



# Environment Act 2021

## 2021 CHAPTER 30

### PART 3

#### WASTE AND RESOURCE EFFICIENCY

##### *Managing waste*

PROSPECTIVE

#### **57 Separation of waste**

- (1) The Environmental Protection Act 1990 is amended as follows.
- (2) In section 30 (definitions of authorities), after subsection (4) insert—
  - “(4A) In this Part—
    - “English waste collection authority” means a waste collection authority whose area is in England;
    - “English waste disposal authority” means a waste disposal authority whose area is in England.”
- (3) In section 33ZA (fixed penalty notices), in subsection (12) omit the definition of “English waste collection authority”.
- (4) For section 45A substitute—

#### **“45A England: separate collection of household waste**

- (1) This section applies in relation to arrangements made under section 45(1)(a) for an English waste collection authority to collect household waste, unless they are arrangements in relation to which section 45AZA applies.
- (2) The arrangements must meet the conditions in subsections (3) to (8) (subject to any provision in regulations under section 45AZC).

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, Section 57. (See end of Document for details)*

- (3) The first condition is that recyclable household waste must be collected separately from other household waste.
- (4) The second condition is that recyclable household waste must be collected for recycling or composting.
- (5) The third condition is that recyclable household waste in each recyclable waste stream must be collected separately, except so far as provided by subsection (6).
- (6) Recyclable household waste in two or more recyclable waste streams may be collected together where—
  - (a) it is not technically or economically practicable to collect recyclable household waste in those recyclable waste streams separately, or
  - (b) collecting recyclable household waste in those recyclable waste streams separately has no significant environmental benefit (having regard to the overall environmental impact of collecting it separately and of collecting it together).
- (7) But recyclable household waste within subsection (10)(a) to (d) may not be collected together with recyclable household waste within subsection (10)(e) or (f).
- (8) The fourth condition is that recyclable household waste which is food waste must be collected at least once a week.
- (9) Household waste is “recyclable household waste” if—
  - (a) it is within any of the recyclable waste streams, and
  - (b) it is of a description specified in regulations made by the Secretary of State.
- (10) For the purposes of this section the recyclable waste streams are—
  - (a) glass;
  - (b) metal;
  - (c) plastic;
  - (d) paper and card;
  - (e) food waste;
  - (f) garden waste.

**45AZA England: separate collection of household waste from relevant non-domestic premises**

- (1) This section applies in relation to arrangements for household waste to be collected from relevant non-domestic premises in England by a person who, in collecting the waste—
  - (a) is acting in the course of a business (whether or not for profit), or
  - (b) is exercising a public function (including a function under section 45(1)(a)).
- (2) The arrangements must meet the conditions in subsections (3) to (7) (subject to any provision in regulations under section 45AZC).

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- (3) The first condition is that recyclable household waste must be collected separately from other household waste.
- (4) The second condition is that recyclable household waste must be collected for recycling or composting.
- (5) The third condition is that recyclable household waste in each recyclable waste stream must be collected separately, except so far as provided by subsection (6).
- (6) Recyclable household waste in two or more recyclable waste streams may be collected together where—
  - (a) it is not technically or economically practicable to collect recyclable household waste in those recyclable waste streams separately, or
  - (b) collecting recyclable household waste in those recyclable waste streams separately has no significant environmental benefit (having regard to the overall environmental impact of collecting it separately and of collecting it together).
- (7) But recyclable household waste within subsection (10)(a) to (d) may not be collected together with recyclable household waste within subsection (10)(e).
- (8) The person who presents household waste from the premises for collection under the arrangements must present it separated in accordance with the arrangements.

This subsection does not apply so far as the person is subject to an equivalent duty by virtue of a notice under section 46.
- (9) Household waste is “recyclable household waste” if—
  - (a) it is within any of the recyclable waste streams, and
  - (b) it is of a description specified in regulations made by the Secretary of State.
- (10) For the purposes of this section the “recyclable waste streams” are—
  - (a) glass;
  - (b) metal;
  - (c) plastic;
  - (d) paper and card;
  - (e) food waste.
- (11) For the purposes of this section “relevant non-domestic premises” means—
  - (a) a residential home;
  - (b) premises forming part of a university or school or other educational establishment;
  - (c) premises forming part of a hospital or nursing home;
  - (d) premises of a description specified in regulations made by the Secretary of State.
- (12) Regulations under subsection (11)(d) may not specify domestic properties (within the meaning of section 75(5)(a)).

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#### **45AZB England: separate collection of industrial or commercial waste**

- (1) This section applies in relation to arrangements for industrial or commercial waste to be collected from premises in England by a person who, in collecting the waste—
- (a) is acting in the course of a business (whether or not for profit), or
  - (b) is exercising a public function (including a function under section 45(1)(b) or (2)).

- (2) So far as they relate to waste which is similar in nature and composition to household waste (“relevant waste”) the arrangements must meet the conditions in subsections (3) to (7).

This is subject to any provision in regulations under section 45AZC.

- (3) The first condition is that recyclable relevant waste must be collected separately from other relevant waste.
- (4) The second condition is that recyclable relevant waste must be collected for recycling or composting.
- (5) The third condition is that recyclable relevant waste in each recyclable waste stream must be collected separately, except so far as provided by subsection (6).
- (6) Recyclable relevant waste in two or more recyclable waste streams may be collected together where—
  - (a) it is not technically or economically practicable to collect recyclable relevant waste in those recyclable waste streams separately, or
  - (b) collecting recyclable relevant waste in those recyclable waste streams separately has no significant environmental benefit (having regard to the overall environmental impact of collecting it separately and of collecting it together).
- (7) But recyclable relevant waste within subsection (10)(a) to (d) may not be collected together with recyclable relevant waste within subsection (10)(e).
- (8) The person who presents relevant waste from the premises for collection under the arrangements must present it separated in accordance with the arrangements.

This subsection does not apply so far as the person is subject to an equivalent duty by virtue of a notice under section 47.

- (9) Relevant waste is “recyclable relevant waste” if—
  - (a) it is within any of the recyclable waste streams, and
  - (b) it is of a description specified in regulations made by the Secretary of State.
- (10) For the purposes of this section the “recyclable waste streams” are—
  - (a) glass;
  - (b) metal;
  - (c) plastic;
  - (d) paper and card;

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- (e) food waste.

#### **45AZC Sections 45A to 45AZB: powers to exempt and extend**

- (1) The Secretary of State may by regulations provide—
- (a) for exemptions from the condition in section 45A(5), 45AZA(5) or 45AZB(5);
  - (b) for exemptions from the application of section 45AZA or 45AZB;
  - (c) for exemptions from the application of section 45AZA or 45AZB in relation to household waste or relevant waste in recyclable waste streams specified in the regulations.
- (2) The Secretary of State may exercise the power in subsection (1)(a) in relation to two or more recyclable waste streams only if satisfied that doing so will not significantly reduce the potential for recyclable household waste or recyclable relevant waste in those waste streams to be recycled or composted.
- (3) The Secretary of State may by regulations amend sections 45A to 45AZB so as to—
- (a) add further recyclable waste streams, and
  - (b) make provision about the extent to which recyclable household waste or recyclable relevant waste in any of those waste streams may or may not be collected together with recyclable household waste or recyclable relevant waste in another recyclable waste stream.
- (4) The Secretary of State may exercise the power in subsection (3)(a) in relation to a waste stream only if satisfied that—
- (a) there is waste in that waste stream which is suitable for recycling or composting, and recycling or composting it will have an environmental benefit,
  - (b) all English waste collection authorities can make arrangements for collecting waste in that waste stream which comply with the conditions in section 45A, 45AZA or 45AZB (as appropriate), taking account of any amendments to be made under subsection (3)(b), and
  - (c) there is a market for it after its collection.
- (5) Before making regulations under this section the Secretary of State must consult—
- (a) the Environment Agency,
  - (b) English waste collection authorities,
  - (c) English waste disposal authorities, and
  - (d) anyone else the Secretary of State considers appropriate.
- (6) The requirement in subsection (5) may be met by consultation carried out before this section comes into force.

#### **45AZD Sections 45A to 45AZB: duties of waste collectors**

- (1) Subsection (2) applies where—
- (a) a person collects or proposes to collect waste under arrangements to which section 45A, 45AZA or 45AZB applies, and

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(b) the arrangements include arrangements to collect recyclable household waste or recyclable relevant waste in two or more recyclable waste streams together in reliance on section 45A(6), 45AZA(6) or 45AZB(6).

(2) The person must prepare a written assessment of why the person considers that the section relied on applies.

#### **45AZE Sections 45 to 45AZD: guidance**

(1) The Secretary of State may issue guidance about the duties imposed by sections 45 to 45AZD.

(2) The guidance may in particular deal with—

- (a) the circumstances in which it may not be technically or economically practicable to collect recyclable household waste or recyclable relevant waste in recyclable waste streams separately, or in which separate collection may not have significant environmental benefit;
- (b) the frequency with which household waste other than recyclable household waste which is food waste should be collected;
- (c) the kinds of waste which are relevant waste for the purposes of section 45AZB;
- (d) assessments under section 45AZD.

(3) The guidance may make different provision in relation to sections 45A, 45AZA and 45AZB.

(4) Before issuing guidance under this section the Secretary of State must consult—

- (a) the Environment Agency,
- (b) English waste collection authorities,
- (c) English waste disposal authorities, and
- (d) anyone else the Secretary of State considers appropriate.

(5) The requirement in subsection (4) may be met by consultation carried out before this section comes into force.

(6) A waste collection authority, and any party to arrangements to which section 45AZA or 45AZB applies, must have regard to the guidance

(7) The Secretary of State must lay before Parliament, and publish, the guidance.

#### **45AZF Sections 45AZA and 45AZB: compliance notices**

(1) This section applies where the Environment Agency considers that a person other than an English waste collection authority—

- (a) is a party to arrangements for the collection of household waste which fail to comply with section 45AZA,
- (b) is a party to arrangements for the collection of relevant waste which fail to comply with section 45AZB, or
- (c) is failing to comply with section 45AZA(8) or 45AZB(8).

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- (2) It may give that person a notice (a “compliance notice”) requiring them to take specified steps within a specified period to secure that the failure does not continue or recur.
- (3) A compliance notice must—
  - (a) specify the failures to comply with section [45AZA](#) or [45AZB](#),
  - (b) specify the steps which must be taken for the purpose of preventing the failure continuing or recurring,
  - (c) specify the period within which those steps must be taken, and
  - (d) give information as to the rights of appeal (including the period within which an appeal must be brought).
- (4) A person who fails to comply with a compliance notice commits an offence.
- (5) A person who commits an offence under subsection (4) is liable on summary conviction or conviction on indictment to a fine.

#### **45AZG Sections 45AZA and 45AZB: appeals against compliance notices**

- (1) A person who is given a compliance notice may appeal to the First-tier Tribunal against—
  - (a) the notice, or
  - (b) any requirement in the notice.
- (2) The notice or requirement has effect pending the determination of the appeal, unless the tribunal decides otherwise.
- (3) The tribunal may—
  - (a) quash the notice or requirement,
  - (b) confirm the notice or requirement,
  - (c) vary the notice or requirement,
  - (d) take any steps the Environment Agency could take in relation to the failure giving rise to the notice or requirement, or
  - (e) remit any matter relating to the notice or requirement to the Environment Agency.”
- (5) In section 46(2) (receptacles for household waste) for the words from “subject to” to the end substitute—
  - “(a) subject to that, a waste collection authority whose area is in Wales may require separate receptacles or compartments of receptacles to be used for waste which is to be recycled and waste which is not;
  - (b) an English waste collection authority may require separate receptacles or compartments of receptacles to be used for the purposes of complying with its duties under section [45A](#) or [45AZA](#).”
- (6) In section 47(3) (receptacles for commercial or industrial waste) at the end insert “, but an English waste collection authority may require separate receptacles or compartments of receptacles to be used for the purposes of complying with section 45AZB so far as it applies to waste of the kind in question.”
- (7) In section 160A(2) (regulations and orders) (as inserted by section 63), in the Table, at the appropriate place insert—

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“[45AZC](#) (separation of waste) | any regulations under that section.”

(8) In section 41(1) of the Environment Act 1995 (powers to make charging schemes) after paragraph (r) (as inserted by section 64) insert—

“(s) as a means of recovering costs which are incurred by it in performing functions relating to sections [45A](#) to [45AZB](#) of the Environmental Protection Act 1990, the Agency may require the payment to it of such charges as may from time to time be prescribed;”.

(9) In section 108(15) of the Environment Act 1995 (powers of entry), in the definition of “pollution control functions” in relation to a waste collection authority, in paragraph (a) for “, [45A](#)” substitute “to [45AZD](#)”.

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#### **Commencement Information**

**II** S. 57 not in force at Royal Assent, see [s. 147\(3\)](#)



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**Changes to legislation:**

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