



Waste and Emissions Trading Act 2003

2003 CHAPTER 33

PART 1

WASTE

CHAPTER 3

WASTE MANAGEMENT IN ENGLAND

31 Directions to waste collection authorities in England

- (1) Part 2 of the Environmental Protection Act 1990 (c. 43) (waste on land) is amended as follows.
- (2) In section 48 (duties of waste collection authorities as respects collected waste), after subsection (1) (collection authority to deliver collected waste to places directed by disposal authority) there is inserted—
 - “(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.”
- (3) In section 51 (functions of waste disposal authorities), after subsection (4) there is inserted—
 - “(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.

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- (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.”

(4) After section 52 there is inserted—

“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.”

Commencement Information

II S. 31 in force at 1.1.2005 by [S.I. 2004/3319](#), [art. 2](#)

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32 Joint municipal waste management strategies: England

- (1) The waste authorities for a two-tier area must, at all times after the end of the period of 18 months beginning with the day on which this Act is passed, have for the area a joint strategy for the management of—
 - (a) waste from households, and
 - (b) other waste that, because of its nature or composition, is similar to waste from households.
- (2) The waste authorities for a two-tier area must keep under review the policies formulated by them for the purposes of subsection (1).
- (3) The waste authorities for a two-tier area must, before formulating policy for the purposes of subsection (1), carry out such consultation as they consider appropriate.
- (4) The waste authorities for a two-tier area must set out in a statement any policy formulated by them for the purposes of subsection (1).
- (5) The waste authorities for a two-tier area must—
 - (a) when formulating policy for the purposes of subsection (1), and
 - (b) when preparing a statement under subsection (4),have regard to any guidance given by the Secretary of State.
- (6) The waste authorities for a two-tier area in Greater London must, when formulating policy for the purposes of subsection (1), have regard to the Mayor of London's municipal waste management strategy or, where that strategy has been revised, to that strategy as revised.
- (7) Where the waste authorities for a two-tier area prepare a statement under subsection (4)—
 - (a) they must take such steps as in their opinion will give adequate publicity in the area to the statement;
 - (b) they must send a copy of the statement—
 - (i) to each of the Secretary of State and the Environment Agency, and
 - (ii) if the area is in Greater London, to the Mayor of London;
 - (c) each of the authorities must keep a copy of the statement available at all reasonable times at one of its offices for inspection by the public free of charge; and
 - (d) each of the authorities must supply a copy of the statement to any person who requests one, on payment by the person of such reasonable charge as the authority requires.
- (8) Where subsection (1) is satisfied in relation to a two-tier area by policies set out in a statement prepared before the coming into force of that subsection—
 - (a) it does not matter that the policies were not formulated for the purposes of subsection (1), but
 - (b) subsection (2) shall apply as though the policies were formulated for the purposes of subsection (1).
- (9) Subsection (3) may be satisfied by consultation before, as well as by consultation after, the coming into force of that subsection.

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- (10) The Secretary of State may by regulations make provision for subsection (1) to apply, in relation to a two-tier area specified or described in the regulations, with the substitution for “18 months” of some longer period.
- (11) A statutory instrument that contains regulations under subsection (10) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In section 353 of the Greater London Authority Act 1999 (c. 29) (Mayor’s duty to prepare municipal waste management strategy), after subsection (3) there is inserted—
- “(3A) In revising the municipal waste management strategy the Mayor is to have regard to any strategies which authorities in Greater London have for the purposes of section 32 of the Waste and Emissions Trading Act 2003 (joint waste management strategies for areas where disposal authority is not also collection authority).”

Modifications etc. (not altering text)

- C1** S. 32(1)-(7) applied (with modifications) (E.) (1.1.2005) by [Joint Municipal Waste Management Strategies \(Disapplication of Duties\) \(England\) Regulations 2004 \(S.I. 2004/3242\)](#), regs. 1(1), 4
- C2** S. 32(1)-(7) restricted (E.) (1.1.2005) by [Joint Municipal Waste Management Strategies \(Disapplication of Duties\) \(England\) Regulations 2004 \(S.I. 2004/3242\)](#), regs. 1(1), 2, 3
- C3** S. 32(1)-(7) restricted (E.) (20.2.2007) by [The Joint Municipal Waste Management Strategies \(Disapplication of Duties\) \(England\) Regulations 2007 \(S.I. 2007/63\)](#), regs. 1(1), 2, 3
- C4** S. 32(1)-(7) applied (with modifications) (E.) (20.2.2007) by [The Joint Municipal Waste Management Strategies \(Disapplication of Duties\) \(England\) Regulations 2007 \(S.I. 2007/63\)](#), regs. 1(1), 4

Commencement Information

- I2** S. 32 partly in force; s. 32(10)(11) in force at Royal Assent; s. 32(1)-(9) in force 13.1.2004 see s. 40(6)
- I3** S. 32(12) in force at 1.1.2005 by [S.I. 2004/3320](#), [art. 2](#)

33 Power to disapply duties under section 32

- (1) The Secretary of State may by regulations make provision for a duty under section 32(1) to (7)—
- not to apply to an authority if conditions specified in the regulations are met;
 - not to apply to an authority if, on an application made in accordance with the regulations, the Secretary of State is satisfied that conditions specified in the regulations are met;
 - not to apply to the waste authorities for a two-tier area if, by reason of provision under paragraphs (a) and (b), it applies to one or more, but not all, of them;
 - not to apply to the waste authorities for a two-tier area if, on an application made in accordance with the regulations, the Secretary of State is satisfied that conditions specified in the regulations are met.
- (2) The power under paragraph (a) or (b) of subsection (1) must be exercised so that provision under that paragraph will cause a duty under section 32(1) to (7) not to apply to an authority only if—
- the standard of the authority’s performance in carrying out functions of its has been at, or above, a particular level, and

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- (b) that level is—
 - (i) the level that, in the Secretary of State’s opinion, counts as satisfactory performance, or
 - (ii) a level that, in his opinion, is higher than that level.
- (3) The power under paragraph (d) of subsection (1) must be exercised so that provision under that paragraph will cause a duty under section 32(1) to (7) not to apply to the waste authorities for a two-tier area only if—
 - (a) as respects at least one of the authorities, the standard of its performance in carrying out functions of its has been at, or above, a particular level, or
 - (b) as respects at least two of the authorities, each has so carried out functions of its that the overall standard of their performance in carrying out those functions has been at, or above, a particular level,and (in either case) that level is one mentioned in subsection (2)(b).
- (4) Subject to subsection (2), the conditions that may be specified under subsection (1)
 - (a) include (in particular) conditions that may be met only in the case of authorities that from time to time are, by reason of provision made by or under an enactment, of a particular category.
- (5) Regulations under subsection (1) may include—
 - (a) provision about the duration of any disapplication under that subsection of a duty;
 - (b) provision postponing the application of a duty on the coming to an end of a disapplication under that subsection of the duty;
 - (c) provision modifying the application of subsections (1) to (7) of section 32 in relation to a two-tier area where a duty under those subsections applies to one or more, but not all, of the waste authorities for the area.
- (6) A statutory instrument that contains regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A reference in subsection (2)(a) or (3)(a) or (b) to functions of an authority is to functions of the authority in any capacity (and not only to functions of its in its capacity as a waste disposal authority or waste collection authority).

34 Interpretation of Chapter 3

In this Chapter—

- (a) “two-tier area” means the area of a waste disposal authority in England which is not also a waste collection authority;
- (b) “the waste authorities” for a two-tier area are—
 - (i) the waste disposal authority for the area, and
 - (ii) the waste collection authorities within the area; and
- (c) “waste disposal authority” and “waste collection authority” have the same meaning as in Part 2 of the Environmental Protection Act 1990 (c. 43).

Changes to legislation:

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