SCOTTISH STATUTORY INSTRUMENTS

2012 No. 148

The Waste (Scotland) Regulations 2012

Amendment of the Environmental Protection Act 1990

2.—(1) The Environmental Protection Act 1990 [M1] is amended as follows.

(2) In section 29(5A) (preliminary) [M2], after paragraph (b) insert—

"(ba) "separate collection" means that waste is presented for collection, and collected, in a manner that ensures that—

(i) dry recyclable waste is kept separate from other waste;

(ii) waste from one dry waste stream is kept separate from waste in another such stream; and

(iii) food waste is kept separate from other waste;".

(3) In section 34 [M3] (duty of care etc. as respects waste)—

(a) in subsection (1)—

(i) for "carries, keeps, treats or disposes of" substitute " keeps or manages ";

(ii) after paragraph (aa) insert—

"(ab) to prevent any contravention by any other person of subsection (2A), (2E), (2F), (2I) or (2K);"; and

(iii) in paragraph (ba), for "this is separately collected" substitute " it is collected separately from other types of waste so as to facilitate a specific treatment, ";

(b) after subsection (2D) insert—

"(2E) It shall, from 1st January 2014, be the duty of any person who produces controlled waste (other than an occupier of domestic property as respects household waste produced on the property) to take all reasonable steps to ensure the separate collection of dry recyclable waste.

(2F) It shall, from 1st January 2014, be the duty of any person who controls or manages a food business that produces controlled waste to take all reasonable steps to ensure the separate collection of food waste produced by the business.

(2G) The duty in subsection (2F) does not apply to food waste—

(a) produced on premises in a rural area;

(b) produced in the period beginning on 1st January 2014 and ending on 31st December 2015—

(i) on premises in use as a hospital (as defined in section 108 of the National Health Service (Scotland) Act 1978 [M4]); or

(ii) by a business that produces less than 50 kilograms of food waste a week;

(c) produced, on or after 1st January 2016, by a business that produces less than 5 kilograms of food waste a week;

(d) that includes catering waste that originates from means of transport operating internationally.

(2H) The duty in subsection (2F) may be departed from where food waste is mixed with other biodegradable waste to the extent that the mixed waste is presented for collection in a manner that ensures that the amount of food waste collected is not significantly less than would be the case were the wastes not mixed.

(2I) It shall be the duty of any person who transports controlled waste to collect and transport separately from other waste any waste presented—

(a) for collection in accordance with subsection (2E) or (2F);

(b) for collection in a receptacle provided under an arrangement made in accordance with section 45C(2) or (5).

(2J) The duties in subsection (2E) or (2I) may be departed from where dry recyclable waste is managed in such a manner as will ensure that—

(a) the amount of material recycled from the waste is not significantly less, and the quality of the material recycled is not significantly lower, than would be the case were there no departure from the duties; and

(b) the waste is not mixed with other waste that cannot be recycled.

(2K) It shall, from 1st January 2016, be the duty of any person who produces food waste (other than an occupier of domestic property as respects household waste, or an occupier of property in a rural area as respects food waste, produced on such properties) to ensure that food waste is not deposited in a public drain or sewer, or in a drain or sewer that connects to a public drain or sewer.

(2L) It shall be the duty of any person who produces or manages controlled waste, or who as a broker or dealer has control of such waste, to take all reasonable steps to—

(a) ensure that the waste meets any quality standard for the management of material included in the waste;

(b) ensure that the waste is managed in a manner that promotes high quality recycling; and

(c) prevent any contravention by another person of this subsection.";

(c) after subsection (4A), insert—

"(4AB) In subsection (1)(c), a reference to a written description of the waste includes a description that is—

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.";

(d) in subsection (4B), for the definition of "separately collected" substitute—

""business" includes the undertaking of a canteen, club, school, hospital or institution, whether carried on for profit or not, and any undertaking or activity carried on by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 [M5] or any other public authority;

"drain", "public drain", "public sewer" and "sewer" have the same meanings as in section 59 of the Sewerage (Scotland) Act 1968 [M6];

"food business" means an undertaking, whether for profit or not, and whether public or private, carrying out any activity related to the processing, distribution, preparation or sale of food;

"rural area" means a remote small town, accessible rural area or remote rural area as described by reference to postcode units in table 2 of "Defining Rural Areas and Non-Rural Areas to support Zero Waste Policies"[M7], published by the Scottish Government on 13th March 2012;";

(e) in subsection (5), for "the duty imposed by subsection (1)" substitute " a duty imposed by subsection (1), (2E), (2F), (2I), (2K) or (2L) ";

(f) in subsection (6)—

(i) after "fails" insert " without reasonable excuse "; and

(ii) for "or (2A)" substitute " , (2A), (2E), (2F), (2I), (2K) or (2L) "; and

(g) in subsection (7), for "duty imposed on them by subsection (1) above" substitute " duty imposed on them by subsection (1), (2E), (2F), (2I), (2K) or (2L) ".

(4) In section 45 [M8] (collection of controlled wastes)—

(a) in subsection (1)—

(i) at the end of paragraph (a), omit "and"; and

(ii) after paragraph (b), insert—

"; 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.";

(b) after subsection (1), insert—

"(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."; and

(c) for subsection (12), substitute—

"(12) 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).".

(5) After section 45B [M9] insert—

"**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.

(4) An authority, if satisfied that dry recyclable waste will not be mixed with other waste that cannot be recycled, need not comply with subsection (2) to the extent that it considers that the amount of material recycled from such waste in its area will not be significantly less, and the quality of the material recycled will not be significantly lower, than would be the case were the authority to comply.

(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—

(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).".

(6) In section 46(2) (receptacles for household waste), for "waste which is to be recycled and waste which is not" substitute " dry recyclable waste, any dry waste stream, food waste, or any other waste which is to be recycled ".

(7) In section 75 [M10] (meaning of "waste", etc.), after subsection (7) insert—

"(7A) "Dry recyclable waste" means controlled waste that is—

(a) glass;

(b) metals;

(c) plastics;

(d) paper; or

(e) card (including cardboard),

and dry recyclable waste of the same type (such as glass) is referred to as a "dry waste stream".

(7B) "Food waste" means controlled waste that was at any time food intended for human consumption (even if of no nutritional value), and includes biodegradable waste produced as consequence of the processing or preparation of food, but does not include drink.".

Marginal Citations

M1 1990 c.43; as relevantly amended by paragraph 167 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39), by section 33 of the Deregulation and Contracting Out Act 1994 (c.40), by paragraphs 64 to 66, 70, 72 to 74 and 76 of Schedule 22, and paragraph 1 of Schedule 24, to the Environment Act 1995 (c.25), by paragraph 20 of schedule 7 to the Water Industry (Scotland) Act 2002 (asp 3), by S.I. 1999/1820, and by S.S.I. 2000/323, 2005/22, 2009/247 and 2011/226.

M2 Subsection (5A) was inserted by S.S.I. 2011/226.

M3 Section 34 has been relevantly amended by S.S.I. 2011/226.

M4 1978 c.29.

M5 1994 c.39; section 2 was amended by paragraph 232 of Schedule 22 to the Environment Act 1995 (c.25).

M6 1968 c.47; section 59 was amended by Schedule 29 to the Local Government (Scotland) Act 1973 (c.65), by paragraph 64 of Schedule 9 to the Roads (Scotland) Act 1984 (c.54), by section 23 of and Schedule 6 to the Abolition of Domestic Rates etc. (Scotland) Act 1987 (c.47), by paragraph 103 of Schedule 8 to the New Roads and Street Works Act 1991 (c.22), by paragraph 14 of Schedule 1 and paragraph 75 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39), by paragraph 3 of schedule 3 to the Regulation of Care (Scotland) Act 2001 (asp 8), by paragraph 1 of Schedule 24 to the Environment Act 1995 (c.25), by paragraph 41 of schedule 5 to the Water Industry (Scotland) Act 2002 (asp 3), by section 33 of and paragraph 23 of schedule 3 to the Water Industry and Water Services (Scotland) Act 2003 (asp 3), and by S.S.I. 2011/211.

M7 ISBN 978-1-78045-732-1. A postcode unit is an area in relation to which a single postcode is used to facilitate the identification of postal delivery points within the area. A copy of the publication can be obtained from: http://www.scotland.gov.uk/Resource/0038/00389689.pdf.

M8 Section 45 has been relevantly amended by paragraph 167 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39), and by paragraph 20 of schedule 7 to the Water Industry (Scotland) Act 2002 (asp 3).

M9 Section 45B was inserted in relation to Wales by section 2 of the Household Waste Recycling Act 2003 (c.29).

M10 Section 75 has been relevantly amended by S.S.I. 2011/226.

Status:
Point in time view as at 17/05/2012.

Changes to legislation:
There are currently no known outstanding effects for the The Waste (Scotland) Regulations 2012, Section 2.