



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

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

#### **[<sup>F1</sup>44A National waste strategy: England and Wales.**

- [<sup>F2</sup>(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—

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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.
- [<sup>F3</sup>(8A) The Environment Agency shall publicise any direction given to it under subsection (6) above in such manner as it considers appropriate.]
- (9) In this section—
- “local planning authority” has the same meaning as in the <sup>M1</sup>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 <sup>M2</sup>directive of the Council of the [<sup>F4</sup>European Union], dated 15th July 1975, on waste, as amended by—

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- (a) the <sup>M3</sup>directive of that Council, dated 18th March 1991, amending directive [75/442/EEC](#) on waste; and
- (b) the <sup>M4</sup>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 omitted (E.W.) (29.3.2011) by virtue of [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), [reg. 1\(2\)](#), [Sch. 4 para. 3\(5\)](#) (with [regs. 2, 47\(2\)](#))
- F3** 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](#))
- F4** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [arts. 2, 3, 4](#) (with [art. 3\(2\)\(3\)](#), [4\(2\)](#), [6\(4\)\(5\)](#))

#### Modifications etc. (not altering text)

- C4** 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.

#### <sup>F5</sup>**44B National waste strategy: Scotland.**

- [<sup>F6</sup>(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—

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- (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,
    - (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 <sup>M5</sup>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 <sup>M6</sup>directive of the Council of the [ <sup>F4</sup>European Union] dated 15th July 1975 on waste, as amended by—
- (a) the <sup>M7</sup>directive of that Council dated 18th March 1991 amending directive [75/442/EEC](#) on waste; and
  - (b) the <sup>M8</sup>directive of that Council dated 23rd December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment.]

#### Textual Amendments

- F4** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011](#) (S.I. 2011/1043), arts. 2, 3, 4 (with art. 3(2)(3), 4(2), 6(4)(5))
- F5** 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
- F6** 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)}

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**Modifications etc. (not altering text)**

**C5** 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.

**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; <sup>[F7]</sup>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. <sup>[F8]</sup>; and
  - (c) if requested by the occupier of premises in its area to collect from the premises dry recyclable waste or food waste presented for collection in accordance with section 34(2E) or (2F), to arrange for the collection of the waste.]

<sup>[F9]</sup>(1A) In subsection (1)(c), the reference to “dry recyclable waste or food waste” does not include—

- (a) household waste; and
  - (b) food waste from premises in a rural area.]
- (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—

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- (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;
  - (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 <sup>M9</sup>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—
- <sup>F10</sup>(a) the said section 2 conferred a power on a waste collection authority rather than a duty on <sup>F11</sup>Scottish Water] ;
  - (b) in the said section 3—
    - (i) references to <sup>F11</sup>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 <sup>F11</sup>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 <sup>F11</sup>Scottish Water] were a reference to a waste collection authority,]
- and the <sup>M10</sup>Pipe-lines Act 1962 shall not apply to pipes and associated works provided or to be provided under the said subsection (7)(a).
- <sup>F12</sup>(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

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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) [<sup>F13</sup>In this section—

“privy” means a latrine which has a moveable receptacle;

“cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings; and

“rural area” has the same meaning as in section 34(4B).]

#### Textual Amendments

- F7** Word in s. 45(1)(a) omitted (S.) (17.5.2012) by virtue of [The Waste \(Scotland\) Regulations 2012 \(S.S.I. 2012/148\)](#), regs. 1(1), **2(4)(a)(i)**
- F8** S. 45(1)(c) and word inserted (S.) (17.5.2012) by [The Waste \(Scotland\) Regulations 2012 \(S.S.I. 2012/148\)](#), regs. 1(1), **2(4)(a)(ii)**
- F9** S. 45(1A) inserted (S.) (17.5.2012) by [The Waste \(Scotland\) Regulations 2012 \(S.S.I. 2012/148\)](#), regs. 1(1), **2(4)(b)**
- F10** 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)**
- F11** 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)**
- F12** 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)**
- F13** S. 45(12) substituted (S.) (17.5.2012) by [The Waste \(Scotland\) Regulations 2012 \(S.S.I. 2012/148\)](#), regs. 1(1), **2(4)(c)**

#### 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.

### [<sup>F14</sup>45A [<sup>F15</sup>England: 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)
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- (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

**F14** S. 45A inserted (E.W.) (30.12.2003) by [Household Waste Recycling Act 2003 \(c. 29\)](#), **ss. 1, 5(2)**

**F15** Words in s. 45A heading substituted (18.10.2023) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), s. 88(3) (b), **Sch. 2 para. 14(2)**; S.I. 2023/1096, art. 2(e)

#### [<sup>F16</sup>45AAWales: separate collection etc. of waste

- (1) Where a waste collection authority in Wales arranges for the collection of controlled waste in its area under section 45, it must arrange for the waste to be collected in accordance with any applicable separation requirements.
- (2) A person acting in the course of a business who—
- (a) collects controlled waste from premises in Wales, or
  - (b) receives, keeps, treats or transports controlled waste in Wales,
- must do so in accordance with any applicable separation requirements.
- (3) For the purposes of subsection (2), a person is acting in the course of a business if the person is—
- (a) carrying on any business or undertaking, whether for profit or not, or
  - (b) exercising any functions of a public nature.
- (4) An occupier of premises in Wales who presents controlled waste for collection (whether by a waste collection authority or by any other person) must do so in accordance with any applicable separation requirements.
- (5) Subsection (4) does not apply to an occupier of premises within paragraph (a) or (b) of section 75(5) (domestic property and caravans).
- (6) A separation requirement is a requirement to take steps specified in regulations made by the Welsh Ministers for the purpose of ensuring or maintaining the separation of one or more types of waste from other types of waste or from other substances or articles.
- (7) A separation requirement is applicable in the circumstances specified in relation to that requirement in regulations made by the Welsh Ministers.



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- (8) A person commits an offence if the person fails without reasonable excuse to comply with subsection (2) or (4).
- (9) A person who commits an offence under subsection (8) is liable on summary conviction, or on conviction on indictment, to a fine.
- (10) The Welsh Ministers may by regulations make provision (which may include provision amending this section)—
  - (a) for subsection (1) or (2) to apply subject to exceptions;
  - (b) for subsection (4) to apply subject to exceptions in addition to those in subsection (5).
- (11) Regulations under this section may make different provision for different purposes, different cases (including different persons, premises or types of waste) and different areas.

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**Textual Amendments**

**F16** Ss. 45AA, 45AB inserted (E.W.) (18.10.2023) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 65**, [88\(3\)\(b\)](#); [S.I. 2023/1096](#), [art. 2\(a\)](#)

**45AB Code of practice**

- (1) The Welsh Ministers may issue one or more codes of practice for the purpose of giving practical guidance about how to comply with requirements imposed by or under section 45AA.
- (2) The Welsh Ministers may revoke or revise a code of practice issued under this section.
- (3) Before issuing a code of practice (or revised code), the Welsh Ministers must consult such persons as they think appropriate.
- (4) Where the Welsh Ministers issue a code of practice (or revised code) they must—
  - (a) publish the code, and
  - (b) lay a copy before the National Assembly for Wales.
- (5) A code of practice issued under this section is admissible in evidence in any proceedings and must be taken into account by a court in determining any question to which it appears to the court to be relevant.]

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**Textual Amendments**

**F16** Ss. 45AA, 45AB inserted (E.W.) (18.10.2023) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 65**, [88\(3\)\(b\)](#); [S.I. 2023/1096](#), [art. 2\(a\)](#)

**<sup>F17</sup>45B Power to apply section 45A to Welsh waste collection authorities**

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### Textual Amendments

**F17** S. 45B omitted (18.10.2023) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\)](#), s. 88(3)(b), [Sch. 2 para. 14\(3\)](#); S.I. 2023/1096, art. 2(e)

### [<sup>F18</sup> 45C Separate collection of dry recyclable waste and food waste: Scotland

- (1) This section applies to a waste collection authority whose area is in Scotland (an “authority”) when the authority is making an arrangement in accordance with section 45(1)(a).
- (2) An authority must, from 1st January 2014, arrange for there to be provided to the occupier of every domestic property in its area such receptacles as will enable the separate collection of dry recyclable waste from the property.
- (3) An authority need not arrange for a receptacle to be provided under subsection (2) if—
  - (a) the property is in a rural area, and the authority considers that the separate collection of dry recyclable waste from the property would not be environmentally or economically practicable; or
  - (b) the authority considers that dry recyclable waste if not presented in a receptacle will be deposited at a bring site.
- [<sup>F19</sup>(4) An authority need not comply with subsection (2) to the extent that—
  - (a) it considers that—
    - (i) such non-compliance will not affect the potential of the waste to undergo preparing for re-use, recycling or other recovery operations, and
    - (ii) the resulting output will be of comparable quantity and quality to that achieved if subsection (2) were complied with, and
  - (b) it is satisfied that dry recyclable waste will not be mixed with other waste that cannot be recycled.]
- (5) An authority must, from 1st January 2016, arrange for there to be provided to the occupier of every domestic property in its area (apart from a property in a rural area)—
  - (a) a receptacle which enables the separate collection of food waste from the property; or
  - (b) where an authority is satisfied that the amount of food waste that will be collected is not significantly less than would be collected in a receptacle provided under paragraph (a), a receptacle which enables the occupier to present food waste and other biodegradable waste for collection.
- (6) An authority must, from 1st January 2014, take such steps as the authority considers reasonable to—
  - (a) promote separate collection (including the making of arrangements for the provision of a food waste receptacle); and
  - (b) promote recycling in any other manner.

(7) In this section—

“bring site” means any site (supervised or otherwise) where—

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- (a) an occupier of domestic property can deposit dry recyclable waste produced on that property in receptacles for one or more dry waste streams; and
- (b) waste so deposited is collected and transported separately by an authorised person (for which see section 34(3));  
“receptacle” has the same meaning as in section 46(10); and  
“rural area” has the same meaning as in section 34(4B).]

#### Textual Amendments

- F18** S. 45C inserted (S.) (17.5.2012) by [The Waste \(Scotland\) Regulations 2012 \(S.S.I. 2012/148\)](#), regs. 1(1), 2(5)
- F19** S. 45C(4) substituted (4.12.2020) by [The Waste \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/314\)](#), regs. 1(1), 2(4)

## 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.

[<sup>F20</sup>(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 [<sup>F21</sup>waste which is to be recycled and waste which is not][<sup>F21</sup>dry recyclable waste, any dry waste stream, food waste, or any other waste which is to be recycled].

(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.

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- (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;
  - (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; [<sup>F22</sup>and]
  - (e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.
  - [<sup>F23</sup>(f) the removal of the receptacles placed for the purpose of facilitating the emptying of them; and]
  - [<sup>F23</sup>(g) the time when the receptacles must be placed for that purpose and removed.]
- (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.
- [<sup>F24</sup>(5A) A requirement imposed on an occupier by a waste collection authority in Wales by a notice under this section does not apply so far as the requirement duplicates or conflicts with a requirement imposed on the occupier under section 45AA(4).]
- (6) A person who fails, without reasonable excuse, to comply with any requirements imposed [<sup>F25</sup>by a waste collection authority in Scotland or Wales] under subsection (1), [<sup>F26</sup>(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

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- (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) [<sup>F27</sup>or (1A)] above.

[<sup>F28</sup>(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.]

#### Textual Amendments

- F20** 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))
- F21** Words in s. 46(2) substituted (S.) (17.5.2012) by [The Waste \(Scotland\) Regulations 2012 \(S.S.I. 2012/148\)](#), regs. 1(1), **2(6)**
- F22** Word in s. 46(4) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 3(3)(a)**; S.S.I. 2014/160, art. 2(1)(2), sch.
- F23** S. 46(4)(f)(g) added (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 3(3)(b)**; S.S.I. 2014/160, art. 2(1)(2), sch.
- F24** S. 46(5A) inserted (W.) (6.4.2024) by [The Waste Separation Requirements \(Wales\) Regulations 2023 \(S.I. 2023/1290\)](#), regs. 1(2), **8**
- F25** Words in s. 46(6) inserted (26.3.2015 for specified purposes, 15.6.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 58(2)**, 115(2)(c); S.I. 2015/994, art. 8
- F26** 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))
- F27** 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))
- F28** S. 46(11) inserted (E.W.) (26.1.2009) by [Climate Change Act 2008 \(c. 27\)](#), **ss. 76**, 100

#### Modifications etc. (not altering text)

- C6** S. 46 applied (with modifications) (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), **19**
- C7** 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**.

### [<sup>F29</sup>46A Written warnings and penalties for failure to comply with requirements relating to household waste receptacles: England

- (1) This section applies where an authorised officer of a waste collection authority in England is satisfied that—
- (a) a person has failed without reasonable excuse to comply with a requirement imposed by the authority under section 46(1), (3)(c) or (d) or (4) (a “section 46 requirement”), and
- (b) the person's failure to comply—
- (i) has caused, or is or was likely to cause, a nuisance, or

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- (ii) has been, or is or was likely to be, detrimental to any amenities of the locality.
- (2) Where this section applies, the authorised officer may give a written warning to the person.
- (3) A written warning must—
  - (a) identify the section 46 requirement with which the person has failed to comply,
  - (b) explain the nature of the failure to comply,
  - (c) explain how the failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b),
  - (d) if the failure to comply is continuing, specify the period within which the requirement must be complied with and explain the consequences of the requirement not being complied with within that period, and
  - (e) whether or not the failure to comply is continuing, explain the consequences of the person subsequently failing to comply with the same or a similar section 46 requirement.
- (4) Where a written warning has been given in respect of a failure to comply that is continuing, an authorised officer of the waste collection authority may require the person to whom the written warning was given to pay a fixed penalty to the authority if satisfied that the person has failed to comply with the section 46 requirement identified in the warning within the period specified by virtue of subsection (3)(d).
- (5) Where a person has been required to pay a fixed penalty under subsection (4) and that requirement has not been withdrawn on appeal, an authorised officer of the authority may require the person to pay a further fixed penalty to the authority if satisfied that the failure to comply is still continuing at the end of a relevant period which falls within the period of one year beginning with the day the written warning was given.
- (6) For the purposes of subsection (5)—
  - (a) a “relevant period” is a period beginning with the day a final notice is served on the person under section 46C(5) in respect of the failure to comply that is continuing and ending with—
    - (i) where the person appeals against the requirement to pay a fixed penalty imposed by the final notice, the day on which the appeal that is the final appeal made by the person against the requirement is dismissed or withdrawn;
    - (ii) where the person does not appeal, the day on which the period for appealing expires;
  - (b) there is no relevant period where the person appeals as mentioned in paragraph (a)(i) and the requirement to pay the fixed penalty is withdrawn on appeal.
- (7) Where a written warning has been given, whether or not in respect of a failure to comply that is continuing, an authorised officer of the waste collection authority may require the person to whom the written warning was given to pay a fixed penalty to the authority if satisfied that, within the period of one year beginning with the day the written warning was given —
  - (a) the person has again failed without reasonable excuse to comply with the section 46 requirement identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b), or

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- (b) the person has failed without reasonable excuse to comply with a section 46 requirement that is similar to the one identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b).
- (8) An authorised officer may require a person to pay a fixed penalty under subsection (5) or (7) each time that the authorised officer is satisfied of the matters mentioned in the subsection.
- (9) An authorised officer imposing a requirement to pay a fixed penalty under subsection (4), (5) or (7) must act in accordance with section 46C.
- (10) A “fixed penalty” means a monetary penalty of an amount determined in accordance with section 46B.
- (11) An “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 purpose of giving written warnings and requiring payment of fixed penalties under this section;
  - (b) any person who, under arrangements made with the authority, has the function of giving such warnings and requiring such payments 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 warnings and requiring such payments.

#### Textual Amendments

**F29** Ss. 46A-46D inserted (26.3.2015 for specified purposes, 15.6.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\), ss. 58\(3\), 115\(2\)\(c\); S.I. 2015/994, art. 8](#)

#### **46B Amount of penalty under section 46A and recovery of penalty**

- (1) The amount of the monetary penalty that a person may be required to pay to a waste collection authority under section 46A is—
  - (a) the amount specified by the waste collection authority in relation to the authority's area, or
  - (b) if no amount is so specified, £60.
- (2) A waste collection authority may make provision for treating a fixed penalty under section 46A as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (3) The Secretary of State may by regulations make provision in connection with the powers conferred on waste collection authorities in England under subsections (1)(a) and (2).
- (4) Regulations under subsection (3) may (in particular)—
  - (a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;
  - (b) restrict the extent to which, and the circumstances in which, a waste collection authority may make provision under subsection (2).

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- (5) The Secretary of State may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).
- (6) A fixed penalty under section 46A—
  - (a) is recoverable summarily as a civil debt;
  - (b) is recoverable as if it were payable under an order of the High Court or the county court, if the court in question so orders.

#### Textual Amendments

**F29** Ss. 46A-46D inserted (26.3.2015 for specified purposes, 15.6.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 58\(3\)](#), [115\(2\)\(c\)](#); S.I. 2015/994, [art. 8](#)

#### 46C Penalties under section 46A: procedure regarding notices of intent and final notices

- (1) Before requiring a person to pay a fixed penalty under section 46A, an authorised officer must serve on the person notice of intention to do so (a “notice of intent”) in accordance with subsections (2) to (4).
- (2) A notice of intent must contain information about—
  - (a) the grounds for proposing to require payment of a fixed penalty,
  - (b) the amount of the penalty that the person would be required to pay, and
  - (c) the right to make representations under subsection (3).
- (3) A person on whom a notice of intent is served may make representations to the authorised officer as to why payment of a fixed penalty should not be required.
- (4) Representations under subsection (3) must be made within the period of 28 days beginning with the day service of the notice of intent is effected.
- (5) In order to require a person to pay a fixed penalty under section 46A, an authorised officer must serve on the person a further notice (the “final notice”) in accordance with subsections (6) to (8).
- (6) A final notice may not be served on a person by an authorised officer before the expiry of the period of 28 days beginning with the day service of the notice of intent on the person was effected.
- (7) Before serving a final notice on a person, an authorised officer must consider any representations made by the person under subsection (3).
- (8) The final notice must contain information about—
  - (a) the grounds for requiring payment of a fixed penalty,
  - (b) the amount of the penalty,
  - (c) how payment may be made,
  - (d) the period within which payment is required to be made (which must not be less than the period of 28 days beginning with the day service of the final notice is effected),
  - (e) any provision giving a discount for early payment made by virtue of section 46B(2),
  - (f) the right to appeal under section 46D, and



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(g) the consequences of not paying the penalty.

#### Textual Amendments

**F29** Ss. 46A-46D inserted (26.3.2015 for specified purposes, 15.6.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 58(3)**, 115(2)(c); S.I. 2015/994, art. 8

### 46D Appeals against penalties under section 46A

- (1) A person on whom a final notice is served under section 46C may appeal to the First-tier Tribunal against the decision to require payment of a fixed penalty.
- (2) On an appeal under this section the First-tier Tribunal may withdraw or confirm the requirement to pay the fixed penalty.
- (3) The requirement to pay the fixed penalty is suspended pending the determination or withdrawal of the appeal that is the final appeal made by the person against the decision to require payment of the penalty.  
(This is subject to subsection (4).)
- (4) Where the requirement to pay the fixed penalty is confirmed at any stage in the proceedings on appeal, payment must be made before the end of the period of 28 days beginning with the day on which the requirement is so confirmed unless the person makes a further appeal before the end of that period.
- (5) The reference in subsection (4) to the requirement to pay the fixed penalty being confirmed on appeal includes a reference to an appeal decision confirming the requirement to pay the fixed penalty being upheld on a further appeal.]

#### Textual Amendments

**F29** Ss. 46A-46D inserted (26.3.2015 for specified purposes, 15.6.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 58(3)**, 115(2)(c); S.I. 2015/994, art. 8

### 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.

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- (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; [<sup>F30</sup>and]
  - (e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.
  - [<sup>F31</sup>(f) the removal of the receptacles placed for the purpose of facilitating the emptying of them; and]
  - [<sup>F31</sup>(g) the time when the receptacles must be placed for that purpose and removed.]
- (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—
- (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.
- [<sup>F32</sup>(5A) A requirement imposed on an occupier by a waste collection authority in Wales by a notice under this section does not apply so far as the requirement duplicates or conflicts with a requirement imposed on the occupier under section 45AA(4).]
- (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

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“specified” means specified in a notice under subsection (2) above.

#### Textual Amendments

- F30** Word in s. 47(4) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 3\(4\)\(a\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.
- F31** S. 47(4)(f)(g) added (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 3\(4\)\(b\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.
- F32** S. 47(5A) inserted (W.) (6.4.2024) by [The Waste Separation Requirements \(Wales\) Regulations 2023 \(S.I. 2023/1290\)](#), regs. 1(2), [9](#)

#### Modifications etc. (not altering text)

- C8** S. 47 applied (with modifications) (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3)-(5), [21](#)
- C9** 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](#).

### [<sup>F33</sup>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—
  - (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.

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- (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

**F33** 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](#)

#### **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 [<sup>F34</sup>—
- <sup>F35</sup>(i) .....  
(ii) <sup>F36</sup>...] 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.

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- (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

- F33** 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](#)
- F34** S. 47ZB(2)(b)(i)(ii) inserted (E.) (30.5.2012) by [The Environmental Protection Act 1990 \(Amendment of Fixed Penalty Amount\) \(England\) Order 2012 \(S.I. 2012/1150\)](#), arts. 1(b), 2
- F35** S. 47ZB(2)(b)(i) omitted (26.3.2015 for specified purposes, 15.6.2015 in so far as not already in force) by virtue of [Deregulation Act 2015 \(c. 20\)](#), [ss. 58\(4\)\(a\), 115\(2\)\(c\)](#); [S.I. 2015/994, art. 8](#)
- F36** Words in s. 47ZB(2)(b)(ii) omitted (26.3.2015 for specified purposes, 15.6.2015 in so far as not already in force) by virtue of [Deregulation Act 2015 \(c. 20\)](#), [ss. 58\(4\)\(b\), 115\(2\)\(c\)](#); [S.I. 2015/994, art. 8](#)

#### [<sup>F37</sup> 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.]

#### Textual Amendments

- F37** S. 47A inserted (E.W.) (30.12.2003) by [Household Waste Recycling Act 2003 \(c. 29\)](#), [ss. 3, 5\(2\)](#)

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*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 20 April 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) View outstanding changes*

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#### **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.

[<sup>F38</sup>(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 <sup>F39</sup> . . . arrangements, as respects household waste or commercial waste in its area or any part of its area, <sup>F39</sup> . . . 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 <sup>F40</sup> . . . provide plant and equipment for the sorting and baling of waste retained by the authority under subsection (2) above.

(7) <sup>F41</sup> . . . . .

(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.

#### **Textual Amendments**

**F38** 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**

**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 20 April 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) [View outstanding changes](#)

- F39** 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\(d\)](#)
- F40** 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\(d\)](#)
- F41** 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.

**F42** .....

#### Textual Amendments

- F42** 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](#)

**F43** **50** .....

#### Textual Amendments

- F43** 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—
- for the disposal of the controlled waste collected in its area by the waste collection authorities; and
  - 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;

**F44** .....

- (2) The arrangements made by a waste disposal authority under subsection (1)(b) above shall be such as to secure that—
- each place is situated either within the area of the authority or so as to be reasonably accessible to persons resident in its area;
  - 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);

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- (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) <sup>F45</sup> .....
  - (c) <sup>F45</sup> .....
  - (d) <sup>F45</sup> .....
  - (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.
- [<sup>F46</sup>(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) <sup>F45</sup> .....
- (6) <sup>F45</sup> .....
- (7) Subsection (1) above is subject to section 77.
- (8) This section shall not apply to Scotland.



**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 20 April 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) View outstanding changes

### Textual Amendments

- F44** 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\(d\)](#)
- F45** 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\(d\)](#)
- F46** 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

[<sup>F47</sup>(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.

[<sup>F48</sup>(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)  
<sup>F49</sup>....]

[<sup>F50</sup>(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

[<sup>F51</sup>(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],

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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.
- [<sup>F52</sup>(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 [<sup>F53</sup>in Wales] a duty to make payments corresponding to the payments which are authorised by [<sup>F54</sup>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 [<sup>F55</sup>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 [<sup>F56</sup>subsections (1)(b), (2)(b), (3)(b), (4)(b)] and (5) above.
- [<sup>F57</sup>(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.

(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.

[<sup>F58</sup>(12) In this section, references to recycling waste include re-using it (whether or not the waste is subjected to any process).]

**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 20 April 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) View outstanding changes

### 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

- F47** 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](#)
- F48** 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](#)
- F49** Words in s. 52(1A) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 13 para. 6\(25\)](#); S.I. 2015/994, [art. 6\(g\)](#)
- F50** 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](#)
- F51** 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](#)
- F52** 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](#)
- F53** 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](#)
- F54** 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](#)
- F55** 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](#)
- F56** 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](#)
- F57** 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](#)
- F58** 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)

- C10** 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 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

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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.

#### **Extent Information**

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

**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 20 April 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) [View outstanding changes](#)

#### 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.

#### [<sup>F59</sup>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.]

#### Textual Amendments

- F59** 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](#)

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### 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) <sup>F60</sup>, (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 <sup>F61</sup> . . . by which matter is so removed—
  - (a) to deliver the matter, in accordance with any directions of [<sup>F62</sup>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 [<sup>F62</sup>Scottish Water] or another person so specified;
  - (b) to give to [<sup>F62</sup>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 [<sup>F62</sup>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 [<sup>F62</sup>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; and anything delivered to [<sup>F63</sup>Scottish Water] under that subsection shall belong to [<sup>F62</sup>Scottish Water] and may be dealt with accordingly.
- (5A) <sup>F64</sup> . . . . .
- (6) This section applies to Scotland only.

**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 20 April 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) View outstanding changes

#### Textual Amendments

- F60** 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\(3\)](#)
- F61** 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](#)
- F62** 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\(3\)](#)
- F63** 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\(3\)](#)
- F64** 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.

### <sup>F65</sup>54 Special provisions for land occupied by disposal authorities: Scotland.

#### Textual Amendments

- F65** S. 54 repealed (1.4.2015 for S.) by [Environment Act 1995 \(c. 25\)](#), s. 125(3), [Sch. 24](#) (with [ss. 7\(6\)](#), [115](#), [117](#)); [S.S.I. 2015/73](#), [art. 2\(2\)\(b\)](#)

### 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—
- make arrangements <sup>F66</sup> . . . 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;
  - make arrangements <sup>F66</sup> . . . to use waste for the purpose of producing from it heat or electricity or both;
  - buy or otherwise acquire waste with a view to its being recycled;
  - 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—
- buy or otherwise acquire waste with a view to recycling it;
  - 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.

*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 20 April 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) View outstanding changes*

### Textual Amendments

**F66** 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

**I9** 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

**I10** 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 [<sup>F67</sup>environmental permit authorising a waste operation] to accept and keep, or accept and treat or dispose of, [<sup>F68</sup>waste] at specified places on specified terms.
  - (2) The Secretary of State may, by notice in writing, direct any person who is keeping [<sup>F68</sup>waste] on any land to deliver the waste to a specified person on specified terms  
<sup>F69</sup>....
- [<sup>F70</sup>(2A) The appropriate Minister may, by notice in writing—
- (a) direct a registered waste carrier to collect waste which is being kept on specified land and deliver it to a specified person on specified terms;
  - (b) direct any person who—
    - (i) is keeping waste on any land, or
    - (ii) owns or occupies land on which waste is being kept,
 to facilitate collection of the waste by a specified registered waste carrier to whom a direction in respect of the waste is given under paragraph (a).]



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- (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 [<sup>F71</sup>in relation to] the waste.
- [<sup>F72</sup>(4A) A direction under subsection (2A)(b) may require the person to whom it is given—
- (a) to pay to the specified registered waste carrier the reasonable costs of collecting and delivering the waste;
  - (b) to pay to the specified person to whom the waste is delivered (“P”) the reasonable costs incurred by P in relation to the waste (including any costs P is required by a direction under this section to pay to another person).]
- (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 [<sup>F73</sup>pay any costs mentioned in subsection (4).]
- [<sup>F74</sup>(7A) The appropriate Minister may pay any costs mentioned in subsection (4A).]
- [<sup>F75</sup>(8) In this section—
- [<sup>F76</sup>“appropriate Minister” means—
  - (a) the Secretary of State, in relation to waste being kept on land in England, and
  - (b) the Welsh Ministers, in relation to waste being kept on land in Wales;
- “registered waste carrier” means a person registered under the Control of Pollution (Amendment) Act 1989 as a carrier of controlled waste;]
- “specified” means specified in a direction under this section; and
- [<sup>F77</sup>“waste” means anything that is waste within the meaning of Article 3(1) of [<sup>F78</sup>the Waste Framework Directive][<sup>F79</sup>, as read with Articles 5 and 6 of that Directive,] including anything excluded from the scope of that Directive by Article 2(1)(f) or 2(2)(b) or (c), but not including anything excluded by the remainder of that Article]]

#### Textual Amendments

- F67** 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)
- F68** 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)
- F69** Words in s. 57(2) omitted (E.W.) (9.1.2022) by virtue of [Environment Act 2021 \(c. 30\)](#), s. 147(2)(h), **Sch. 10 para. 3(2)** (with s. 144)
- F70** S. 57(2A) inserted (E.W.) (9.1.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(2)(h), **Sch. 10 para. 3(3)** (with s. 144)
- F71** Words in s. 57(4) substituted (E.W.) (9.1.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(2)(h), **Sch. 10 para. 3(4)** (with s. 144)

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- F72** S. 57(4A) inserted (E.W.) (9.1.2022) by Environment Act 2021 (c. 30), s. 147(2)(h), **Sch. 10 para. 3(5)** (with s. 144)
- F73** Words in s. 57(7) substituted (E.W.) (9.1.2022) by Environment Act 2021 (c. 30), s. 147(2)(h), **Sch. 10 para. 3(6)** (with s. 144)
- F74** S. 57(7A) inserted (E.W.) (9.1.2022) by Environment Act 2021 (c. 30), s. 147(2)(h), **Sch. 10 para. 3(7)** (with s. 144)
- F75** 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)**
- F76** Words in s. 57(8) inserted (E.W.) (9.1.2022) by Environment Act 2021 (c. 30), s. 147(2)(h), **Sch. 10 para. 3(8)** (with s. 144)
- F77** Words in s. 57(8) substituted (E.W.) (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), **reg. 1(2)**, **Sch. 4 para. 3(6)** (with regs. 2, 47(2))
- F78** Words in s. 57(8) substituted (E.W.) (20.3.2019) by The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/620), **regs. 1(2)(a)**, **2(4)**
- F79** Words in s. 57(8) inserted (E.W.) (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/620), **regs. 1(2)(b)**, **5(2)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Modifications etc. (not altering text)

- C11** 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

- I11** 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**)

## 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 [<sup>F103</sup>any waste management operator] 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.
- [<sup>F104</sup>(3A) A direction under subsection (1) may only be given for the purpose of protecting the environment or human health.]
- (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

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**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 20 April 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) [View outstanding changes](#)

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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.

[<sup>F105</sup>(7A) In subsection (6) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

[<sup>F106</sup>(8) In this section—

- (a) “authorisation” includes—
  - (i) any authorisation, permit, licence, registration or notification;
  - (ii) an exemption (whether or not subject to conditions or limitations) from a requirement to have or make an authorisation, permit, licence, registration or notification;
  - (iii) a requirement to comply with general binding rules, conditions or limitations;
- (b) “specified” means specified in a direction under this section;
- (c) “waste management operation” means the deposit, disposal, management, recovery or treatment of waste;
- (d) “waste management operator” means a person—
  - (i) to whom an authorisation to carry on a waste management operation has been granted or transferred; or
  - (ii) carrying on a waste management operation in accordance with an authorisation.]

#### Extent Information

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

#### Textual Amendments

- F103** Words in s. 57(1) substituted (S.) (23.10.2019) by [The Environmental Protection Act 1990 Amendment \(Scotland\) Regulations 2019 \(S.S.I. 2019/332\)](#), regs. 1(1), **2(a)**
- F104** S. 57(3A) inserted (S.) (23.10.2019) by [The Environmental Protection Act 1990 Amendment \(Scotland\) Regulations 2019 \(S.S.I. 2019/332\)](#), regs. 1(1), **2(b)**
- F105** S. 57(7A) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **sch. 3 para. 40(3)**; S.S.I. 2014/160, art. 2(1)(2), sch.
- F106** S. 57(8) substituted (S.) (23.10.2019) by [The Environmental Protection Act 1990 Amendment \(Scotland\) Regulations 2019 \(S.S.I. 2019/332\)](#), regs. 1(1), **2(c)**

#### Modifications etc. (not altering text)

- C11** 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

- I11** 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

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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 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 [<sup>F80</sup>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 [<sup>F81</sup>or regulation 12 of [<sup>F82</sup>the Environmental Permitting 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 [<sup>F83</sup>one-tenth of level 5 on the standard scale][<sup>F83</sup>one-tenth of the greater of £5,000 or level 4 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.

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- (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 [<sup>F84</sup>or regulation 12 of [<sup>F82</sup>the Environmental Permitting 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 [<sup>F85</sup>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;
- 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.
- [<sup>F86</sup>(8A) An authority may not recover costs under subsection (8) above if [<sup>F87</sup>a compensation order (within the meaning given by section 133 of the Sentencing Code) has been made] 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.]
- [<sup>F88</sup>(8C) An authority may not recover costs under subsection (8) above if a compensation order has been made under section 249 of the Criminal Procedure (Scotland) Act 1995 in favour of the authority in respect of any part of those costs.]
- [<sup>F88</sup>(8D) Subsection (8C) does not apply if the compensation 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

- F80** 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)}
- F81** 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)
- F82** Words in s. 59(1)(7) substituted (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), regs. 1(1)(b), 107, **Sch. 26 para. 5(4)(c)** (with Sch. 4)
- F83** Words in s. 59(5) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 3 para. 6(2)** (with reg. 5(1))
- F84** 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)

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- F85** 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\(i\)](#)
- F86** 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\(b\)](#)
- F87** Words in s. 59(8A) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 118 \(with Sch. 27\); S.I. 2020/1236, reg. 2](#)
- F88** S. 59(8C)(8D) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\), s. 61\(2\), sch. 3 para. 11\(3\); S.S.I. 2014/160, art. 2\(1\)\(2\), sch.](#)

**Modifications etc. (not altering text)**

- C12** S. 59 applied (with modifications) (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\), ss. 1\(3\)-\(5\), 25](#)
- C13** S. 59: amendment to earlier affecting provision [London Local Authorities Act 2007 \(c. ii\), s. 25 \(27.5.2012\)](#) by [London Local Authorities Act 2012 \(c. ii\), ss. 1\(3\), 17\(2\)](#)

**[<sup>F89</sup>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 [<sup>F90</sup>or regulation 12 of [<sup>F91</sup>the Environmental Permitting Regulations],] and—
  - (a) there is no occupier of the land, or
  - (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 (4) 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.]

**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 20 April 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) View outstanding changes

#### Textual Amendments

- F89** 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)**
- F90** 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)
- F91** Words in s. 59ZA(2) substituted (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), regs. 1(1)(b), 107, **Sch. 26 para. 5(4)(d)** (with Sch. 4)

#### [<sup>F92</sup>59ZBPowers to require removal of waste unlawfully kept or disposed of: England and Wales

- (1) Subsection (2) applies if any controlled waste or extractive waste is kept or disposed of in or on any land in the area of an authority in contravention of section 33(1) or regulation 12 of the Environmental Permitting Regulations.
- (2) The authority may, by notice served on the occupier, require the occupier to do one or both of the following—
  - (a) remove the waste from the land within a specified period of not less than 21 days beginning with the service of the notice;
  - (b) take within such a period specified steps with a view to eliminating or reducing the consequences of the keeping or disposal of the waste.
- (3) A person on whom a requirement is imposed under subsection (2) may, within 21 days beginning with the service of the notice, appeal against the requirement to a magistrates' court.
- (4) On any appeal under subsection (3), the court must quash the requirement if it is satisfied that—
  - (a) the appellant did not keep or dispose of, or knowingly cause or knowingly permit the keeping or disposal of, the waste, or
  - (b) there is a material defect in the notice,and in any other case may modify the requirement or dismiss the appeal.
- (5) Where a person appeals against a requirement imposed under subsection (2), the requirement has 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.
- (6) If a person on whom a requirement imposed under subsection (2) fails, without reasonable excuse, to comply with the requirement, that person is liable, on summary conviction, to a fine.
- (7) Where a person on whom a requirement has been imposed under subsection (2) by an authority fails to comply with the requirement, the authority may do what that person was required to do and may recover from that person any expenses reasonably incurred by the authority in doing it.
- (8) If it appears to an authority that controlled waste or extractive waste has been kept or disposed of in or on any land in the authority's area in contravention of section 33(1) or regulation 12 of the Environmental Permitting 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 that steps are

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- taken to eliminate or reduce the consequences of the keeping or disposal, or both,
- (b) there is no occupier of the land or the occupier cannot be found without the authority incurring unreasonable expense, or
  - (c) the occupier did not keep or dispose of, or knowingly cause or knowingly permit the keeping or disposal of, the waste,
- the authority may remove the waste from the land, or take steps to eliminate or reduce the consequences of the keeping or disposal of the waste, or both.
- (9) Where an authority exercises any of the powers conferred on it by subsection (8), it is 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 (8)(a), from the occupier of the land, unless the occupier proves that the occupier did not keep or dispose of, or knowingly cause or knowingly permit the keeping or disposal of, the waste,
  - (b) in any case, from any person who kept or disposed of, or knowingly caused or knowingly permitted the keeping or disposal of, the waste,
- except such of the cost as the occupier or that person shows was incurred unnecessarily.
- (10) An authority may not recover costs under subsection (9) if <sup>F93</sup> a compensation order (within the meaning given by section 133 of the Sentencing Code) has been made] in favour of the authority in respect of any part of those costs.
- (11) Subsection (10) does not apply if the compensation order is set aside on appeal.
- (12) Any waste removed by an authority under subsection (8) belongs to that authority and may be dealt with accordingly.
- (13) Subsections (2) and (8) do not apply in relation to household waste from a domestic property which is kept or disposed of within the curtilage of that property by a person other than an establishment or undertaking.
- (14) In this section and section 59ZC, “authority” means—
- (a) a waste regulation authority in England or Wales, or
  - (b) a waste collection authority in England or Wales.

#### Textual Amendments

**F92** Ss. 59ZB, 59ZC inserted (E.W.) (9.5.2018) by [The Waste Enforcement \(England and Wales\) Regulations 2018 \(S.I. 2018/369\)](#), reg. 1(3), **Sch. 1 para. 2** (with reg. 4(2))

**F93** Words in s. 59ZB(10) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 119** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### **59ZC. Section 59ZB: supplementary power in relation to owner of land**

- (1) Where the grounds in subsection (2) or (3) are met, an authority may, by notice served on the owner of any land in its area, require the owner to comply with one or both of the requirements mentioned in section 59ZB(2)(a) or (b).
- (2) The grounds in this subsection are that it appears to the authority that controlled waste or extractive waste has been kept or disposed of in or on the land in contravention of section 33(1) or regulation 12 of the Environmental Permitting Regulations, and—



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- (a) there is no occupier of the land, or
  - (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 section 59ZB(2) 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) either—
    - (i) the occupier has failed to comply with the requirement mentioned in paragraph (a) within the period specified in the notice, or
    - (ii) the requirement mentioned in paragraph (a) has been quashed on the ground specified in section 59ZB(4)(a).
- (4) Section 59ZB(3) to (7) apply in relation to a requirement imposed under this section on the owner of the land as they apply in relation to a requirement imposed under that section on the occupier of land but as if in section 59ZB(4) 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”.
- (5) Subsection (1) does not apply in relation to household waste from a domestic property which is kept or disposed of within the curtilage of that property by a person other than an establishment or undertaking.
- (6) In this section, “owner” has the meaning given by section 78A(9).]

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#### Textual Amendments

**F92** Ss. 59ZB, 59ZC inserted (E.W.) (9.5.2018) by [The Waste Enforcement \(England and Wales\) Regulations 2018 \(S.I. 2018/369\)](#), reg. 1(3), [Sch. 1 para. 2](#) (with reg. 4(2))

#### [<sup>F94</sup>59A Directions in relation to exercise of powers under section 59 [<sup>F95</sup>, 59ZA, 59ZB or 59ZC]

- (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 [<sup>F96</sup>, 59ZA, 59ZB or 59ZC] 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 [<sup>F97</sup>, 59ZA, 59ZB or 59ZC] above.

[ A waste regulation authority shall publicise any direction given to it under <sup>F98</sup>(4) subsection (1) above in such manner as it considers appropriate.]]

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#### Textual Amendments

**F94** 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](#)

**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 20 April 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) View outstanding changes

- F95** Words in s. 59A heading inserted (E.W.) (9.5.2018) by [The Waste Enforcement \(England and Wales\) Regulations 2018 \(S.I. 2018/369\)](#), reg. 1(3), **Sch. 1 para. 3(a)** (with reg. 4(2))
- F96** Words in s. 59A(1) inserted (E.W.) (9.5.2018) by [The Waste Enforcement \(England and Wales\) Regulations 2018 \(S.I. 2018/369\)](#), reg. 1(3), **Sch. 1 para. 3(b)** (with reg. 4(2))
- F97** Words in s. 59A(3) inserted (E.W.) (9.5.2018) by [The Waste Enforcement \(England and Wales\) Regulations 2018 \(S.I. 2018/369\)](#), reg. 1(3), **Sch. 1 para. 3(b)** (with reg. 4(2))
- F98** 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—
- anything deposited at a place for the deposit of waste provided by a waste collection authority, by [<sup>F99</sup>or under arrangements made with a waste disposal authority or by any other local authority or person] ;
  - anything deposited in a receptacle for waste, whether for public or private use, provided by a waste collection authority, by [<sup>F100</sup>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]
  - 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—
- in the case of paragraph (a), the consent of the authority <sup>F101</sup> . . . or other person who provides the place for the deposit of the waste;
  - in the case of paragraph (b), the consent of the authority <sup>F101</sup> . . . or other person who provides the receptacle for the deposit of the waste;
  - 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

- F99** 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)**
- F100** 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)**

**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 20 April 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) View outstanding changes

**F101** 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\(d\)](#)

#### Commencement Information

**I12** 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)

**C14** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Commencement Information

**I12** 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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**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 20 April 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) [View outstanding changes](#)

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F102 **61** .....

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**Textual Amendments**

**F102** 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)

**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 20 April 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)