

*This Statutory Instrument has been made in consequence of defects in S.I. 2012/811 and is being issued free of charge to all known recipients of that Statutory Instrument.*

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STATUTORY INSTRUMENTS

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**2012 No. 2320**

**ENVIRONMENTAL PROTECTION, ENGLAND**

**The Controlled Waste (England and  
Wales) (Amendment) Regulations 2012**

<i>Made</i>	- - - -	<i>7th September 2012</i>
<i>Laid before Parliament</i>		<i>12th September 2012</i>
<i>Coming into force</i>	- -	<i>9th October 2012</i>

The Secretary of State, in exercise of the powers conferred by section 75(7)(d) and (8) of the Environmental Protection Act 1990(1), makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Controlled Waste (England and Wales) (Amendment) Regulations 2012.

(2) They come into force on 9th October 2012.

(3) They apply in England only.

**Amendment of the Controlled Waste (England and Wales) Regulations 2012**

2.—(1) The Controlled Waste (England and Wales) Regulations 2012(2) are amended as follows.

(2) In regulation 4 (household, industrial and commercial waste), after “regulation 3” insert “and regulation 4A”.

(3) After regulation 4 insert—

**“Restriction on charging for disposal of waste**

4A.—(1) This regulation applies in England only.

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(1) 1990 c. 43. Subsections (7) and (8) were amended by S.I. 2006/937, regulation 2(1) and (6). There are further amendments not relevant to this instrument.

(2) S.I. 2012/811. A correction slip was issued in relation to paragraph 4(7) of Schedule 1 (ISBN 978-0-11-152209-7).

(2) Nothing in regulation 4 has the effect of making a person liable to pay a charge under section 45(4) of the Act for the disposal of waste if the first and second conditions are satisfied.

(3) The first condition is that no charge would have been payable under section 45(4) of the Act for the disposal of that waste had it been collected under section 45(1) of the Act before 6th April 2012.

(4) The second condition is that the waste is from a hereditament as regards which the person is subject to a non-domestic rate under section 43(1) of the Local Government Finance Act 1988<sup>(3)</sup>, for which the chargeable amount payable is calculated in accordance with section 43(4A)(a) of that Act<sup>(4)</sup>.

(4) In paragraph 4 of Schedule 1 (household waste for which collection and disposal charges may be made)—

- (a) in sub-paragraph (3), for “sub-paragraphs (5) and” substitute “sub-paragraph”;
- (b) in sub-paragraph (4), for “Sub-paragraphs (5) to (8) apply” substitute “Sub-paragraph (8) applies”;
- (c) omit sub-paragraphs (5) to (7);
- (d) in sub-paragraph (8), for “sub-paragraph (4)” substitute “sub-paragraph (3)”.

*Richard Benyon*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

7th September 2012

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(3) [1988 c. 41](#). Relevant amendments were made by the Local Government Act 2003 ([c. 26](#)), section 61 and the Localism Act 2011 ([c. 20](#)), section 70 and Schedule 25, Part 11.

(4) The chargeable amount is calculated in accordance with section 43(4A)(a) where section 43(4B) applies: see article 2 of the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2012 ([S.I. 2012/148](#)) for the conditions prescribed under subsection (4B)(a)(ii).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend, in relation to England, the Controlled Waste (England and Wales) Regulations 2012 (S.I. 2012/811) (“the 2012 Regulations”), in order to correct an error in the implementation of policy relating to the exemption of certain small businesses from any new liability to pay charges for the disposal of waste under section 45(4) of the Environmental Protection Act 1990 (c. 43) (“the EPA 1990”) arising as a result of the 2012 Regulations.

Regulation 4 of the 2012 Regulations (which gives effect to Schedule 1 to those Regulations) provides for the classification of certain waste as household, commercial or industrial waste. Paragraph 4(3) of that Schedule provides that certain categories of household waste are to be treated as commercial waste for the purposes of liability to pay charges relating to the disposal of waste under section 45(4) of the EPA 1990.

In order to ensure the correct implementation of policy, these Regulations amend the 2012 Regulations to provide that nothing in regulation 4 has the effect of making a person liable to pay a disposal charge under section 45(4) of the EPA 1990 if two conditions are met. A similarly worded exemption in paragraph 4(5) of Schedule 1 expressed to apply only in relation to paragraph 4(3) is omitted.

A full impact assessment of the effect that the 2012 Regulations will have on the costs of business, the voluntary sector and the public sector was prepared in relation to those Regulations, and no further impact assessment has been prepared for these Regulations.