

2004 No.3181 (C.137)

ENVIRONMENTAL PROTECTION

**The Waste and Emissions Trading Act 2003 (Commencement
No.1) (England) Order 2004**

Made - - - - *2nd December 2004*

The Secretary of State, in exercise of the powers conferred upon her by section 40(2)(a) of the Waste and Emissions Trading Act 2003^(a) hereby make the following Order:

Citation

1. This Order may be cited as the Waste and Emissions Trading Act 2003 (Commencement No.1) (England) Order 2004.

Commencement

2. As respects England—

- (a) sections 4, 5 and 10(1) of the Waste and Emissions Trading Act 2003 shall come into force on the day after the day on which this Order is made; and
- (b) sections 9 and 10(2) of the Waste and Emissions Trading Act 2003 shall come into force on 1st April 2005.

2nd December 2004

Elliot Morley
Minister of State
Department of Environment Food and Rural Affairs

^(a) 2003 (c.33).

EXPLANATORY NOTE

(This note is not part of the Order)

As respects England only, this Order brings sections 4, 5 and 10(1) of the Waste and Emissions Act 2003 (“the Act”) into force on 3rd December 2004, and sections 9 and 10(2) of the Act into force on 1st April 2005.

Part 1 of the Act provides, amongst other things, for the setting up of landfill allowances schemes in each country of the United Kingdom.

As part of the setting up of these schemes section 4 of the Act makes provision for the allocation of landfill allowances authorising the sending of amounts of biodegradable municipal waste to landfills. An allocating authority must make an allocation among waste disposal authorities in its area for each scheme year that is a target year, and for each other scheme year for which an amount has been specified under section 2 of the Act for its area (section 4(1)). Allocations must be made before the beginning of the year to which they relate, and as soon as an authority has made an allocation it must publish a statement detailing what allowances have been allocated to each waste disposal authority (section 4(3) and (4)). The Secretary of State is the allocating authority for England (section 24(1)(a) of the Act).

Section 5 of the Act enables an allocating authority to alter an allocation under section 4 at any time (section 5(1)). As soon as an authority has altered an allocation again it must publish a statement detailing what allowances have been allocated to each waste disposal authority (section 5(4)).

Where an allocation has been made for a scheme year by an allocating authority, section 9 of the Act places a duty on each waste disposal authority in the allocating authority’s area to secure that the amount of biodegradable waste sent to landfills in that year by the waste disposal authority does not exceed the amount authorised by the landfill allowances available to that authority (section 9(1)). A waste disposal authority that fails to comply with this duty is liable to a penalty (section 9(2)) and in certain circumstances to supplementary penalties as well (section 9(3) and (4)).

Section 10 of the Act concerns monitoring authorities. Allocating authorities must by regulations appoint a person to be the monitoring authority for its area (section 10(1)). Any person so appointed is subject to the duties set out in section 10(2) of the Act.

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