



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

##### *Collection, disposal or treatment of controlled waste*

#### **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—
- (a) the deposit of controlled waste in or on land in the area of a waste disposal authority which is occupied by the authority; or
  - (b) the treating, keeping or disposing of controlled waste—
    - (i) in or on land so occupied;
    - (ii) 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—
- (a) 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
  - (b) 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—

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- (a) 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;
  - (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 <sup>M1</sup>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 <sup>M2</sup>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, [<sup>F1</sup>Scottish Natural Heritage].

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- (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
  - (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 <sup>M3</sup>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.

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- (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 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 <sup>M4</sup>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

- F1** 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)

- C1** 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

- I1** 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

- M1** 1973 c. 65.  
**M2** 1981 c. 69.  
**M3** 1974 c. 40.  
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