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STATUTORY INSTRUMENTS

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**2013 No. 141**

**ENVIRONMENTAL PROTECTION**

The Waste and Emissions Trading Act  
2003 (Amendment etc.) Regulations 2013

*Made* - - - - 24th January 2013  
*Laid before Parliament* 30th January 2013  
*Coming into force* - - 31st March 2013

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 <sup>M1</sup>. The Secretary of State is a Minister designated <sup>M2</sup> for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment.

**Marginal Citations**

- M1** 1972 c. 68. Section 2(2) was amended by section 27(1) of the [Legislative and Regulatory Reform Act 2006](#) (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the [European Union \(Amendment\) Act 2008](#) (c. 7).
- M2** S.I. 2008/301.

**Citation, commencement and extent**

1.—(1) These Regulations—

- (a) may be cited as the Waste and Emissions Trading Act 2003 (Amendment etc.) Regulations 2013; and
- (b) come into force on 31st March 2013.

(2) Regulations 4 to 6 extend to England and Wales only.

(3) Any amendment, repeal or revocation made by these Regulations has the same extent as the enactment to which it relates.

**Interpretation**

2. In these Regulations—

“biodegradable local authority collected municipal waste” has the meaning given in section 21(2)(b) <sup>M3</sup> of the Waste and Emissions Trading Act 2003;

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*Changes to legislation: There are currently no known outstanding effects for the The Waste and Emissions Trading Act 2003 (Amendment etc.) Regulations 2013. (See end of Document for details)*

“landfill” has the meaning given in section 22 of the Waste and Emissions Trading Act 2003; and

“waste disposal authority” has the same meaning as in Part 2 of the Environmental Protection Act 1990 <sup>M4</sup>.

#### Marginal Citations

**M3** 2003 c. 33. Section 21(2) was substituted by S.I. 2011/2499, **regulations 2** and 6(2)(a).

**M4** 1990 c. 43. See section 30(2) (to which there are amendments not relevant to these Regulations).

### Amendment of the Waste and Emissions Trading Act 2003

3.—(1) Chapter 1 of Part 1 of the Waste and Emissions Trading Act 2003 is amended as follows.

(2) In the italic heading before section 4, after “Landfill allowances scheme” insert “ (Scotland, Wales and Northern Ireland) ”.

(3) In section 4(1) <sup>M5</sup> (allocation of landfill allowances), for “Each allocating authority must” substitute “ For Scotland, Wales and Northern Ireland each allocating authority must ”.

(4) In section 24(1) (definition of allocating authority) omit paragraph (a).

#### Marginal Citations

**M5** Section 4 was amended by S.I. 2011/2499, **regulations 2, 3** and 4.

### Obligation for waste disposal authorities to keep records and make returns

4.—(1) A waste disposal authority in England must keep records containing the following information for each monitored year—

- (a) the weight in tonnes of local authority collected municipal waste;
- (b) the weight in tonnes of local authority collected municipal waste sent to landfills by the authority or under arrangements made by the authority; and
- (c) the weight in tonnes of local authority collected municipal waste sent to waste facilities whether—
  - (i) by the authority;
  - (ii) by any waste collection authority within the area of the authority; or
  - (iii) under arrangements made by the authority.

(2) In relation to local authority collected municipal waste mentioned in paragraph (1)(b) and (c) the records must contain details of—

- (a) the total weight in tonnes of waste sent to each landfill or waste facility;
- (b) the standard description of, and the appropriate code in the List of Waste (England) Regulations 2005 <sup>M6</sup> for, the waste referred to in sub-paragraph (a).

(3) All weights mentioned in paragraphs (1) and (2) must be rounded up to the nearest tonne.

(4) A waste disposal authority must submit to the Environment Agency a return containing the information in paragraphs (1) and (2) for each three month period ending on 31st March, 30th June, 30th September and 31st December within three months of the end of that period.

(5) The return must be submitted by the waste disposal authority to the Environment Agency through the website provided by the Secretary of State for the submission of data on waste from waste collection authorities and waste disposal authorities.

(6) The records under paragraph (1) must be kept for a period of two years beginning with the day on which the return is submitted to the Environment Agency in accordance with paragraphs (4) and (5).

(7) The Environment Agency, or a person authorised by the Agency, may by notice in writing require a waste disposal authority in England to—

- (a) produce for inspection or for removal for inspection elsewhere, records it is required to keep under paragraph (1),
- (b) supply the Agency with information about, or evidence as to, matters connected with the sending of biodegradable local authority collected municipal waste to landfills,

and to do so in such manner as may be specified in the notice regarding where, when and how the records, information or evidence are to be produced or supplied to the Agency, as the case may be.

(8) The Environment Agency, or a person authorised in writing by the Agency, may make copies of—

- (a) records produced under paragraph (7)(a);
- (b) information or evidence supplied under paragraph (7)(b).

(9) A waste disposal authority that fails to comply with a requirement imposed on it by this regulation is liable to a penalty of £1,000 in relation to each requirement.

(10) For the purposes of this regulation—

- (a) “disposal” has the same meaning as in Directive [2008/98/EC](#) on waste <sup>M7</sup>;
- (b) “local authority collected municipal waste” has the meaning given in section 21(4) <sup>M8</sup> of the Waste and Emissions Trading Act 2003;
- (c) “monitored year” means a year beginning with 1st April in any of 2013 to 2019;
- (d) “recovery” has the same meaning as in Directive [2008/98/EC](#) on waste;
- (e) “waste” has the meaning given in section 37 <sup>M9</sup> of the Waste and Emissions Trading Act 2003;
- (f) “waste collection authority” has the same meaning as in Part 2 of the Environmental Protection Act 1990 <sup>M10</sup>; and
- (g) “waste facility” means a facility for the disposal or recovery of waste other than a landfill.

#### Marginal Citations

**M6** [S.I. 2005/895](#), amended by [S.I. 2005/1673](#) and 2011/988.

**M7** OJ No L 312, 22.11.2008, p 3.

**M8** [Section 21\(4\)](#) was substituted by [S.I. 2011/2499](#), [regulations 2](#) and 6(2)(c).

**M9** [Section 37\(2\)](#) was substituted by [S.I. 2011/988](#), [regulation 48\(3\)](#) and Part 1, paragraph 6 of Schedule 4.

**M10** See section 30(3).

#### Penalties

5.—(1) Where a waste disposal authority is liable to a penalty under regulation 4—

- (a) the penalty, and any interest on it, is to be paid to the Secretary of State;

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- (b) the Secretary of State may—
- (i) extend the time for paying the whole or part of the penalty or any interest on it;
  - (ii) relieve the waste disposal authority, in whole or in part, from liability to the penalty or any interest on it.
- (2) Relief under paragraph (1)(b) may be given—
- (a) in respect of an amount after (as well as before) it becomes due;
  - (b) in a particular case or in cases of a particular description;
  - (c) subject to conditions.
- (3) The Secretary of State must assess the amount of the penalty that is to be paid by the waste disposal authority, taking account of any relief that may be given under paragraph (1)(b).
- (4) Payment of the amount of the penalty that is assessed by the Secretary of State under paragraph (3) is due one month after the date on which the waste disposal authority receives notification of that amount by the Secretary of State (“the due date”).
- (5) Where a waste disposal authority does not pay the amount of the penalty in full by the due date, the authority is liable to pay interest on any outstanding amount of that penalty for the period which—
- (a) begins with the due date; and
  - (b) ends with the day before the day on which the penalty is paid in full.
- (6) Interest under this regulation is payable at a rate of one percentage point above LIBOR on a day-to-day basis.
- (7) Where a waste disposal authority receives notification of the amount of the penalty that is to be paid to the Secretary of State under paragraph (4) that amount and any interest incurred under paragraph (5) is recoverable as if it were a civil debt.
- (8) In paragraph (6) “LIBOR” means the sterling three month London interbank offered rate in force during the period between—
- (a) the due date; and
  - (b) the date on which the penalty is paid in full.

#### **Obligation for Environment Agency to monitor biodegradable local authority collected municipal waste**

6. The Environment Agency must—
- (a) monitor how much biodegradable local authority collected municipal waste is sent to landfills in pursuance of arrangements made by waste disposal authorities in England;
  - (b) monitor the performance of waste disposal authorities in complying with their obligations under regulation 4;
  - (c) notify the Secretary of State without delay of any case where it appears to the Environment Agency that a waste disposal authority is or may be liable to a penalty under regulation 4;
  - (d) co-operate with any monitoring authority appointed under section 10(1) of the Waste and Emissions Trading Act 2003.

#### **Revocations**

7. The instruments in the following table are revoked to the extent specified.

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<i>Instruments</i>	<i>References</i>	<i>Extent of revocation</i>
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The Landfill Allowances and Trading Scheme (England) Regulations 2004	S.I. 2004/3212	The whole of the Regulations.
The Landfill Allowances and Trading Scheme (England) (Amendment) Regulations 2005	S.I. 2005/880	The whole of the Regulations.
The List of Wastes (England) Regulations 2005	S.I. 2005/895	Paragraphs 5 to 8 of Schedule 2.
The Joint Municipal Waste Management Strategies (Disapplication of Duties) (England) Regulations 2007	S.I. 2007/63	Regulation 2(b)(ii).
The Joint Waste Authorities (Proposals) Regulations 2009	S.I. 2009/105	Paragraph 8 of Schedule 2.
The Waste (England and Wales) Regulations 2011	S.I. 2011/988	Paragraph 18 of Schedule 4.
The Waste and Emissions Trading Act 2003 (Amendment) Regulations 2011	S.I. 2011/2499	Part 3.

### Savings

**8.—**(1) Nothing in these Regulations affects the operation of the Waste and Emissions Trading Act 2003 and the Landfill Allowances and Trading Scheme (England) Regulations 2004 in relation to—

- (a) the 2012/2013 scheme year; or
- (b) the reconciliation, following the end of the 2012/2013 scheme year, of the allowances available to waste disposal authorities with the amount of biodegradable local authority collected municipal waste sent to landfills by the waste disposal authority.

(2) In this regulation “scheme year” has the meaning given in section 23(1)<sup>M11</sup> of the Waste and Emissions Trading Act 2003.

#### Marginal Citations

**M11** Section 23(1) was substituted by S.I. 2004/1936, [regulation 2](#).

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Department for Environment, Food and Rural  
Affairs  
24th January 2013

*de Mauley*  
Parliamentary Under Secretary of State

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend Chapter 1 of Part 1 of the Waste and Emissions Trading Act 2003 (c. 33) (“the 2003 Act”) as regards the Secretary of State's functions in England and revoke the Landfill Allowances and Trading Scheme (England) Regulations 2004 (S.I. 2004/3212). This brings the landfill allowances trading scheme to an end in England. Regulations 3, 7 and 8 provide for these amendments with revocations and savings provisions in respect of the period for reconciling landfill allowances in relation to the 2012/13 scheme year.

Regulation 4 sets out obligations for waste disposal authorities in England to keep records and make returns to the Environment Agency in respect of local authority collected municipal waste for the purpose of implementing Article 11(2) of Council Directive [2008/98/EC](#) on waste (OJ No L 312, 22.11.2008, p 3) and these records may also be used for the purpose of implementing Article 5(1) and (2) of Council Directive [1999/31/EC](#) on the landfill of waste (OJ No L 182, 16.7.1999, p 1). Regulation 5 makes provision for penalties associated with those obligations and regulation 6 imposes monitoring duties on the Environment Agency.

An impact assessment of the effect that this instrument will have on the costs of business and the public sector is published at [www.legislation.gov.uk](http://www.legislation.gov.uk) alongside the Explanatory Memorandum and this instrument.

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