Scotland, to the sheriff by way of summary application against any requirement imposed under subsection (1), subsection (3)(c) or (d) or (4) above on the ground that—
- (a) the requirement is unreasonable; or
 - (b) the receptacles in which household waste is placed for collection from the premises are adequate.
- (8) The period allowed to the occupier of premises for appealing against such a requirement is the period of twenty-one days beginning—
- (a) in a case where a period was specified under subsection (3)(c) above, with the end of that period; and
 - (b) where no period was specified, with the day on which the notice making the requirement was served on him.
- (9) Where an appeal against a requirement is brought under subsection (7) above—
- (a) the requirement shall be of no effect pending the determination of the appeal;
 - (b) the court shall either quash or modify the requirement or dismiss the appeal; and
 - (c) no question as to whether the requirement is, in any respect, unreasonable shall be entertained in any proceedings for an offence under subsection (6) above.
- (10) In this section—
- “receptacle” includes a holder for receptacles; and
 - “specified” means specified in a notice under subsection (1) [F12 or (1A)]above.
- [F13(11) A waste collection authority is not obliged to collect household waste that is placed for collection in contravention of a requirement under this section.]

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Textual Amendments

- F10** S. 46(1A)(1B) inserted (E.W.) by [Climate Change Act 2008 \(c. 27\)](#), ss. 71, 100, **Sch. 5 para. 3(2)** (the amendment coming into force in accordance with ss. 72-75 of the amending Act, see s. 100(2)(5))
- F11** Words in s. 46(6) inserted (E.W.) by [Climate Change Act 2008 \(c. 27\)](#), ss. 71, 100, **Sch. 5 para. 3(3)** (the amendment coming into force in accordance with ss. 72-75 of the amending Act, see s. 100(2)(5))
- F12** Words in s. 46(10) inserted (E.W.) by [Climate Change Act 2008 \(c. 27\)](#), ss. 71, 100, **Sch. 5 para. 3(4)** (the amendment coming into force in accordance with ss. 72-75 of the amending Act, see s. 100(2)(5))
- F13** S. 46(11) inserted (E.W.) (26.1.2009) by [Climate Change Act 2008 \(c. 27\)](#), ss. 76, 100

Modifications etc. (not altering text)

- C4** S. 46 applied (with modifications) (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), **19**
- C5** S. 46(2)-(5) applied (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), **20(3)(9)** (with s. 20(10))

Commencement Information

- I3** S. 46 wholly in force at 1.4.1992 see s. 164(3) and [S.I. 1992/266](#), **art. 3**.

47 Receptacles for commercial or industrial waste.

- (1) A waste collection authority may, at the request of any person, supply him with receptacles for commercial or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.
- (2) If it appears to a waste collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality, the authority may, by notice served on him, require the occupier of the premises to provide at the premises receptacles for the storage of such waste of a kind and number specified.
- (3) The kind and number of the receptacles required under subsection (2) above to be used shall be such only as are reasonable.
- (4) In making requirements as respects receptacles under subsection (2) above, the authority may, by the notice under that subsection, make provision with respect to—
 - (a) the size, construction and maintenance of the receptacles;
 - (b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
 - (c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;
 - (d) the substances or articles which may or may not be put into the receptacles and the precautions to be taken where particular substances or articles are put into them; and
 - (e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.
- (5) No requirement shall be made under subsection (2) above for receptacles to be placed on a highway or, as the case may be, road unless—

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- (a) the relevant highway authority or roads authority have given their consent to their being so placed; and
 - (b) arrangements have been made as to the liability for any damage arising out of their being so placed.
- (6) A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (2) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where an occupier is required under subsection (2) above to provide any receptacles he may, within the period allowed by subsection (8) below, appeal to a magistrates' court or, in Scotland, to the sheriff by way of summary application against any requirement imposed under subsection (2) or (4) above on the ground that—
- (a) the requirement is unreasonable; or
 - (b) the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality.
- (8) The period allowed to the occupier of premises for appealing against such a requirement is the period of twenty-one days beginning with the day on which the notice making the requirement was served on him.
- (9) Where an appeal against a requirement is brought under subsection (7) above—
- (a) the requirement shall be of no effect pending the determination of the appeal;
 - (b) the court shall either quash or modify the requirement or dismiss the appeal; and
 - (c) no question as to whether the requirement is, in any respect, unreasonable shall be entertained in any proceedings for an offence under subsection (6) above.
- (10) In this section—
- “receptacle” includes a holder for receptacles; and
 - “specified” means specified in a notice under subsection (2) above.

Modifications etc. (not altering text)

- C6** S. 47 applied (with modifications) (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), **21**
- C7** S. 47(3)-(6) applied (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), **22(3)(9)** (with s. 22(10))

Commencement Information

- I4** S. 47 wholly in force at 1.4.1992 see s. 164(3) and [S.I. 1992/266](#), **art. 3**.

[^{F14}47ZA] Fixed penalty notices for offences under sections 46 and 47

- (1) This section applies where on any occasion an authorised officer of a waste collection authority has reason to believe that a person has committed an offence under section 46 or 47 above in the area of that authority.
- (2) The authorised officer may give that person a notice offering him 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 this section in respect of an offence—

Status: Point in time view as at 12/01/2010.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Collection, disposal or treatment of controlled waste is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) no proceedings may be instituted for that offence before the expiration of the period of fourteen days following the date of the notice; and
 - (b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
- (5) A notice under this section must also state—
- (a) the period during which, by virtue of subsection (3) above, proceedings will not be taken for the offence;
 - (b) the amount of the fixed penalty; and
 - (c) the person to whom and the address at which the fixed penalty may be paid.
- (6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c) above at the address so mentioned.
- (7) Where a letter is sent in accordance with subsection (6) above payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (8) The form of a notice under this section is to be such as the appropriate person may by order prescribe.
- (9) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the chief finance officer 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.
- (10) In this section—
- “authorised officer”, in relation to a waste collection authority, means—
 - (a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;
 - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;
 - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;
- “chief finance officer”, in relation to a waste collection authority, means the person having responsibility for the financial affairs of the authority.

Textual Amendments

F14 Ss. 47ZA, 47ZB inserted (E.W.) (16.3.2006 for certain purposes for W., 6.4.2006 for E. and 15.3.2007 in so far as not already in force for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 48, 108](#); S.I. 2006/768, [art. 3](#); S.I. 2006/795, [art. 2\(3\)](#), Sch. 2; S.I. 2006/2797, [art. 4](#)

Status: Point in time view as at 12/01/2010.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Collection, disposal or treatment of controlled waste is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

47ZB Amount of fixed penalty under section 47ZA

- (1) This section applies in relation to a fixed penalty payable to a waste collection authority in pursuance of a notice under section 47ZA above.
- (2) The amount of the fixed penalty—
 - (a) is the amount specified by the waste collection authority in relation to the authority's area, or
 - (b) if no amount is so specified, is £100.
- (3) The waste collection authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (4) The appropriate person may by regulations make provision in connection with the powers conferred on waste collection authorities under subsections (2)(a) and (3) above.
- (5) Regulations under subsection (4) may (in particular)—
 - (a) require an amount specified under subsection (2)(a) above to fall within a range prescribed in the regulations;
 - (b) restrict the extent to which, and the circumstances in which, a waste collection authority can make provision under subsection (3) above.
- (6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b) above.]

Textual Amendments

F14 Ss. 47ZA, 47ZB inserted (E.W.) (16.3.2006 for certain purposes for W., 6.4.2006 for E. and 15.3.2007 in so far as not already in force for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 48, 108](#); S.I. 2006/768, [art. 3](#); S.I. 2006/795, [art. 2\(3\)](#), Sch. 2; S.I. 2006/2797, [art. 4](#)

[^{F15}47A Recycling and composting: duty to report to Parliament

- (1) Not later than 31st October 2004, the Secretary of State shall lay before each House of Parliament a report of the performance—
 - (a) of each English waste authority in meeting its recycling and composting standards (if any); and
 - (b) of each English waste collection authority towards meeting the requirement imposed by section 45A(2) above.
- (2) In this section—

“English waste authority” means a waste collection authority or a waste disposal authority whose area is in England;

“English waste collection authority” means a waste collection authority whose area is in England; and

“recycling and composting standards” means, in relation to an English waste authority, such performance standards and performance indicators (if any) as may be specified for that authority in an order made under section 4 of the Local Government Act 1999 in connection with the recycling and composting of household waste.]

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Textual Amendments

F15 S. 47A inserted (E.W.) (30.12.2003) by [Household Waste Recycling Act 2003 \(c. 29\)](#), ss. 3, 5(2)

48 Duties of waste collection authorities as respects disposal of waste collected.

(1) Subject to subsections (2) and (6) below, it shall be the duty of each waste collection authority to deliver for disposal all waste which is collected by the authority under section 45 above to such places as the waste disposal authority for its area directs.

[^{F16}(1A) A waste collection authority in England which is not also a waste disposal authority must discharge its duty under subsection (1) above in accordance with any directions about separation of waste given by the waste disposal authority for its area.]

(2) The duty imposed on a waste collection authority by subsection (1) above does not, except in cases falling within subsection (4) below, apply as respects household waste or commercial waste for which the authority decides to make arrangements for recycling the waste; and the authority shall have regard, in deciding what recycling arrangements to make, to its waste recycling plan under section 49 below.

(3) A waste collection authority which decides to make arrangements under subsection (2) above for recycling waste collected by it shall, as soon as reasonably practicable, by notice in writing, inform the waste disposal authority for the area which includes its area of the arrangements which it proposes to make.

(4) Where a waste disposal authority has made ^{F17} . . . arrangements, as respects household waste or commercial waste in its area or any part of its area, ^{F17} . . . to recycle the waste, or any of it, the waste disposal authority may, by notice served on the waste collection authority, object to the waste collection authority having the waste recycled; and the objection may be made as respects all the waste, part only of the waste or specified descriptions of the waste.

(5) Where an objection is made under subsection (4) above, subsection (2) above shall not be available to the waste collection authority to the extent objected to.

(6) A waste collection authority may ^{F18} . . . provide plant and equipment for the sorting and baling of waste retained by the authority under subsection (2) above.

(7) ^{F19}

(8) A waste collection authority may permit another person to use facilities provided by the authority under subsection (6) above and may provide for the use of another person any such facilities as the authority has power to provide under that subsection; and—

- (a) subject to paragraph (b) below, it shall be the duty of the authority to make a reasonable charge in respect of the use by another person of the facilities, unless the authority considers it appropriate not to make a charge;
- (b) no charge shall be made under this subsection in respect of household waste; and
- (c) anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.

(9) This section shall not apply to Scotland.

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Textual Amendments

- F16** S. 48(1A) inserted (1.1.2005) by [Waste and Emissions Trading Act 2003 \(c. 33\)](#), [ss. 31\(2\)](#), 40(1); S.I. 2004/3319, [art. 2](#)
- F17** Words in s. 48(4) repealed (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 107, 108](#), [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(k\)](#); S.I. 2006/768, [art. 2\(d\)](#)
- F18** Words in s. 48(6) repealed (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 107, 108](#), [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(k\)](#); S.I. 2006/768, [art. 2\(d\)](#)
- F19** S. 48(7) repealed (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 107, 108](#), [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(k\)](#); S.I. 2006/768, [art. 2\(d\)](#)

Commencement Information

- I5** S. 48 partly in force; s. 48 not in force at Royal Assent see s. 164(3); s. 48(1)-(6)(8)(9) in force at 1.4.1992 see S.I. 1992/266, art. 3.

49 Waste recycling plans by collection authorities.

F20

Textual Amendments

- F20** S. 49 repealed (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), [ss. 34\(2\)](#), 62(2); [S.S.I. 2003/134](#), [art. 2\(1\)](#), [Sch.](#); s. 49 otherwise repealed (25.6.2004 for W. and 1.1.2005 for E.) by [Waste and Emissions Trading Act 2003 \(c. 33\)](#), [ss. 35\(a\)](#), 40(7); S.I. 2004/1488, [art. 2\(2\)](#); S.I. 2004/3321, [art. 2](#)

F21 **50**

Textual Amendments

- F21** S. 50 repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), [Sch. 22 para. 78](#), [Sch.24](#) (with [ss. 7\(6\)](#), 115, 117); S.I. 1996/186, [art.3](#)

51 Functions of waste disposal authorities.

- (1) It shall be the duty of each waste disposal authority to arrange—
- (a) for the disposal of the controlled waste collected in its area by the waste collection authorities; and
 - (b) for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of waste so deposited;

F22

- (2) The arrangements made by a waste disposal authority under subsection (1)(b) above shall be such as to secure that—

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- (a) each place is situated either within the area of the authority or so as to be reasonably accessible to persons resident in its area;
- (b) each place is available for the deposit of waste at all reasonable times (including at least one period on the Saturday or following day of each week except a week in which the Saturday is 25th December or 1st January);
- (c) each place is available for the deposit of waste free of charge by persons resident in the area;

but the arrangements may restrict the availability of specified places to specified descriptions of waste.

(3) A waste disposal authority may include in arrangements made under subsection (1)(b) above arrangements for the places provided for its area for the deposit of household waste free of charge by residents in its area to be available for the deposit of household or other controlled waste by other persons on such terms as to payment (if any) as the authority determines.

(4) For the purpose of discharging its duty under subsection (1)(a) above as respects controlled waste collected as mentioned in that paragraph a waste disposal authority—

- (a) shall give directions to the waste collection authorities within its area as to the persons to whom and places at which such waste is to be delivered;
- (b) ^{F23}
- (c) ^{F23}
- (d) ^{F23}
- (e) may contribute towards the cost incurred by persons who produce commercial or industrial waste in providing and maintaining plant or equipment intended to deal with such waste before it is collected; and
- (f) may contribute towards the cost incurred by persons who produce commercial or industrial waste in providing or maintaining pipes or associated works connecting with pipes provided by a waste collection authority within the area of the waste disposal authority.

^{F24}(4A) A waste disposal authority in England which is not also a waste collection authority may in directions under subsection (4)(a) above include requirements about separation that relate to waste as delivered, but may do so only if it considers it necessary for assisting it to comply with any obligation imposed on it by or under any enactment.

(4B) Before exercising its power to include requirements about separation in directions under subsection (4)(a) above, a waste disposal authority shall consult the waste collection authorities within its area.

(4C) In exercising its power to include requirements about separation in directions under subsection (4)(a) above, a waste disposal authority shall have regard to any guidance given by the Secretary of State as to the exercise of that power.

(4D) A waste disposal authority which includes requirements about separation in directions given under subsection (4)(a) above shall notify the waste collection authorities to which the directions are given of its reasons for including the requirements.]

(5) ^{F23}

(6) ^{F23}

(7) Subsection (1) above is subject to section 77.

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(8) This section shall not apply to Scotland.

Textual Amendments

- F22** Words in s. 51(1) repealed (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(k\)](#); S.I. 2006/768, [art. 2\(d\)](#)
- F23** S. 51(4)(b)-(d)(5)(6) repealed (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(k\)](#); S.I. 2006/768, [art. 2\(d\)](#)
- F24** S. 51(4A)-(4D) inserted (1.1.2005) by [Waste and Emissions Trading Act 2003 \(c. 33\)](#), ss. [31\(3\)](#), 40(1); S.I. 2004/3319, [art. 2](#)

Commencement Information

- I6** S. 51 wholly in force at 31.5.1991 see s. 164(3) and [S.I. 1991/1319, art. 2](#)

52 **Payments for recycling and disposal etc. of waste.** E+W

(1) Where, under section 48(2) above, a waste collection authority retains for recycling waste collected by it under section 45 above, the waste disposal authority for the area which includes the area of the waste collection authority shall make to that authority payments, in respect of the waste so retained

[^{F25}(a) in the case of a waste disposal authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and

(b) in the case of a waste disposal authority in Wales],

of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.

[^{F26}(1A) The Secretary of State may by order disapply subsection (1) above in relation to any waste disposal authority constituted under section 10 of the Local Government Act 1985 (joint arrangements for waste disposal in London and metropolitan counties) [^{F27}or any authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities)].]

[^{F28}(1B) A waste disposal authority is not required to make payments to a waste collection authority under subsection (1) above where, on the basis of arrangements involving the two authorities, the waste collection authority has agreed that such payments need not be made.]

(2) Where, by reason of the discharge by a waste disposal authority of its functions, waste arising in its area does not fall to be collected by a waste collection authority under section 45 above, the waste collection authority shall make to the waste disposal authority payments, in respect of the waste not falling to be so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.

(3) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste arising in the area of a waste disposal authority which would fall to be collected under section 45 above, the waste disposal authority may make to that person payments, in respect of the waste so collected

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- [^{F29}(a) in the case of a waste disposal authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and
- (b) in the case of a waste disposal authority in Wales],
- of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.
- (4) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste which would fall to be collected under section 45 above, the waste collection authority may make to that person payments, in respect of the waste so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.
- [^{F30}(4A) The Secretary of State may by regulations impose on waste disposal authorities in England a duty to make payments corresponding to the payments which are authorised by subsection (3)(a) above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations.]
- (5) The Secretary of State may, by regulations, impose on waste disposal authorities [^{F31}in Wales] a duty to make payments corresponding to the payments which are authorised by [^{F32}subsection (3)(b)] above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations.
- (6) For the purposes of [^{F33}subsections (1)(b), (3)(b)] and (5) above the net saving of expenditure of a waste disposal authority on the disposal of any waste retained or collected for recycling is the amount of the expenditure which the authority would, but for the retention or collection, have incurred in having it disposed of less any amount payable by the authority to any person in consequence of the retention or collection for recycling (instead of the disposal) of the waste.
- (7) For the purposes of subsections (2) and (4) above the net saving of expenditure of a waste collection authority on the collection of any waste not falling to be collected by it is the amount of the expenditure which the authority would, if it had had to collect the waste, have incurred in collecting it .
- (8) The Secretary of State shall, by regulations, make provision for the determination of the net saving of expenditure for the purposes of [^{F34}subsections (1)(b), (2)(b), (3)(b), (4)(b)] and (5) above.
- [^{F35}(8A) The Secretary of State may give guidance—
- (a) to a waste disposal authority in England, for the purposes of determining whether to exercise the power in subsection (3) above;
- (b) to a waste collection authority in England, for the purposes of determining whether to exercise the power in subsection (4) above.]
- (9) A waste disposal authority shall be entitled to receive from a waste collection authority such sums as are needed to reimburse the waste disposal authority the reasonable cost of making arrangements under section 51(1) above for the disposal of commercial and industrial waste collected in the area of the waste disposal authority.
- (10) A waste disposal authority shall pay to a waste collection authority a reasonable contribution towards expenditure reasonably incurred by the waste collection authority in delivering waste, in pursuance of a direction under section 51(4)(a) above, to a place which is unreasonably far from the waste collection authority's area.

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(11) Any question arising under subsection (9) or (10) above shall, in default of agreement between the two authorities in question, be determined by arbitration.

[^{F36}(12) In this section, references to recycling waste include re-using it (whether or not the waste is subjected to any process).]

Extent Information

E1 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F25** S. 52(1)(a)(b) inserted (E.W.) (7.3.2006 for certain purposes and 6.4.2006 otherwise) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 49\(2\), 108; S.I. 2006/656, arts. 2, 3](#)
- F26** S. 52(1A) inserted (E.W.) (7.3.2006) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 49\(3\), 108; S.I. 2006/656, art. 2](#)
- F27** Words in s. 52(1A) inserted (E.W.) (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 209\(2\), 245\(5\), Sch. 13 para. 49; S.I. 2008/917, art. 2\(1\)\(p\)](#)
- F28** S. 52(1B) inserted (E.W.) (6.4.2006) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 49\(4\), 108; S.I. 2006/656, art. 3](#)
- F29** S. 52(3)(a)(b) inserted (E.W.) (7.3.2006 for certain purposes and 6.4.2006 otherwise) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 49\(6\), 108; S.I. 2006/656, arts. 2, 3](#)
- F30** S. 52(4A) inserted (E.W.) (6.4.2006) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 106, 108, Sch. 4 para. 3\(2\); S.I. 2006/656, art. 3](#)
- F31** Words in s. 52(5) inserted (E.W.) (6.4.2006) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 106, 108, Sch. 4 para. 3\(3\)\(a\); S.I. 2006/656, art. 3](#)
- F32** Words in s. 52(5) substituted (E.W.) (6.4.2006) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 106, 108, Sch. 4 para. 3\(3\)\(b\); S.I. 2006/656, art. 3](#)
- F33** Words in s. 52(6) substituted (E.W.) (6.4.2006) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 106, 108, Sch. 4 para. 3\(4\); S.I. 2006/656, art. 3](#)
- F34** Words in s. 52(8) substituted (E.W.) (6.4.2006 for certain purposes and otherwise prosp.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 106, 108, Sch. 4 para. 3\(6\); S.I. 2006/656, art. 3](#)
- F35** S. 52(8A) inserted (E.W.) (6.4.2006 for certain purposes and otherwise prosp.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 49\(8\), 108; S.I. 2006/656, art. 3](#)
- F36** S. 52(12) inserted (E.W.) (6.4.2006) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 49\(9\), 108; S.I. 2006/656, art. 3](#)

Modifications etc. (not altering text)

C8 S. 52(1) disappplied (E.) (1.4.2006) by [The Joint Waste Disposal Authorities \(Recycling Payments\) \(Disapplication\) \(England\) Order 2006 \(S.I. 2006/651\), art. 2](#)

Commencement Information

I7 S. 52 partly in force; s. 52 not in force at Royal Assent see s. 164(3); s. 52(8) in force for certain purposes at 13.12.1991 by [S.I. 1991/2829 art. 2](#); s. 52(1)(3)-(7)(9)-(11) in force at 1.4.1992 see [S.I. 1992/266, art. 3](#).

52 Payments for recycling and disposal etc. of waste. **S**

(1) Where, under section 48(2) above, a waste collection authority retains for recycling waste collected by it under section 45 above, the waste disposal authority for the area

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which includes the area of the waste collection authority shall make to that authority payments, in respect of the waste so retained, of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.

- (2) Where, by reason of the discharge by a waste disposal authority of its functions, waste arising in its area does not fall to be collected by a waste collection authority under section 45 above, the waste collection authority shall make to the waste disposal authority payments, in respect of the waste not falling to be so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.
- (3) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste arising in the area of a waste disposal authority which would fall to be collected under section 45 above, the waste disposal authority may make to that person payments, in respect of the waste so collected, of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.
- (4) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste which would fall to be collected under section 45 above, the waste collection authority may make to that person payments, in respect of the waste so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.
- (5) The Secretary of State may, by regulations, impose on waste disposal authorities a duty to make payments corresponding to the payments which are authorised by subsection (3) above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations.
- (6) For the purposes of subsections (1), (3) and (5) above the net saving of expenditure of a waste disposal authority on the disposal of any waste retained or collected for recycling is the amount of the expenditure which the authority would, but for the retention or collection, have incurred in having it disposed of less any amount payable by the authority to any person in consequence of the retention or collection for recycling (instead of the disposal) of the waste.
- (7) For the purposes of subsections (2) and (4) above the net saving of expenditure of a waste collection authority on the collection of any waste not falling to be collected by it is the amount of the expenditure which the authority would, if it had had to collect the waste, have incurred in collecting it .
- (8) The Secretary of State shall, by regulations, make provision for the determination of the net saving of expenditure for the purposes of subsections (1), (2), (3), (4) and (5) above.
- (9) A waste disposal authority shall be entitled to receive from a waste collection authority such sums as are needed to reimburse the waste disposal authority the reasonable cost of making arrangements under section 51(1) above for the disposal of commercial and industrial waste collected in the area of the waste disposal authority.
- (10) A waste disposal authority shall pay to a waste collection authority a reasonable contribution towards expenditure reasonably incurred by the waste collection authority in delivering waste, in pursuance of a direction under section 51(4)(a) above, to a place which is unreasonably far from the waste collection authority's area.
- (11) Any question arising under subsection (9) or (10) above shall, in default of agreement between the two authorities in question, be determined by arbitration.

Status: Point in time view as at 12/01/2010.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Collection, disposal or treatment of controlled waste is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Extent Information

- E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Commencement Information

- I7** S. 52 partly in force; s. 52 not in force at Royal Assent see s. 164(3); s. 52(8) in force for certain purposes at 13.12.1991 by [S.I. 1991/2829](#) art. 2; s. 52(1)(3)-(7)(9)-(11) in force at 1.4.1992 see S.I. 1992/266, art. 3.

[^{F37} 52A Payments for delivering waste pre-separated

- (1) A waste disposal authority in England which is not also a waste collection authority shall pay to a waste collection authority within its area such amounts as are needed to ensure that the collection authority is not financially worse off as a result of having to comply with any separation requirements.
- (2) A waste disposal authority in England which is not also a waste collection authority may pay to a waste collection authority within its area—
 - (a) which performs its duty under section 48(1) above by delivering waste in a state of separation, but
 - (b) which is not subject to any separation requirements as respects the delivery of that waste,contributions of such amounts as the disposal authority may determine towards expenditure of the collection authority that is attributable to its delivering the waste in that state.
- (3) The Secretary of State may by regulations make provision about how amounts to be paid under subsection (1) above are to be determined.
- (4) Regulations under subsection (3) above may include provision for amounts to be less than they would otherwise be (or to be nil) if conditions specified in the regulations are not satisfied.
- (5) Any question arising under subsection (1) above shall, in default of agreement between the paying and receiving authorities, be determined by arbitration.
- (6) A waste collection authority in England which is not also a waste disposal authority shall supply the waste disposal authority for its area with such information as the disposal authority may reasonably require—
 - (a) for the purpose of determining amounts under this section, or
 - (b) for the purpose of estimating any amounts that would fall to be determined under this section were the collection authority to be subject to particular separation requirements.
- (7) In this section “separation requirements”, in relation to a waste collection authority, means requirements about separation included in directions given to it under section 51(4)(a) above.]

Status: Point in time view as at 12/01/2010.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Collection, disposal or treatment of controlled waste is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F37 S. 52A inserted (E.W.) (1.1.2005) by [Waste and Emissions Trading Act 2003 \(c. 33\)](#), [ss. 31\(4\)](#), [40\(1\)](#); [S.I. 2004/3319](#), [art. 2](#)

53 Duties of authorities as respects disposal of waste collected: Scotland.

- (1) It shall be the duty of each waste disposal authority to arrange for the disposal of any waste collected by it, in its capacity as a waste collection authority, under section 45 above; and without prejudice to the authority's powers apart from the following provisions of this subsection, the powers exercisable by the authority for the purpose of performing that duty shall include power—
 - (a) to provide, within or outside its area, places at which to deposit waste before the authority transfers it to a place or plant or equipment provided under the following paragraph; and
 - (b) to provide, within or outside its area, places at which to dispose of or recycle the waste and plant or equipment for processing, recycling or otherwise disposing of it.
- (2) Subsections (7) [^{F38}, (10) and (10A)] of section 45 above shall have effect in relation to a waste disposal authority as if the reference in paragraph (a) of the said subsection (7) to the collection of waste included the disposal of waste under this section and the disposal of anything produced from waste belonging to the authority.
- (3) A waste disposal authority may permit another person to use facilities provided by the authority under the preceding provisions of this section and may provide for the use of another person any such facilities as the authority has power to provide under those provisions, and—
 - (a) subject to the following paragraph, it shall be the duty of the authority to make a reasonable charge in respect of the use by another person of the facilities unless the authority considers it appropriate not to make a charge;
 - (b) no charge shall be made under this section in respect of household waste; and
 - (c) anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.
- (4) References to waste in subsection (1) above do not include matter removed from privies under section 45(5)(a) or (6) above, and it shall be the duty of a waste collection authority ^{F39} . . . by which matter is so removed—
 - (a) to deliver the matter, in accordance with any directions of [^{F40}Scottish Water], at a place specified in the directions (which must be in or within a reasonable distance from the waste collection authority's area), to [^{F40}Scottish Water] or another person so specified;
 - (b) to give to [^{F40}Scottish Water] from time to time a notice stating the quantity of the matter which the waste collection authority expects to deliver to or as directed by [^{F40}Scottish Water] under the preceding paragraph during a period specified in the notice.
- (5) Any question arising under paragraph (a) of the preceding subsection as to whether a place is within a reasonable distance from a waste collection authority's area shall, in default of agreement between the waste collection authority and [^{F40}Scottish Water] in question, be determined by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties;

Status: Point in time view as at 12/01/2010.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Collection, disposal or treatment of controlled waste is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

and anything delivered to [^{F41}Scottish Water] under that subsection shall belong to [^{F40}Scottish Water] and may be dealt with accordingly.

(5A) ^{F42}

(6) This section applies to Scotland only.

Textual Amendments

- F38** Words in s. 53(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 20\(3\)\(a\)](#); [S.S.I. 2002/118, art. 2\(3\)](#)
- F39** Words in s. 53(4) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 167\(8\)\(a\)\(i\), Sch.14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch.1, Sch. 2](#)
- F40** Words in s. 53(4)(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 20\(3\)\(b\)](#); [S.S.I. 2002/118, art. 2\(3\)](#)
- F41** Words in s. 53(5) substituted (S.) (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 20\(3\)\(c\)](#); [S.S.I. 2002/118, art. 2\(3\)](#)
- F42** S. 53(5A) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 20\(3\)\(d\)](#); [S.S.I. 2002/118, art. 2\(3\)](#)

Commencement Information

- I8** S. 53 wholly in force at 1.4.1992 see s. 164(3) and S.I 1992/266, art. 3.

54 Special provisions for land occupied by disposal authorities: Scotland.

- (1) Nothing in subsection (1)(a) and (b) of section 33 above shall apply to—
- the deposit of controlled waste in or on land in the area of a waste disposal authority which is occupied by the authority; or
 - the treating, keeping or disposing of controlled waste—
 - in or on land so occupied;
 - by means of any mobile plant operated by the waste disposal authority,if the requirements of subsection (3) below are satisfied.
- (2) If any land occupied by a waste disposal authority is used by the authority as a site in or on which to deposit, treat, keep or dispose of or permit other persons to deposit, treat, keep or dispose of controlled waste or if the authority operates their mobile plant for the purpose aforesaid, it shall be the duty of the waste regulation authority to ensure that the land is used and the mobile plant operated in accordance with conditions which are—
- calculated to prevent the use from causing pollution of the environment or harm to human health or serious detriment to the amenities of the locality in which the land is situated or the mobile plant may be operated; and
 - specified in a resolution passed by the waste regulation authority in accordance with the following provisions of this section.
- (3) The requirements mentioned in subsection (1) above are, where the deposit is made, or the treating, keeping or disposing is carried out—
- by the waste disposal authority that, as respects the land or as the case may be the mobile plant, conditions have been specified by the waste regulation authority by virtue of subsection (2)(b) above and (in so far as current) are complied with;

Status: Point in time view as at 12/01/2010.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Collection, disposal or treatment of controlled waste is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) by another person, that it is with the consent of the waste disposal authority and in accordance with any conditions to which the consent is subject.
- (4) Where a waste disposal authority proposes that any land which the waste disposal authority occupies or intends to occupy should be used by that authority or that any mobile plant should be operated by the authority as mentioned in the preceding subsection, it shall be the duty of the waste regulation authority before it gives effect to the proposal—
- (a) to prepare a statement of the conditions which the waste regulation authority intends to specify in a resolution to be passed by that authority under paragraph (d) below;
- (b) to refer the proposal and the statement—
- (i) to the river purification authority whose area includes any of the land in question;
- (ii) to the Health and Safety Executive;
- (iii) where the waste regulation authority is not also a district planning authority (within the meaning of section 172 of the ^{M11}Local Government (Scotland) Act 1973), to the general planning authority (within the meaning of that section) whose area includes any of the land; and
- (iv) in the case of a proposal to operate mobile plant, to the river purification authority whose area includes the area of the waste disposal authority;
- (c) to consider any representations about the proposal and statement which the river purification authority, the Health and Safety Executive or the general planning authority makes to it during the allowed period;
- (d) subject to subsection (7) of this section, to pass a resolution—
- (i) authorising the deposit, keeping, treatment or disposal of any specified description of controlled waste in or on specified land occupied or to be occupied by the waste disposal authority or the treatment or disposal of any specified description of controlled waste by means of specified mobile plant;
- (ii) specifying the conditions in accordance with which the land in question or the mobile plant is to be used by the waste disposal authority as mentioned in the preceding subsection;
- (e) where any part of the land to be used is land which has been notified under section 28(1) of the ^{M12}Wildlife and Countryside Act 1981, to—
- (i) refer the proposal and the statement to the appropriate nature conservation body, and
- (ii) consider any representations about the proposal and the statement which that body makes to it during the allowed period,
- and in this subsection and subsection (13) of this section any reference to the appropriate nature conservation body is a reference, [^{F43}Scottish Natural Heritage].
- (5) In subsection (4) above, paragraphs (a) to (c), and in paragraph (d) the words “subject to subsection (7) of this section”, shall have effect only in a case where the proposal is made by a waste disposal authority other than an islands council.
- (6) A separate resolution under subsection (4)(d) above shall be passed by the authority—
- (a) in respect of each item of mobile plant; and

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- (b) in relation to each site.
- (7) If a river purification authority to which a proposal is referred by a waste regulation authority under paragraph (b) of subsection (4) of this section requests the authority not to proceed with the resolution or disagrees with the authority as to the conditions to be specified in the resolution under paragraph (d) of that subsection, either of them may refer the matter to the Secretary of State and it shall be the duty of the authority not to pass a resolution under that paragraph except in accordance with his decision.
- (8) A waste regulation authority by which a resolution has been passed under paragraph (d) of subsection (4) of this section or this subsection may vary or rescind the resolution by a subsequent resolution of the authority.
- (9) Paragraphs (a) to (c) of subsection (4) and subsection (7) of this section shall with the necessary modifications apply to a proposal to pass a resolution under subsection (8) above and to such a resolution as they apply to such a proposal as is mentioned in those provisions and to a resolution under the said paragraph (d), except that—
- (a) those provisions shall not apply to a resolution, or to a proposal to pass a resolution, which only rescinds a previous resolution; and
 - (b) the waste regulation authority may postpone the reference under the said subsection (4) so far as the authority considers that by reason of an emergency it is appropriate to do so; and
 - (c) the waste regulation authority may disregard any other authority or the Health and Safety Executive for the purposes of the preceding provisions of this subsection in relation to a resolution which, in the opinion of the waste regulation authority, will not affect the other authority.
- (10) If while a resolution is in force under the preceding provisions of this section it appears to the authority which passed the resolution—
- (a) that the continuation of activities to which the resolution relates would cause pollution of the environment or harm to human health or would be seriously detrimental to the amenities of the locality affected; and
 - (b) that the pollution, harm or detriment cannot be avoided by modifying the conditions relating to the carrying on of the activities,
- it shall be the duty of the waste disposal authority to discontinue the activities and of the waste regulation authority to rescind the resolution.
- (11) If it appears to a river purification authority that activities to which a resolution under this section relates are causing or likely to cause pollution to controlled waters (within the meaning of Part II of the ^{M13}Control of Pollution Act 1974) in the area of the authority, the authority may, without prejudice to the provisions of the preceding subsection or the said Part II, request the Secretary of State to direct the waste regulation authority which passed the resolution to rescind it and the waste disposal authority to discontinue the activities; and it shall be the duty of a waste disposal authority and a waste regulation authority to comply with a direction given to it under this subsection.
- (12) It shall be the duty of waste regulation authorities to have regard to any guidance issued to them by the Secretary of State with regard to the discharge of their functions under this section.
- (13) The period allowed to the river purification authority, the Health and Safety Executive and the general planning authority for the making of representations under subsection (4)(c) above or to the appropriate nature conservation body for the making

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of representations under subsection (4)(e) above about a proposal is the period of twenty-one days beginning with that on which the proposal is received by that body or such longer period as the waste regulation authority and that body agree in writing.

- (14) The Secretary of State may, by regulations, make provision as to conditions which are, or are not, to be included in a resolution; and regulations under this subsection may make different provision for different circumstances.
- (15) The Secretary of State may as respects any resolution made or to be made by the authority give to the authority directions—
- (a) as to the conditions which are or are not to be included in the resolution;
 - (b) as to the modifications which it would be appropriate to make in the conditions included in a resolution by virtue of subsection (7) above;
 - (c) as to the rescinding of the resolution;
- and it shall be the duty of the authority to give effect to the directions.
- (16) Any resolution of a waste disposal authority under Part I of the ^{M14}Control of Pollution Act 1974 effective immediately before the commencement of this section shall have effect as if it were a resolution of a waste regulation authority under this section.
- (17) This section applies to Scotland only.

Textual Amendments

F43 Words in s. 54(4) expressed to be substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991](#) (c. 28, SIF 46:1), s. 4(10), [Sch. 2 para. 10\(3\)](#); S.I. 1991/2633, [art.4](#).

Modifications etc. (not altering text)

C9 S. 54(1)(a)(b)(2)(3)(4)(d) amended (1.5.1994) by [S.I. 1994/1056](#), [regs. 1\(1\)\(3\), 19](#), [Sch. 4 Pt. I para.9\(3\)\(4\)](#)

Commencement Information

I9 S. 54 wholly in force at 1.5.1994; s. 54 not in force at Royal Assent see s. 164(3); s. 54(14) in force at 18.2.1993 by [S.I. 1993/274](#), [art. 2\(1\)](#); s. 54 in force at 1.5.1994 by [S.I. 1994/1096](#), [art. 2\(1\)](#)

Marginal Citations

M11 1973 c. 65.

M12 1981 c. 69.

M13 1974 c. 40.

M14 1974 c. 40.

55 Powers for recycling waste.

- (1) This section has effect for conferring on waste disposal authorities and waste collection authorities powers for the purposes of recycling waste.
- (2) A waste disposal authority may—
- (a) make arrangements ^{F44} . . . to recycle waste as respects which the authority has duties under section 51(1) above or agrees with another person for its disposal or treatment;
 - (b) make arrangements ^{F44} . . . to use waste for the purpose of producing from it heat or electricity or both;

Status: Point in time view as at 12/01/2010.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Collection, disposal or treatment of controlled waste is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) buy or otherwise acquire waste with a view to its being recycled;
 - (d) use, sell or otherwise dispose of waste as respects which the authority has duties under section 51(1) above or anything produced from such waste.
- (3) A waste collection authority may—
- (a) buy or otherwise acquire waste with a view to recycling it;
 - (b) use, or dispose of by way of sale or otherwise to another person, waste belonging to the authority or anything produced from such waste.
- (4) This section shall not apply to Scotland.

Textual Amendments

F44 Words in s. 55(2)(a)(b) repealed (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(k\)](#); S.I. 2006/768, [art. 2\(d\)](#)

Commencement Information

I10 S. 55 wholly in force at 1.4.1992 see s. 164(3) and [S.I. 1992/266](#), [art. 3](#).

56 Powers for recycling waste: Scotland.

- (1) Without prejudice to the powers of waste disposal authorities apart from this section, a waste disposal authority may—
- (a) do such things as the authority considers appropriate for the purpose of—
 - (i) enabling waste belonging to the authority, or belonging to another person who requests the authority to deal with it under this section, to be recycled; or
 - (ii) enabling waste to be used for the purpose of producing from it heat or electricity or both;
 - (b) buy or otherwise acquire waste with a view to its being recycled;
 - (c) use, sell or otherwise dispose of waste belonging to the authority or anything produced from such waste.
- (2) This section applies to Scotland only.

Commencement Information

I11 S. 56 wholly in force at 1.4.1992 see s. 164(3) and [S.I. 1992/266](#), [art. 3](#).

57 Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered. **E+W**

- (1) The Secretary of State may, by notice in writing, direct the holder of any [^{F45}environmental permit authorising a waste operation] to accept and keep, or accept and treat or dispose of, [^{F46}waste] at specified places on specified terms.
- (2) The Secretary of State may, by notice in writing, direct any person who is keeping [^{F46}waste] on any land to deliver the waste to a specified person on specified terms with a view to its being treated or disposed of by that other person.

Status: Point in time view as at 12/01/2010.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Collection, disposal or treatment of controlled waste is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) A direction under this section may impose a requirement as respects waste of any specified kind or as respects any specified consignment of waste.
- (4) A direction under subsection (2) above may require the person who is directed to deliver the waste to pay to the specified person his reasonable costs of treating or disposing of the waste.
- (5) A person who fails, without reasonable excuse, to comply with a direction under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person shall not be guilty of an offence under any other enactment prescribed by the Secretary of State by regulations made for the purposes of this subsection by reason only of anything necessarily done or omitted in order to comply with a direction under this section.
- (7) The Secretary of State may, where the costs of the treatment or disposal of waste are not paid or not fully paid in pursuance of subsection (4) above to the person treating or disposing of the waste, pay the costs or the unpaid costs, as the case may be, to that person.

[^{F47}(7A) ^{F48}.....]

[^{F49}(8) In this section—

“specified” means specified in a direction under this section; and

“waste” means anything which is waste as defined in Article 1 of, and Annex 1 to, Directive 75/442/EEC (as amended by Directive 91/156/EEC) including anything which is excluded from the scope of that Directive by Article 2(1)(b) (iii) of that Directive, but not including anything excluded by the remainder of that Article.]

Textual Amendments

- F45** Words in s. 57(1) substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, **Sch. 21 para. 13(a)** (with reg. 72, Sch. 4)
- F46** Words in s. 57(1)(2) substituted (E.W.) (22.11.2005) by [The Environmental Protection Act 1990 \(Amendment of Section 57\) \(England and Wales\) Regulations 2005 \(S.I. 2005/3026\)](#), **reg. 2(3)**
- F47** S. 57(7A) inserted (E.W.) (22.11.2005) by [The Environmental Protection Act 1990 \(Amendment of Section 57\) \(England and Wales\) Regulations 2005 \(S.I. 2005/3026\)](#), **reg. 2(4)**
- F48** S. 57(7A) repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), regs. 73, 74(2), **Sch. 21 para. 13(b)**, **Sch. 23** (with reg. 72, Sch. 4)
- F49** S. 57(8) substituted (E.W.) (22.11.2005) by [The Environmental Protection Act 1990 \(Amendment of Section 57\) \(England and Wales\) Regulations 2005 \(S.I. 2005/3026\)](#), **reg. 2(5)**

Modifications etc. (not altering text)

- C10** S. 57 modified (E.) (13.4.2001) by [S.I. 2001/1478](#), **reg. 2(1)**
S. 57 modified (W.) (21.4.2001) by [S.I. 2001/1506](#), **reg. 2(1)**

Commencement Information

- I12** S. 57 not in force at Royal Assent, see s. 164(3); s. 57 in force at 1.5.1994 save for purposes of application to activities specified in art. 2(2) of the commencing S.I. and otherwise in force in relation to those activities in accordance with art. 3 of the commencing S.I. by [S.I. 1994/1096](#), **arts. 2(2)(3)**, 3 (as amended by [S.I. 1994/2487](#), **art. 2** and [S.I. 1994/3234](#), **art. 2**)

Status: Point in time view as at 12/01/2010.

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57 Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered. S

- (1) The Secretary of State may, by notice in writing, direct the holder of any waste management licence to accept and keep, or accept and treat or dispose of, controlled waste at specified places on specified terms.
- (2) The Secretary of State may, by notice in writing, direct any person who is keeping controlled waste on any land to deliver the waste to a specified person on specified terms with a view to its being treated or disposed of by that other person.
- (3) A direction under this section may impose a requirement as respects waste of any specified kind or as respects any specified consignment of waste.
- (4) A direction under subsection (2) above may require the person who is directed to deliver the waste to pay to the specified person his reasonable costs of treating or disposing of the waste.
- (5) A person who fails, without reasonable excuse, to comply with a direction under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person shall not be guilty of an offence under any other enactment prescribed by the Secretary of State by regulations made for the purposes of this subsection by reason only of anything necessarily done or omitted in order to comply with a direction under this section.
- (7) The Secretary of State may, where the costs of the treatment or disposal of waste are not paid or not fully paid in pursuance of subsection (4) above to the person treating or disposing of the waste, pay the costs or the unpaid costs, as the case may be, to that person.
- (8) In this section “specified” means specified in a direction under this section.

Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Modifications etc. (not altering text)

- C10** S. 57 modified (E.) (13.4.2001) by [S.I. 2001/1478](#), **reg. 2(1)**
S. 57 modified (W.) (21.4.2001) by [S.I. 2001/1506](#), **reg. 2(1)**

Commencement Information

- I12** S. 57 not in force at Royal Assent, see s. 164(3); s. 57 in force at 1.5.1994 save for purposes of application to activities specified in art. 2(2) of the commencing S.I. and otherwise in force in relation to those activities in accordance with art. 3 of the commencing S.I. by [S.I. 1994/1096](#), **arts. 2(2)(3), 3** (as amended by [S.I. 1994/2487](#), **art. 2** and [S.I. 1994/3234](#), **art. 2**)

58 Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered: Scotland.

In relation to Scotland, the Secretary of State may give directions to a waste disposal authority to accept and keep, or accept and treat or dispose of, controlled waste at

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specified places on specified terms; and it shall be the duty of the authority to give effect to the directions.

59 Powers to require removal of waste unlawfully deposited.

- (1) If any controlled waste [^{F50}or extractive waste] is deposited in or on any land in the area of a waste regulation authority or waste collection authority in contravention of section 33(1) above [^{F51}or regulation 12 of the 2007 Regulations], the authority may, by notice served on him, require the occupier to do either or both of the following, that is—
 - (a) to remove the waste from the land within a specified period not less than a period of twenty-one days beginning with the service of the notice;
 - (b) to take within such a period specified steps with a view to eliminating or reducing the consequences of the deposit of the waste.
- (2) A person on whom any requirements are imposed under subsection (1) above may, within the period of twenty-one days mentioned in that subsection, appeal against the requirement to a magistrates' court or, in Scotland, to the sheriff by way of summary application.
- (3) On any appeal under subsection (2) above the court shall quash the requirement if it is satisfied that—
 - (a) the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste; or
 - (b) there is a material defect in the notice;
 and in any other case shall either modify the requirement or dismiss the appeal.
- (4) Where a person appeals against any requirement imposed under subsection (1) above, the requirement shall be of no effect pending the determination of the appeal; and where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.
- (5) If a person on whom a requirement imposed under subsection (1) above fails, without reasonable excuse, to comply with the requirement he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to one-tenth of level 5 on the standard scale for each day on which the failure continues after conviction of the offence and before the authority has begun to exercise its powers under subsection (6) below.
- (6) Where a person on whom a requirement has been imposed under subsection (1) above by an authority fails to comply with the requirement the authority may do what that person was required to do and may recover from him any expenses reasonably incurred by the authority in doing it.
- (7) If it appears to a waste regulation authority or waste collection authority that waste has been deposited in or on any land in contravention of section 33(1) above [^{F52}or regulation 12 of the 2007 Regulations,] and that—
 - (a) in order to remove or prevent pollution of land, water or air or harm to human health it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; or
 - (b) there is no occupier of the land [^{F53}or the occupier cannot be found without the authority incurring unreasonable expense]; or
 - (c) the occupier neither made nor knowingly permitted the deposit of the waste;

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the authority may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps.

(8) Where an authority exercises any of the powers conferred on it by subsection (7) above it shall be entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste—

(a) in a case falling within subsection (7)(a) above, from the occupier of the land unless he proves that he neither made nor knowingly caused nor knowingly permitted the deposit of the waste;

(b) in any case, from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste;

except such of the cost as the occupier or that person shows was incurred unnecessarily.

[^{F54}(8A) An authority may not recover costs under subsection (8) above if a compensation order has been made under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 in favour of the authority in respect of any part of those costs.

(8B) Subsection (8A) does not apply if the order is set aside on appeal.]

(9) Any waste removed by an authority under subsection (7) above shall belong to that authority and may be dealt with accordingly.

Textual Amendments

F50 Words in s. 59(1) inserted (E.W.) (7.7.2009) by The Environmental Permitting (England and Wales) (Amendment) Regulations (S.I. 2009/1799), reg. 28, {Sch. 2 para. 1(7)}

F51 Words in s. 59(1) inserted (E.W.) (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 73, **Sch. 21 para. 14(a)** (with reg 72, Sch. 4)

F52 Words in s. 59(7) inserted (E.W.) (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 73, **Sch. 21 para. 14(b)** (with reg 72, Sch. 4)

F53 Words in s. 59(7)(b) inserted (E.W.) (6.4.2006 for E. and 27.10.2006 for W.) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 50(1), 108**; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(i)**

F54 S. 59(8A)(8B) inserted (E.W.) (18.10.2005) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 43(2), 108** (with s. 43(3)); S.I. 2005/2896, **art. 2(b)**

Modifications etc. (not altering text)

C11 S. 59 applied (with modifications) (19.9.2007) by London Local Authorities Act 2007 (c. ii), **ss. 1(3)-(5), 25**

[^{F55}59ZA] **Section 59: supplementary power in relation to owner of land**

(1) Where the grounds in subsection (2), (3) or (4) below are met, a waste regulation authority or waste collection authority may, by notice served on him, require the owner of any land in its area to comply with either or both of the requirements mentioned in subsection (1)(a) and (b) of section 59 above.

(2) The grounds in this subsection are that it appears to the authority that waste has been deposited in or on the land in contravention of section 33(1) above [^{F56}or regulation 12 of the 2007 Regulations,] and—

(a) there is no occupier of the land, or

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- (b) the occupier cannot be found without the authority incurring unreasonable expense.
- (3) The grounds in this subsection are that—
- (a) the authority has served a notice under subsection (1) of section 59 above imposing a requirement on the occupier of the land,
 - (b) the occupier of the land is not the same person as the owner of the land, and
 - (c) the occupier has failed to comply with the requirement mentioned in paragraph (a) above within the period specified in the notice.
- (4) The grounds in this subsection are that—
- (a) the authority has served a notice under subsection (1) of section 59 above imposing a requirement on the occupier of the land,
 - (b) the occupier of the land is not the same person as the owner of the land, and
 - (c) the requirement mentioned in paragraph (a) above has been quashed on the ground specified in subsection (3)(a) of that section.
- (5) Subsections (2) to (6) of section 59 above apply in relation to requirements imposed under this section on the owner of the land as they apply in relation to requirements imposed under that section on the occupier of the land but as if in subsection (3) there were inserted after paragraph (a)—
- “(aa) in order to comply with the requirement the appellant would be required to enter the land unlawfully; or”.
- (6) In this section “owner” has the meaning given to it in section 78A(9) below.]

Textual Amendments

- F55** S. 59ZA inserted (E.W.) (6.4.2006 for E. and 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 50(2)**, 108; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(i)**
- F56** Words in s. 59ZA(2) inserted (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, **Sch. 21 para. 15** (with reg. 72, Sch. 4)

[^{F57}59A Directions in relation to exercise of powers under section 59

- (1) The Secretary of State may issue directions setting out categories of waste to which a waste regulation authority or waste collection authority in England and Wales should give priority for the purposes of exercising its powers under section 59 above.
- (2) Priorities set out in directions under subsection (1) above may be different for different authorities or areas.
- (3) But nothing in this section or in any directions issued under it affects any power of an authority under section 59 above.

[A waste regulation authority shall publicise any direction given to it under ^{F58}(4) subsection (1) above in such manner as it considers appropriate.]]

Textual Amendments

- F57** S. 59A inserted (E.W.) (31.3.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 55(4)**, 93; S.I. 2004/690, **art. 3**; S.I. 2004/999, **art. 2**

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F58 S. 59A(4) inserted (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, [Sch. 21 para. 16](#) (with reg 72, Sch. 4)

60 Interference with waste sites and receptacles for waste. **E+W**

- (1) No person shall sort over or disturb—
- (a) anything deposited at a place for the deposit of waste provided by a waste collection authority, by [^{F59}or under arrangements made with a waste disposal authority or by any other local authority or person] ;
 - (b) anything deposited in a receptacle for waste, whether for public or private use, provided by a waste collection authority, by [^{F60}or under arrangements made with a waste disposal authority, by a parish or community council or by a holder of a waste management licence; or]
 - (c) the contents of any receptacle for waste which, in accordance with a requirement under section 46 or 47 above, is placed on any highway or, in Scotland, road or in any other place with a view to its being emptied;
- unless he has the relevant consent or right to do so specified in subsection (2) below.
- (2) The consent or right that is relevant for the purposes of subsection (1)(a), (b) or (c) above is—
- (a) in the case of paragraph (a), the consent of the authority ^{F61} . . . or other person who provides the place for the deposit of the waste;
 - (b) in the case of paragraph (b), the consent of the authority ^{F61} . . . or other person who provides the receptacle for the deposit of the waste;
 - (c) in the case of paragraph (c), the right to the custody of the receptacle, the consent of the person having the right to the custody of the receptacle or the right conferred by the function by or under this Part of emptying such receptacles.
- (3) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine of an amount not exceeding level 3 on the standard scale.

Extent Information

E2 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F59 Words in s. 60(1)(a) substituted (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 106, 108, [Sch. 4 para. 4\(a\)](#); S.I. 2005/2896, [art. 3\(i\)](#); S.I. 2006/768, [art. 2\(c\)](#)

F60 Words in s. 60(1)(b) substituted (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 106, 108, [Sch. 4 para. 4\(b\)](#); S.I. 2005/2896, [art. 3\(i\)](#); S.I. 2006/768, [art. 2\(c\)](#)

F61 Words in s. 60(2)(a)(b) repealed (E.W.) (18.10.2005 for E. and 16.3.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 107, 108, [Sch. 5 Pt. 4](#); S.I. 2005/2896, [art. 3\(k\)](#); S.I. 2006/768, [art. 2\(d\)](#)

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Commencement Information

- I13** S. 60 wholly in force at 1.5.1994; s. 60 not in force at Royal Assent, see s. 164(3); s. 60 in force for certain purposes at 31.5.1991 by [S.I. 1991/1319](#), [art. 2](#); s. 60 in force at 1.5.1994 by [S.I. 1994/1096](#), [art. 2\(1\)](#)

60 Interference with waste sites and receptacles for waste. **S**

- (1) No person shall sort over or disturb—
- (a) anything deposited at a place for the deposit of waste provided by a waste collection authority, by a waste disposal contractor under arrangements made with a waste disposal authority or by any other local authority or person or, in Scotland, by a waste disposal authority;
 - (b) anything deposited in a receptacle for waste, whether for public or private use, provided by a waste collection authority, by a waste disposal contractor under arrangements made with a waste disposal authority, by a parish or community council or by a holder of a waste management licence or, in Scotland, by a waste disposal authority or a roads authority; or
 - (c) the contents of any receptacle for waste which, in accordance with a requirement under section 46 or 47 above, is placed on any highway or, in Scotland, road or in any other place with a view to its being emptied;
- unless he has the relevant consent or right to do so specified in subsection (2) below.
- (2) The consent or right that is relevant for the purposes of subsection (1)(a), (b) or (c) above is—
- (a) in the case of paragraph (a), the consent of the authority, contractor or other person who provides the place for the deposit of the waste;
 - (b) in the case of paragraph (b), the consent of the authority, contractor or other person who provides the receptacle for the deposit of the waste;
 - (c) in the case of paragraph (c), the right to the custody of the receptacle, the consent of the person having the right to the custody of the receptacle or the right conferred by the function by or under this Part of emptying such receptacles.
- (3) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine of an amount not exceeding level 3 on the standard scale.

Modifications etc. (not altering text)

- C12** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Commencement Information

- I13** S. 60 wholly in force at 1.5.1994; s. 60 not in force at Royal Assent, see s. 164(3); s. 60 in force for certain purposes at 31.5.1991 by [S.I. 1991/1319](#), [art. 2](#); s. 60 in force at 1.5.1994 by [S.I. 1994/1096](#), [art. 2\(1\)](#)

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Textual Amendments

F62 S. 61 repealed (1.4.2000 for E., 14.7.2000 for S. and 15.9.2001 for W.) by 1995 c. 25, s. 120(3), Sch. 22 para. 79, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 2000/340, **art. 2(1)(b)(c)** (with art. 3); S.S.I. 2000/180, **art. 2(1)(b)(c)** (with art. 3); S.I. 2001/3211, **art. 2(c)** (with saving in art. 3)

Status:

Point in time view as at 12/01/2010.

Changes to legislation:

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