

*Draft Order laid before Parliament under section 235(6) and (7)(b) of the Localism Act 2011, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2015 No.**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Authorities (Prohibition of Charging Residents to Deposit Household Waste) Order 2015**

*Made* - - - - *\*\*\**

*Coming into force in accordance with article 1(2)*

The Secretary of State makes the following Order in exercise of the powers conferred by section 5(3) and (5) and 235(2) of the Localism Act 2011<sup>(1)</sup>.

In accordance with section 5(7) of that Act, the Secretary of State has consulted such local authorities, such representatives of local government and such other persons as he considers appropriate.

A draft of this Order was laid before and approved by resolution of each House of Parliament in accordance with sections 235(6) and (7)(b) of that Act.

**Citation and commencement**

1.—(1) This Order may be cited as the Local Authorities (Prohibition of Charging Residents to Deposit Household Waste) Order 2015.

(2) This Order shall come into force on the twenty eighth day after the day on which it is made.

**Interpretation**

2. In this Order—

“household waste” has the same meaning as in section 75 of the Environmental Protection Act 1990<sup>(2)</sup> as read with regulation 3 of, and Schedule 1 to, the Controlled Waste (England and Wales) Regulations 2012<sup>(3)</sup>; and

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(1) [2011 c.20](#).  
(2) [1990 c. 43](#). Section 75 was amended by section 120(1) and (3) of, and paragraphs 88 (1) to (4) of Schedule 22 and Schedule 24 to, the Environment Act 1995 ( c. 25), [S.I. 1994/1056](#), [S.I. 2005/894](#), [S.I. 2006/937](#), [S.I. 2011/988](#). There is other amending legislation in relation to Scotland. Modified by [S.I. 1994/1056](#), regulation 19, Schedule 4, Part I, paragraph 9, to include “Directive waste” as defined in regulation 1(3), Schedule 4, Part II of those Regulations.  
(3) [S.I. 2012/ 811](#), as amended by [S.I. 2012/2320](#).

“household waste recycling centre” means a place provided by a local authority<sup>(4)</sup> where persons resident in its area may deposit their household waste.

**Prohibition of local authorities using the general power of competence to charge residents at places where they may deposit household waste**

**3.—(1)** A local authority must not, in exercise of the general power, charge persons resident in its area to—

- (a) enter into, or exit from, a household waste recycling centre; or
- (b) deposit household waste at a household waste recycling centre.

**Transitional provision**

**4.—(1)** The prohibition contained in article 3, which prevents local authorities using the general power, does not apply in the relevant circumstances until 1st April 2020.

(2) In paragraph (1) the relevant circumstances are that immediately before this Order came into force a local authority was, in exercise of the general power, charging persons resident in its area to—

- (a) enter into, or exit from, a household waste recycling centre; or
- (b) deposit household waste at a household waste recycling centre.

Signed on behalf of the Secretary of State for Communities and Local Government

Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

Date

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(4) See section 8(1) of the Localism Act 2011 for the definitions of “local authority” and “the general power”.

## EXPLANATORY NOTE

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

This Order prohibits local authorities in England from using the general power of competence in section 1 of the Localism Act 2011 (“the 2011 Act”) for the purpose of charging residents to deposit their household waste at a place which has been provided for such residents to deposit household waste (a household waste recycling centre). Section 8 of the 2011 Act defines “local authority” and “the general power”. The Order also prohibits such authorities from using the general power to charge persons to enter into or exit from a household waste recycling centre.

Section 1 of the 2011 Act provides a general power for certain local authorities in England, giving them the same power to act that an individual generally has. Section 5(3) of the 2011 Act gives the Secretary of State the power to make an order restricting what a local authority may do under the general power.

Article 4 provides that where immediately before this Order comes into force a local authority, in exercise of the general power, charges persons resident in their area to enter to, or exit from a household waste recycling centre or to deposit household waste at such a centre the prohibition against them using the general power to make such charges does not apply until 1st April 2020.

This Order does not impact upon the arrangements that waste disposal authorities have a duty to make for the provision of places in order for residents to deposit their household waste without charge, under section 51(1)(b) of the Environmental Protection Act 1990.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.