
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under the Waste and Emissions Trading Act 2003 (“the WET Act”), amend the Landfill Allowances and Trading Scheme (England) Regulations 2004 (“the 2004 Regulations”). Like the 2004 Regulations, these Regulations apply to England only.

The 2004 Regulations made provision for implementing Chapter 1 of Part 1 of the WET Act (waste sent to landfills) including the landfill allowances scheme under that Part. They were made for the purpose of implementing Articles 5(1) and (2) of Council Directive [99/31/EC](#) on the landfill of waste (O.J. No. L 182, 16.7.1999, p. 1) in England.

Under the WET Act, if an allocating authority for an area has made an allocation of landfill allowances for a scheme year, each waste disposal authority in the area owes a duty to the allocating authority to secure that the amount of biodegradable municipal waste sent to landfills in that year does not exceed the landfill allowances available to the authority for the same year (section 9(1) of the WET Act). A waste disposal authority that fails to comply with this duty is liable to a penalty (section 9(2) of the WET Act). In relation to England the allocating authority is the Secretary of State (section 24(1) of the WET Act).

As originally drafted, regulation 20(1) of the 2004 Regulations provided that the penalty to which a waste disposal authority is liable under section 9(2) of the WET Act is the excess landfill for that waste disposal authority multiplied by £200. “Excess landfill” is defined for these purposes in regulation 20(2) of the 2004 Regulations.

These Regulations amend regulation 20(1) of the 2004 Regulations so that the figure “£200” is replaced by the figure “£150”.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.