

CLIMATE CHANGE (SCOTLAND) ACT 2009

EXPLANATORY NOTES

THE ACT

Part 5 – Other Climate Change Provisions

Chapter 5 – Waste reduction and recycling

Waste prevention and management plans

Procurement of recyclate

168. **Section 82** enables the Scottish Ministers to make detailed provision, by regulations, requiring persons specified in those regulations to ensure that specified things procured or constructed by them include or contain a certain amount or proportion of recyclate. Some of the detail which may be included in the regulations is specified in subsection (3), but without prejudice to the generality of the power in subsection (1). “Recyclate” is defined by subsection (6) in relation to the definition of “recycling” in section 78(4).
169. Subsection (3)(d) could be used to deal with measurement of the proportion of recyclate present in complex items. Subsection (3)(e) could be used to allow the requirement to procure recyclate to be disapplied on application to the Scottish Ministers, for example where this could conflict with Community internal market rules.
170. It is very likely that a system of enforcement, including offences and penalties, would be required to ensure that recyclate was procured in at least the proper proportion, but this will be a matter for regulations.