

**EXPLANATORY MEMORANDUM TO THE
ENVIRONMENTAL PROTECTION (WASTE RECYCLING PAYMENTS)
(ENGLAND) (AMENDMENT) REGULATIONS 2005**

2005 No. 415

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This statutory instrument, which comes into force on 1st April 2005, sets the level of recycling credits payable by each type of waste disposal authority where the level cannot be calculated locally.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 This statutory instrument substitutes a new Schedule for the Schedule to the Environmental Protection (Waste Recycling Payments) (England) Regulations 2004 ('the 2004 Regulations'), which sets the level of recycling credits payable by each type of waste disposal authority where the level cannot be calculated locally, to take account of increases in the Retail Price Index (RPI) and landfill tax. This update is carried out annually. The figures in the new Schedule represent increases on the previous figures of between 7.66 and 12.62%, reflecting rises in the Retail Price Index (by 3.5%) and in landfill tax (to £18 a tonne).

4.2 The 2004 Regulations replaced the Environmental Protection (Waste Recycling Payments) (England) Regulations 1992 (as amended), which were made following the introduction of the Recycling Credits Scheme by section 52 of the Environmental Protection Act 1990.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

Not applicable.

7. Policy background

- 7.1 In large parts of England local authority responsibility for waste management is split into separate collection and disposal functions. In areas where responsibilities are divided between County and District Councils, the County Councils are waste disposal authorities (WDAs) and the District Councils are waste collection authorities (WCAs). A similar division of responsibility exists in the six metropolitan areas (4 in London, 1 each in Greater Manchester and Merseyside) that have Joint WDAs.
- 7.2 The Environmental Protection Act 1990 introduced the Recycling Credits Scheme to incentivise recycling and composting of household waste by waste collection authorities and by third parties. This Scheme makes available the savings in disposal, and if appropriate collection, costs that result from the retention of household waste for recycling. Under the Act, WDAs have a duty to pay recycling credits to WCAs for any household waste which WCAs collect and retain for recycling. WDAs and WCAs have a power, but not a duty, to pay recycling credits to third parties, e.g. community groups, where they retain waste for recycling.
- 7.3 Payments of recycling credits are designed to reflect the net savings an authority makes by not having to collect or dispose of the tonnages of household waste that have been diverted for recycling. The 2004 Regulations set the level of recycling credit payable by each type of WDA where it could not be calculated locally. Each year the levels must be up-dated to take account of changes in the Retail Price Index (RPI) and landfill tax. This allows recycling credits payments to reflect more appropriately the cost savings made through not having to dispose of the household waste retained for recycling.
- 7.4 The Government is proposing to change the method of calculating recycling credit in 2006/7. Over recent years, increasing recycling rates and rising landfill tax has meant that recycling credits are consuming an increasing proportion of WDAs' budgets. This has meant that the current recycling credit calculation would not in the longer term accurately reflect the cost of collecting recyclables and arranging for their reprocessing. The Government has therefore introduced proposals in the Clean Neighbourhoods and Environment Bill currently passing through Parliament to reform the recycling credits scheme, including by altering the basis on which the credit is calculated in England. If the bill becomes law it will allow the Secretary of State to introduce secondary legislation to set the method of calculation for recycling credits and will remove the requirement for the calculation to be linked to the net savings of expenditure on collection or disposal of the waste retained. This will allow the new method of calculation to reflect more accurately the cost of collecting recyclables and arranging for their reprocessing.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of the public sector, business, charities or voluntary bodies.
- 8.2 There is no impact on the public sector since payments represent the passing on of savings made through not being required to dispose of waste for which the paying authority would otherwise be responsible and for which it is therefore already funded to deal with.

9. Contact

Fiona Tranter in the Local Authority Waste Policy and Performance Team of Waste Strategy Division at the Department for Environment, Food and Rural Affairs, tel: 020 7082 8431 or e-mail: fiona.tranter@defra.gsi.gov.uk can answer any queries regarding the instrument.