

## SCHEDULES

### SCHEDULE 2

#### WASTE DISPOSAL AUTHORITIES AND COMPANIES

#### PART II

#### PROVISIONS REGULATING WASTE DISPOSAL AUTHORITIES AND COMPANIES

##### *Terms of waste disposal contracts*

- 18 A waste disposal authority shall, in determining the terms and conditions of any contract which the authority proposes to enter into for the keeping, treatment or disposal of waste, so frame the terms and conditions as to avoid undue discrimination in favour of one description of waste disposal contractor as against other descriptions of waste disposal contractors.
- 19 (1) A waste disposal authority shall have regard to the desirability of including in any contract which the authority proposes to enter into for the keeping, treatment or disposal of waste terms or conditions designed to—
- (a) minimize pollution of the environment or harm to human health due to the disposal or treatment of the waste under the contract; and
  - (b) maximize the recycling of waste under the contract.
- (2) A waste disposal authority shall be entitled—
- (a) to invite tenders for any such contract, and
  - (b) to accept or refuse to accept any tender for such a contract and accordingly to enter or not to enter into a contract,
- by reference to acceptance or refusal of acceptance by persons tendering for the contract of any terms or conditions included in the draft contract in pursuance of subparagraph (1) above.

##### *Procedure for putting waste disposal contracts out to tender*

- 20 (1) A waste disposal authority which proposes to enter into a contract for the keeping, treatment or disposal of controlled waste shall comply with the following requirements before making the contract and if it does not any contract which is made shall be void.
- (2) The authority shall publish, in at least two publications circulating among waste disposal contractors, a notice containing—
- (a) a brief description of the contract work;
  - (b) a statement that during a specified period any person may inspect a detailed specification of the contract work free of charge at a specified place and time;
  - (c) a statement that during that period any person will be supplied with a copy of the detailed specification on request and on payment of the specified charge;

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- (d) a statement that any person who wishes to submit a tender for the contract must notify the authority of his wish within a specified period; and
- (e) a statement that the authority intend to invite tenders for the contract, in accordance with sub-paragraph (4) below.

(3) The authority shall—

- (a) ensure that the periods, place and time and the charge specified in the notice are such as are reasonable;
- (b) make the detailed specification available for inspection in accordance with the notice; and
- (c) make copies of the detailed specification available for supply in accordance with the notice.

(4) If any persons notified the authority, in accordance with the notice, of their wish to submit tenders for the contract, the authority shall—

- (a) if more than four persons did so, invite at least four of them to tender for the contract;
- (b) if less than four persons did so, invite each of them to tender for the contract.

(5) In this paragraph—

“the contract work”, in relation to a contract for the keeping, treatment or disposal of waste, means the work comprising the services involved in the keeping, treatment or disposal of the waste under the contract; and

“specified” means specified in the notice under sub-paragraph (2) above.

21 A waste disposal authority, in taking any of the following decisions, namely—

- (a) who to invite to tender for the contract under paragraph 20(4)(a) above, and
- (b) who to enter into the contract with,

shall disregard the fact that any waste disposal contractor tendering for the contract is, or is not, controlled by the authority.

#### *Variation of waste disposal contracts*

22 Where a waste disposal authority has entered into a contract with a waste disposal contractor under the authority’s control, paragraph 18 above shall, with the necessary modifications, apply on any proposed variation of the contract during the subsistence of that control, in relation to the terms and conditions that would result from the variation as it applies to the original contract.

#### *Avoidance of restrictions on transfer of securities of companies*

23 (1) Subject to sub-paragraph (3) below, any provision to which this paragraph applies shall be void in so far as it operates—

- (a) to preclude the holder of any securities of a waste disposal contractor from disposing of those securities; or
- (b) to require the holder of any such securities to dispose, or offer to dispose, of those securities to particular persons or to particular classes of persons; or
- (c) to preclude the holder of any securities from disposing of those securities except—
  - (i) at a particular time or at particular times; or

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- (ii) on the fulfilment of particular conditions or in other particular circumstances.
- (2) This paragraph applies to any provision relating to any securities of a waste disposal contractor which is controlled by a waste disposal authority or to which the authority has transferred the relevant part of its undertaking and contained in—
- (a) the memorandum or articles of association of the company or any other instrument purporting to regulate to any extent the respective rights and liabilities of the members of the company;
  - (b) any resolution of the company; or
  - (c) any instrument issued by the company and embodying terms and conditions on which any such securities are to be held by persons for the time being holding them.
- (3) No provision shall be void by reason of its operating as mentioned in subparagraph (1) above if the Secretary of State has given his approval in writing to that provision.