



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

##### *Collection, disposal or treatment of controlled waste*

#### **45 Collection of controlled waste**

- (1) It shall be the duty of each waste collection authority—
  - (a) to arrange for the collection of household waste in its area except waste—
    - (i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and
    - (ii) as to which the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste; and
  - (b) if requested by the occupier of premises in its area to collect any commercial waste from the premises, to arrange for the collection of the waste.
- (2) Each waste collection authority may, if requested by the occupier of premises in its area to collect any industrial waste from the premises, arrange for the collection of the waste; but a collection authority in England and Wales shall not exercise the power except with the consent of the waste disposal authority whose area includes the area of the waste collection authority.
- (3) No charge shall be made for the collection of household waste except in cases prescribed in regulations made by the Secretary of State; and in any of those cases—
  - (a) the duty to arrange for the collection of the waste shall not arise until a person who controls the waste requests the authority to collect it; and
  - (b) the authority may recover a reasonable charge for the collection of the waste from the person who made the request.

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- (4) A person at whose request waste other than household waste is collected under this section shall be liable to pay a reasonable charge for the collection and disposal of the waste to the authority which arranged for its collection; and it shall be the duty of that authority to recover the charge unless in the case of a charge in respect of commercial waste the authority considers it inappropriate to do so.
- (5) It shall be the duty of each waste collection authority—
- (a) to make such arrangements for the emptying, without charge, of privies serving one or more private dwellings in its area as the authority considers appropriate;
  - (b) if requested by the person who controls a cesspool serving only one or more private dwellings in its area to empty the cesspool, to remove such of the contents of the cesspool as the authority considers appropriate on payment, if the authority so requires, of a reasonable charge.
- (6) A waste collection authority may, if requested by the person who controls any other privy or cesspool in its area to empty the privy or cesspool, empty the privy or, as the case may be, remove from the cesspool such of its contents as the authority consider appropriate on payment, if the authority so requires, of a reasonable charge.
- (7) A waste collection authority may—
- (a) construct, lay and maintain, within or outside its area, pipes and associated works for the purpose of collecting waste;
  - (b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works connecting with pipes provided by the authority under paragraph (a) above.
- (8) A waste collection authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with commercial or industrial waste before it is collected under arrangements made by the authority under subsection (1)(b) or (2) above.
- (9) Subject to section 48(1) below, anything collected under arrangements made by a waste collection authority under this section shall belong to the authority and may be dealt with accordingly.
- (10) In relation to Scotland, sections 2, 3, 4 and 41 of the Sewerage (Scotland) Act 1968 (maintenance of public sewers etc.) shall apply in relation to pipes and associated works provided or to be provided under subsection (7)(a) above as those sections apply in relation to public sewers but as if—
- (a) the said section 2 conferred a power and did not impose a duty on a local authority to do the things mentioned in that section;
  - (b) in the said section 4, the words from “but before any person” to the end were omitted,
- and the Pipe-lines Act 1962 shall not apply to pipes and associated works provided or to be provided under the said subsection (7)(a).
- (11) In the application of this section to Scotland, subsection (5)(b) and the references to a cesspool occurring in subsection (6) shall be omitted.
- (12) In this section “privy” means a latrine which has a moveable receptacle and “cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings.

## **46 Receptacles for household waste**

- (1) Where a waste collection authority has a duty by virtue of section 45(1)(a) above to arrange for the collection of household waste from any premises, the authority may, by notice served on him, require the occupier to place the waste for collection in receptacles of a kind and number specified.
- (2) The kind and number of the receptacles required under subsection (1) above to be used shall be such only as are reasonable but, subject to that, separate receptacles or compartments of receptacles may be required to be used for waste which is to be recycled and waste which is not.
- (3) In making requirements under subsection (1) above the authority may, as respects the provision of the receptacles—
  - (a) determine that they be provided by the authority free of charge;
  - (b) propose that they be provided, if the occupier agrees, by the authority on payment by him of such a single payment or such periodical payments as he agrees with the authority;
  - (c) require the occupier to provide them if he does not enter into an agreement under paragraph (b) above within a specified period; or
  - (d) require the occupier to provide them.
- (4) In making requirements as respects receptacles under subsection (1) above, the authority may, by the notice under that subsection, make provision with respect to—
  - (a) the size, construction and maintenance of the receptacles;
  - (b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
  - (c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;
  - (d) the substances or articles which may or may not be put into the receptacles or compartments of receptacles of any description and the precautions to be taken where particular substances or articles are put into them; and
  - (e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.
- (5) No requirement shall be made under subsection (1) above for receptacles to be placed on a highway or, as the case may be, road, unless—
  - (a) the relevant highway authority or roads authority have given their consent to their being so placed; and
  - (b) arrangements have been made as to the liability for any damage arising out of their being so placed.
- (6) A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (1), (3)(c) or (d) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where an occupier is required under subsection (1) above to provide any receptacles he may, within the period allowed by subsection (8) below, appeal to a magistrates' court or, in Scotland, to the sheriff by way of summary application against any requirement imposed under subsection (1), subsection (3)(c) or (d) or (4) above on the ground that—
  - (a) the requirement is unreasonable; or

- (b) the receptacles in which household waste is placed for collection from the premises are adequate.
- (8) The period allowed to the occupier of premises for appealing against such a requirement is the period of twenty-one days beginning—
  - (a) in a case where a period was specified under subsection (3)(c) above, with the end of that period; and
  - (b) where no period was specified, with the day on which the notice making the requirement was served on him.
- (9) Where an appeal against a requirement is brought under subsection (7) above—
  - (a) the requirement shall be of no effect pending the determination of the appeal;
  - (b) the court shall either quash or modify the requirement or dismiss the appeal; and
  - (c) no question as to whether the requirement is, in any respect, unreasonable shall be entertained in any proceedings for an offence under subsection (6) above.
- (10) In this section—
  - “receptacle” includes a holder for receptacles; and
  - “specified” means specified in a notice under subsection (1) above.

#### **47 Receptacles for commercial or industrial waste**

- (1) A waste collection authority may, at the request of any person, supply him with receptacles for commercial or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.
- (2) If it appears to a waste collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality, the authority may, by notice served on him, require the occupier of the premises to provide at the premises receptacles for the storage of such waste of a kind and number specified.
- (3) The kind and number of the receptacles required under subsection (2) above to be used shall be such only as are reasonable.
- (4) In making requirements as respects receptacles under subsection (2) above, the authority may, by the notice under that subsection, make provision with respect to—
  - (a) the size, construction and maintenance of the receptacles;
  - (b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
  - (c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;
  - (d) the substances or articles which may or may not be put into the receptacles and the precautions to be taken where particular substances or articles are put into them; and
  - (e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.

- (5) No requirement shall be made under subsection (2) above for receptacles to be placed on a highway or, as the case may be, road unless—
  - (a) the relevant highway authority or roads authority have given their consent to their being so placed; and
  - (b) arrangements have been made as to the liability for any damage arising out of their being so placed.
- (6) A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (2) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where an occupier is required under subsection (2) above to provide any receptacles he may, within the period allowed by subsection (8) below, appeal to a magistrates' court or, in Scotland, to the sheriff by way of summary application against any requirement imposed under subsection (2) or (4) above on the ground that—
  - (a) the requirement is unreasonable; or
  - (b) the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality.
- (8) The period allowed to the occupier of premises for appealing against such a requirement is the period of twenty-one days beginning with the day on which the notice making the requirement was served on him.
- (9) Where an appeal against a requirement is brought under subsection (7) above—
  - (a) the requirement shall be of no effect pending the determination of the appeal;
  - (b) the court shall either quash or modify the requirement or dismiss the appeal; and
  - (c) no question as to whether the requirement is, in any respect, unreasonable shall be entertained in any proceedings for an offence under subsection (6) above.
- (10) In this section—
  - “receptacle” includes a holder for receptacles; and
  - “specified” means specified in a notice under subsection (2) above.

#### **48 Duties of waste collection authorities as respects disposal of waste collected**

- (1) Subject to subsections (2) and (6) below, it shall be the duty of each waste collection authority to deliver for disposal all waste which is collected by the authority under section 45 above to such places as the waste disposal authority for its area directs.
- (2) The duty imposed on a waste collection authority by subsection (1) above does not, except in cases falling within subsection (4) below, apply as respects household waste or commercial waste for which the authority decides to make arrangements for recycling the waste; and the authority shall have regard, in deciding what recycling arrangements to make, to its waste recycling plan under section 49 below.
- (3) A waste collection authority which decides to make arrangements under subsection (2) above for recycling waste collected by it shall, as soon as reasonably practicable, by notice in writing, inform the waste disposal authority for the area which includes its area of the arrangements which it proposes to make.
- (4) Where a waste disposal authority has made with a waste disposal contractor arrangements, as respects household waste or commercial waste in its area or any part

of its area, for the contractor to recycle the waste, or any of it, the waste disposal authority may, by notice served on the waste collection authority, object to the waste collection authority having the waste recycled; and the objection may be made as respects all the waste, part only of the waste or specified descriptions of the waste.

- (5) Where an objection is made under subsection (4) above, subsection (2) above shall not be available to the waste collection authority to the extent objected to.
- (6) A waste collection authority may, subject to subsection (7) below, provide plant and equipment for the sorting and baling of waste retained by the authority under subsection (2) above.
- (7) Subsection (6) above does not apply to an authority which is also a waste disposal authority; but, in such a case, the authority may make arrangements with a waste disposal contractor for the contractor to deal with the waste as mentioned in that subsection.
- (8) A waste collection authority may permit another person to use facilities provided by the authority under subsection (6) above and may provide for the use of another person any such facilities as the authority has power to provide under that subsection; and—
  - (a) subject to paragraph (b) below, it shall be the duty of the authority to make a reasonable charge in respect of the use by another person of the facilities, unless the authority considers it appropriate not to make a charge;
  - (b) no charge shall be made under this subsection in respect of household waste; and
  - (c) anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.
- (9) This section shall not apply to Scotland.

#### **49 Waste recycling plans by collection authorities**

- (1) It shall be the duty of each waste collection authority, as respects household and commercial waste arising in its area—
  - (a) to carry out an investigation with a view to deciding what arrangements are appropriate for dealing with the waste by separating, baling or otherwise packaging it for the purpose of recycling it;
  - (b) to decide what arrangements are in the opinion of the authority needed for that purpose;
  - (c) to prepare a statement (“the plan”) of the arrangements made and proposed to be made by the authority and other persons for dealing with waste in those ways;
  - (d) to carry out from time to time further investigations with a view to deciding what changes in the plan are needed; and
  - (e) to make any modification of the plan which the authority thinks appropriate in consequence of any such further investigation.
- (2) In considering any arrangements or modification for the purposes of subsection (1) (c) or (e) above it shall be the duty of the authority to have regard to the effect which the arrangements or modification would be likely to have on the amenities of any locality and the likely cost or saving to the authority attributable to the arrangements or modification.

- (3) It shall be the duty of a waste collection authority to include in the plan information as to—
- (a) the kinds and quantities of controlled waste which the authority expects to collect during the period specified in the plan;
  - (b) the kinds and quantities of controlled waste which the authority expects to purchase during that period;
  - (c) the kinds and quantities of controlled waste which the authority expects to deal with in the ways specified in subsection (1)(a) above during that period;
  - (d) the arrangements which the authority expects to make during that period with waste disposal contractors or, in Scotland, waste disposal authorities and waste disposal contractors for them to deal with waste in those ways;
  - (e) the plant and equipment which the authority expects to provide under section 48(6) above or 53 below; and
  - (f) the estimated costs or savings attributable to the methods of dealing with the waste in the ways provided for in the plan.
- (4) It shall be the duty of a waste collection authority, before finally determining the content of the plan or a modification, to send a copy of it in draft to the Secretary of State for the purpose of enabling him to determine whether subsection (3) above has been complied with; and, if the Secretary of State gives any directions to the authority for securing compliance with that subsection, it shall be the duty of the authority to comply with the direction.
- (5) When a waste collection authority has determined the content of the plan or a modification it shall be the duty of the authority—
- (a) to take such steps as in the opinion of the authority will give adequate publicity in its area to the plan or modification; and
  - (b) to send to the waste disposal authority and waste regulation authority for the area which includes its area a copy of the plan or, as the case may be, particulars of the modification.
- (6) It shall be the duty of each waste collection authority to keep a copy of the plan and particulars of any modifications to it available at all reasonable times at its principal offices for inspection by members of the public free of charge and to supply a copy of the plan and of the particulars of any modifications to it to any person who requests one, on payment by that person of such reasonable charge as the authority requires.
- (7) The Secretary of State may give to any waste collection authority directions as to the time by which the authority is to perform any duty imposed by this section specified in the direction; and it shall be the duty of the authority to comply with the direction.

## **50 Waste disposal plans of waste regulation authorities**

- (1) It shall be the duty of each waste regulation authority—
- (a) to carry out an investigation with a view to deciding what arrangements are needed for the purpose of treating or disposing of controlled waste which is situated in its area and controlled waste which is likely to be so situated so as to prevent or minimise pollution of the environment or harm to human health;
  - (b) to decide what arrangements are in the opinion of the authority needed for that purpose and how it should discharge its functions in relation to licences;

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- (c) to prepare a statement (“the plan”) of the arrangements made and proposed to be made by waste disposal contractors, or, in Scotland, waste disposal authorities and waste disposal contractors, for the treatment or disposal of such waste;
  - (d) to carry out from time to time further investigations with a view to deciding what changes in the plan are needed; and
  - (e) to make any modification of the plan which the authority thinks appropriate in consequence of any such further investigation.
- (2) In considering any arrangements or modification for the purposes of subsection (1) (c) or (e) above it shall be the duty of the authority to have regard both to the likely cost of the arrangements or modification and to their likely beneficial effects on the environment.
- (3) It shall be the duty of the authority to include in the plan information as to—
- (a) the kinds and quantities of controlled waste which the authority expects to be situated in its area during the period specified in the plan;
  - (b) the kinds and quantities of controlled waste which the authority expects to be brought into or taken for disposal out of its area during that period;
  - (c) the kinds and quantities of controlled waste which the authority expects to be disposed of within its area during that period;
  - (d) the methods and the respective priorities for the methods by which in the opinion of the authority controlled waste in its area should be disposed of or treated during that period;
  - (e) the policy of the authority as respects the discharge of its functions in relation to licences and any relevant guidance issued by the Secretary of State;
  - (f) the sites and equipment which persons are providing and which during that period are expected to provide for disposing of controlled waste; and
  - (g) the estimated costs of the methods of disposal or treatment provided for in the plan;
- but provision may be made by the Secretary of State by regulations for modifying the foregoing paragraphs and for requiring waste regulation authorities to take into account in preparing plans and any modifications of plans under this section such factors as may be prescribed in the regulations.
- (4) In considering what information to include in the plan under subsection (3)(d) above, it shall be the duty of the authority to have regard to the desirability, where reasonably practicable, of giving priority to recycling waste.
- (5) It shall be the duty of the authority—
- (a) in preparing the plan and any modification of it, to consult—
    - (i) the National Rivers Authority or, in Scotland, any river purification authority any part of whose area is included in the area of the waste regulation authority;
    - (ii) the waste collection authorities whose areas are included in the area of the authority;
    - (iii) in a case where the plan or modification is prepared by a waste regulation authority in Wales, the county council whose area includes that of the authority;



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- (iv) in a case where the plan or modification is prepared by a Scottish waste regulation authority other than an islands council, the council of the region in which the area of the authority is included;
    - (v) in a case where provisions of the plan or modification relate to the taking of waste for disposal or treatment into the area of another waste regulation authority, that other authority; and
    - (vi) in any case, such persons as the authority considers it appropriate to consult from among persons who in the opinion of the authority are or are likely to be, or are representative of persons who are or are likely to be, engaged by way of trade or business in the disposal or treatment of controlled waste situated in the area of the authority; and
  - (b) before finally determining the content of the plan or modification, to take, subject to subsection (6) below, such steps as in the opinion of the authority will—
    - (i) give adequate publicity in its area to the plan or modification; and
    - (ii) provide members of the public with opportunities of making representations to the authority about it;and to consider any representations made by the public and make any change in the plan or modification which the authority considers appropriate.
- (6) No steps need be taken under subsection (5)(b) above in respect of a modification which in the opinion of the waste regulation authority is such that no person will be prejudiced if those steps are not taken.
- (7) Without prejudice to the duty of authorities under subsection (5) above, it shall be the duty of the authority, in preparing the plan and any modification of it, to consider, in consultation with the waste collection authorities in its area and any other persons,—
  - (a) what arrangements can reasonably be expected to be made for recycling waste; and
  - (b) what provisions should be included in the plan for that purpose.
- (8) An authority shall not finally determine the content of the plan or modification in a case falling within subsection (5)(a)(v) above except with the consent of the other waste regulation authority or, if the other authority withholds its consent, with the consent of the Secretary of State.
- (9) It shall be the duty of the authority, before finally determining the content of the plan or modification, to send a copy of it in draft to the Secretary of State for the purpose of enabling him to determine whether subsection (3) above has been complied with; and, if the Secretary of State gives any directions to the authority for securing compliance with that subsection, it shall be the duty of the authority to comply with the direction.
- (10) When an authority has finally determined the content of the plan or a modification it shall be the duty of the authority—
  - (a) to take such steps as in the opinion of the authority will give adequate publicity in its area to the plan or modification; and
  - (b) to send to the Secretary of State a copy of the plan or, as the case may be, particulars of the modification.
- (11) The Secretary of State may give to any waste regulation authority directions as to the time by which the authority is to perform any duty imposed by this section specified in the direction; and it shall be the duty of the authority to comply with the direction.

## 51 Functions of waste disposal authorities

- (1) It shall be the duty of each waste disposal authority to arrange—
- (a) for the disposal of the controlled waste collected in its area by the waste collection authorities; and
  - (b) for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of waste so deposited;
- in either case by means of arrangements made (in accordance with Part II of Schedule 2 to this Act) with waste disposal contractors, but by no other means.
- (2) The arrangements made by a waste disposal authority under subsection (1)(b) above shall be such as to secure that—
- (a) each place is situated either within the area of the authority or so as to be reasonably accessible to persons resident in its area;
  - (b) each place is available for the deposit of waste at all reasonable times (including at least one period on the Saturday or following day of each week except a week in which the Saturday is 25th December or 1st January);
  - (c) each place is available for the deposit of waste free of charge by persons resident in the area;
- but the arrangements may restrict the availability of specified places to specified descriptions of waste.
- (3) A waste disposal authority may include in arrangements made under subsection (1)(b) above arrangements for the places provided for its area for the deposit of household waste free of charge by residents in its area to be available for the deposit of household or other controlled waste by other persons on such terms as to payment (if any) as the authority determines.
- (4) For the purpose of discharging its duty under subsection (1)(a) above as respects controlled waste collected as mentioned in that paragraph a waste disposal authority—
- (a) shall give directions to the waste collection authorities within its area as to the persons to whom and places at which such waste is to be delivered;
  - (b) may arrange for the provision, within or outside its area, by waste disposal contractors of places at which such waste may be treated or kept prior to its removal for treatment or disposal;
  - (c) may make available to waste disposal contractors (and accordingly own) plant and equipment for the purpose of enabling them to keep such waste prior to its removal for disposal or to treat such waste in connection with so keeping it or for the purpose of facilitating its transportation;
  - (d) may make available to waste disposal contractors (and accordingly hold) land for the purpose of enabling them to treat, keep or dispose of such waste in or on the land;
  - (e) may contribute towards the cost incurred by persons who produce commercial or industrial waste in providing and maintaining plant or equipment intended to deal with such waste before it is collected; and
  - (f) may contribute towards the cost incurred by persons who produce commercial or industrial waste in providing or maintaining pipes or associated works connecting with pipes provided by a waste collection authority within the area of the waste disposal authority.

- (5) For the purpose of discharging its duties under subsection (1)(b) above as respects household waste deposited as mentioned in that paragraph a waste disposal authority—
- (a) may arrange for the provision, within or outside its area, by waste disposal contractors of places at which such waste may be treated or kept prior to its removal for treatment or disposal;
  - (b) may make available to waste disposal contractors (and accordingly own) plant and equipment for the purpose of enabling them to keep such waste prior to its removal for disposal or to treat such waste in connection with so keeping it or for the purpose of facilitating its transportation; and
  - (c) may make available to waste disposal contractors (and accordingly hold) land for the purpose of enabling them to treat, keep or dispose of such waste in or on the land.
- (6) Where the arrangements made under subsection (1)(b) include such arrangements as are authorised by subsection (3) above, subsection (5) above applies as respects household or other controlled waste as it applies as respects household waste.
- (7) Subsection (1) above is subject to section 77.
- (8) This section shall not apply to Scotland.

## **52 Payments for recycling and disposal etc. of waste**

- (1) Where, under section 48(2) above, a waste collection authority retains for recycling waste collected by it under section 45 above, the waste disposal authority for the area which includes the area of the waste collection authority shall make to that authority payments, in respect of the waste so retained, of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.
- (2) Where, by reason of the discharge by a waste disposal authority of its functions, waste arising in its area does not fall to be collected by a waste collection authority under section 45 above, the waste collection authority shall make to the waste disposal authority payments, in respect of the waste not falling to be so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.
- (3) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste arising in the area of a waste disposal authority which would fall to be collected under section 45 above, the waste disposal authority may make to that person payments, in respect of the waste so collected, of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.
- (4) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste which would fall to be collected under section 45 above, the waste collection authority may make to that person payments, in respect of the waste so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.
- (5) The Secretary of State may, by regulations, impose on waste disposal authorities a duty to make payments corresponding to the payments which are authorised by subsection (3) above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations.

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- (6) For the purposes of subsections (1), (3) and (5) above the net saving of expenditure of a waste disposal authority on the disposal of any waste retained or collected for recycling is the amount of the expenditure which the authority would, but for the retention or collection, have incurred in having it disposed of less any amount payable by the authority to any person in consequence of the retention or collection for recycling (instead of the disposal) of the waste.
- (7) For the purposes of subsections (2) and (4) above the net saving of expenditure of a waste collection authority on the collection of any waste not falling to be collected by it is the amount of the expenditure which the authority would, if it had had to collect the waste, have incurred in collecting it .
- (8) The Secretary of State shall, by regulations, make provision for the determination of the net saving of expenditure for the purposes of subsections (1), (2), (3), (4) and (5) above.
- (9) A waste disposal authority shall be entitled to receive from a waste collection authority such sums as are needed to reimburse the waste disposal authority the reasonable cost of making arrangements under section 51(1) above for the disposal of commercial and industrial waste collected in the area of the waste disposal authority.
- (10) A waste disposal authority shall pay to a waste collection authority a reasonable contribution towards expenditure reasonably incurred by the waste collection authority in delivering waste, in pursuance of a direction under section 51(4)(a) above, to a place which is unreasonably far from the waste collection authority's area.
- (11) Any question arising under subsection (9) or (10) above shall, in default of agreement between the two authorities in question, be determined by arbitration.

### **53 Duties of authorities as respects disposal of waste collected: Scotland**

- (1) It shall be the duty of each waste disposal authority to arrange for the disposal of any waste collected by it, in its capacity as a waste collection authority, under section 45 above; and without prejudice to the authority's powers apart from the following provisions of this subsection, the powers exercisable by the authority for the purpose of performing that duty shall include power—
  - (a) to provide, within or outside its area, places at which to deposit waste before the authority transfers it to a place or plant or equipment provided under the following paragraph; and
  - (b) to provide, within or outside its area, places at which to dispose of or recycle the waste and plant or equipment for processing, recycling or otherwise disposing of it.
- (2) Subsections (7) and (10) of section 45 above shall have effect in relation to a waste disposal authority as if the reference in paragraph (a) of the said subsection (7) to the collection of waste included the disposal of waste under this section and the disposal of anything produced from waste belonging to the authority.
- (3) A waste disposal authority may permit another person to use facilities provided by the authority under the preceding provisions of this section and may provide for the use of another person any such facilities as the authority has power to provide under those provisions, and—

- (a) subject to the following paragraph, it shall be the duty of the authority to make a reasonable charge in respect of the use by another person of the facilities unless the authority considers it appropriate not to make a charge;
  - (b) no charge shall be made under this section in respect of household waste; and
  - (c) anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.
- (4) References to waste in subsection (1) above do not include matter removed from privies under section 45(5)(a) or (6) above, and it shall be the duty of a waste collection authority (other than an islands council) by which matter is so removed—
- (a) to deliver the matter, in accordance with any directions of the regional council, at a place specified in the directions (which must be in or within a reasonable distance from the waste collection authority's area), to the regional council or another person so specified;
  - (b) to give to the regional council from time to time a notice stating the quantity of the matter which the waste collection authority expects to deliver to or as directed by the regional council under the preceding paragraph during a period specified in the notice.
- (5) Any question arising under paragraph (a) of the preceding subsection as to whether a place is within a reasonable distance from a waste collection authority's area shall, in default of agreement between the waste collection authority and the regional council in question, be determined by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties; and anything delivered to a regional council under that subsection shall belong to the council and may be dealt with accordingly.
- (6) This section applies to Scotland only.

#### **54 Special provisions for land occupied by disposal authorities: Scotland**

- (1) Nothing in subsection (1)(a) and (b) of section 33 above shall apply to—
- (a) the deposit of controlled waste in or on land in the area of a waste disposal authority which is occupied by the authority; or
  - (b) the treating, keeping or disposing of controlled waste—
    - (i) in or on land so occupied;
    - (ii) by means of any mobile plant operated by the waste disposal authority,if the requirements of subsection (3) below are satisfied.
- (2) If any land occupied by a waste disposal authority is used by the authority as a site in or on which to deposit, treat, keep or dispose of or permit other persons to deposit, treat, keep or dispose of controlled waste or if the authority operates their mobile plant for the purpose aforesaid, it shall be the duty of the waste regulation authority to ensure that the land is used and the mobile plant operated in accordance with conditions which are—
- (a) calculated to prevent the use from causing pollution of the environment or harm to human health or serious detriment to the amenities of the locality in which the land is situated or the mobile plant may be operated; and
  - (b) specified in a resolution passed by the waste regulation authority in accordance with the following provisions of this section.

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- (3) The requirements mentioned in subsection (1) above are, where the deposit is made, or the treating, keeping or disposing is carried out—
- (a) by the waste disposal authority that, as respects the land or as the case may be the mobile plant, conditions have been specified by the waste regulation authority by virtue of subsection (2)(b) above and (in so far as current) are complied with;
  - (b) by another person, that it is with the consent of the waste disposal authority and in accordance with any conditions to which the consent is subject.
- (4) Where a waste disposal authority proposes that any land which the waste disposal authority occupies or intends to occupy should be used by that authority or that any mobile plant should be operated by the authority as mentioned in the preceding subsection, it shall be the duty of the waste regulation authority before it gives effect to the proposal—
- (a) to prepare a statement of the conditions which the waste regulation authority intends to specify in a resolution to be passed by that authority under paragraph (d) below;
  - (b) to refer the proposal and the statement—
    - (i) to the river purification authority whose area includes any of the land in question;
    - (ii) to the Health and Safety Executive;
    - (iii) where the waste regulation authority is not also a district planning authority (within the meaning of section 172 of the Local Government (Scotland) Act 1973), to the general planning authority (within the meaning of that section) whose area includes any of the land; and
    - (iv) in the case of a proposal to operate mobile plant, to the river purification authority whose area includes the area of the waste disposal authority;
  - (c) to consider any representations about the proposal and statement which the river purification authority, the Health and Safety Executive or the general planning authority makes to it during the allowed period;
  - (d) subject to subsection (7) of this section, to pass a resolution—
    - (i) authorising the deposit, keeping, treatment or disposal of any specified description of controlled waste in or on specified land occupied or to be occupied by the waste disposal authority or the treatment or disposal of any specified description of controlled waste by means of specified mobile plant;
    - (ii) specifying the conditions in accordance with which the land in question or the mobile plant is to be used by the waste disposal authority as mentioned in the preceding subsection;
  - (e) where any part of the land to be used is land which has been notified under section 28(1) of the Wildlife and Countryside Act 1981, to—
    - (i) refer the proposal and the statement to the appropriate nature conservation body, and
    - (ii) consider any representations about the proposal and the statement which that body makes to it during the allowed period,
 and in this subsection and subsection (13) of this section any reference to the appropriate nature conservation body is a reference, until the date appointed under section 131(3) below, to the Nature Conservancy Council or, after that date, to the Nature Conservancy Council for Scotland.

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- (5) In subsection (4) above, paragraphs (a) to (c), and in paragraph (d) the words “subject to subsection (7) of this section”, shall have effect only in a case where the proposal is made by a waste disposal authority other than an islands council.
- (6) A separate resolution under subsection (4)(d) above shall be passed by the authority—
  - (a) in respect of each item of mobile plant; and
  - (b) in relation to each site.
- (7) If a river purification authority to which a proposal is referred by a waste regulation authority under paragraph (b) of subsection (4) of this section requests the authority not to proceed with the resolution or disagrees with the authority as to the conditions to be specified in the resolution under paragraph (d) of that subsection, either of them may refer the matter to the Secretary of State and it shall be the duty of the authority not to pass a resolution under that paragraph except in accordance with his decision.
- (8) A waste regulation authority by which a resolution has been passed under paragraph (d) of subsection (4) of this section or this subsection may vary or rescind the resolution by a subsequent resolution of the authority.
- (9) Paragraphs (a) to (c) of subsection (4) and subsection (7) of this section shall with the necessary modifications apply to a proposal to pass a resolution under subsection (8) above and to such a resolution as they apply to such a proposal as is mentioned in those provisions and to a resolution under the said paragraph (d), except that—
  - (a) those provisions shall not apply to a resolution, or to a proposal to pass a resolution, which only rescinds a previous resolution; and
  - (b) the waste regulation authority may postpone the reference under the said subsection (4) so far as the authority considers that by reason of an emergency it is appropriate to do so; and
  - (c) the waste regulation authority may disregard any other authority or the Health and Safety Executive for the purposes of the preceding provisions of this subsection in relation to a resolution which, in the opinion of the waste regulation authority, will not affect the other authority.
- (10) If while a resolution is in force under the preceding provisions of this section it appears to the authority which passed the resolution—
  - (a) that the continuation of activities to which the resolution relates would cause pollution of the environment or harm to human health or would be seriously detrimental to the amenities of the locality affected; and
  - (b) that the pollution, harm or detriment cannot be avoided by modifying the conditions relating to the carrying on of the activities,it shall be the duty of the waste disposal authority to discontinue the activities and of the waste regulation authority to rescind the resolution.
- (11) If it appears to a river purification authority that activities to which a resolution under this section relates are causing or likely to cause pollution to controlled waters (within the meaning of Part II of the Control of Pollution Act 1974) in the area of the authority, the authority may, without prejudice to the provisions of the preceding subsection or the said Part II, request the Secretary of State to direct the waste regulation authority which passed the resolution to rescind it and the waste disposal authority to discontinue the activities; and it shall be the duty of a waste disposal authority and a waste regulation authority to comply with a direction given to it under this subsection.

- (12) It shall be the duty of waste regulation authorities to have regard to any guidance issued to them by the Secretary of State with regard to the discharge of their functions under this section.
- (13) The period allowed to the river purification authority, the Health and Safety Executive and the general planning authority for the making of representations under subsection (4)(c) above or to the appropriate nature conservation body for the making of representations under subsection (4)(e) above about a proposal is the period of twenty-one days beginning with that on which the proposal is received by that body or such longer period as the waste regulation authority and that body agree in writing.
- (14) The Secretary of State may, by regulations, make provision as to conditions which are, or are not, to be included in a resolution; and regulations under this subsection may make different provision for different circumstances.
- (15) The Secretary of State may as respects any resolution made or to be made by the authority give to the authority directions—
- (a) as to the conditions which are or are not to be included in the resolution;
  - (b) as to the modifications which it would be appropriate to make in the conditions included in a resolution by virtue of subsection (7) above;
  - (c) as to the rescinding of the resolution;
- and it shall be the duty of the authority to give effect to the directions.
- (16) Any resolution of a waste disposal authority under Part I of the Control of Pollution Act 1974 effective immediately before the commencement of this section shall have effect as if it were a resolution of a waste regulation authority under this section.
- (17) This section applies to Scotland only.

## **55 Powers for recycling waste**

- (1) This section has effect for conferring on waste disposal authorities and waste collection authorities powers for the purposes of recycling waste.
- (2) A waste disposal authority may—
- (a) make arrangements with waste disposal contractors for them to recycle waste as respects which the authority has duties under section 51(1) above or agrees with another person for its disposal or treatment;
  - (b) make arrangements with waste disposal contractors for them to use waste for the purpose of producing from it heat or electricity or both;
  - (c) buy or otherwise acquire waste with a view to its being recycled;
  - (d) use, sell or otherwise dispose of waste as respects which the authority has duties under section 51(1) above or anything produced from such waste.
- (3) A waste collection authority may—
- (a) buy or otherwise acquire waste with a view to recycling it;
  - (b) use, or dispose of by way of sale or otherwise to another person, waste belonging to the authority or anything produced from such waste.
- (4) This section shall not apply to Scotland.



## **56 Powers for recycling waste: Scotland**

- (1) Without prejudice to the powers of waste disposal authorities apart from this section, a waste disposal authority may—
  - (a) do such things as the authority considers appropriate for the purpose of—
    - (i) enabling waste belonging to the authority, or belonging to another person who requests the authority to deal with it under this section, to be recycled; or
    - (ii) enabling waste to be used for the purpose of producing from it heat or electricity or both;
  - (b) buy or otherwise acquire waste with a view to its being recycled;
  - (c) use, sell or otherwise dispose of waste belonging to the authority or anything produced from such waste.
- (2) This section applies to Scotland only.

## **57 Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered**

- (1) The Secretary of State may, by notice in writing, direct the holder of any waste management licence to accept and keep, or accept and treat or dispose of, controlled waste at specified places on specified terms.
- (2) The Secretary of State may, by notice in writing, direct any person who is keeping controlled waste on any land to deliver the waste to a specified person on specified terms with a view to its being treated or disposed of by that other person.
- (3) A direction under this section may impose a requirement as respects waste of any specified kind or as respects any specified consignment of waste.
- (4) A direction under subsection (2) above may require the person who is directed to deliver the waste to pay to the specified person his reasonable costs of treating or disposing of the waste.
- (5) A person who fails, without reasonable excuse, to comply with a direction under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person shall not be guilty of an offence under any other enactment prescribed by the Secretary of State by regulations made for the purposes of this subsection by reason only of anything necessarily done or omitted in order to comply with a direction under this section.
- (7) The Secretary of State may, where the costs of the treatment or disposal of waste are not paid or not fully paid in pursuance of subsection (4) above to the person treating or disposing of the waste, pay the costs or the unpaid costs, as the case may be, to that person.
- (8) In this section “specified” means specified in a direction under this section.

## **58 Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered: Scotland**

In relation to Scotland, the Secretary of State may give directions to a waste disposal authority to accept and keep, or accept and treat or dispose of, controlled waste at

specified places on specified terms; and it shall be the duty of the authority to give effect to the directions.

## **59 Powers to require removal of waste unlawfully deposited**

- (1) If any controlled waste is deposited in or on any land in the area of a waste regulation authority or waste collection authority in contravention of section 33(1) above, the authority may, by notice served on him, require the occupier to do either or both of the following, that is—
  - (a) to remove the waste from the land within a specified period not less than a period of twenty-one days beginning with the service of the notice;
  - (b) to take within such a period specified steps with a view to eliminating or reducing the consequences of the deposit of the waste.
- (2) A person on whom any requirements are imposed under subsection (1) above may, within the period of twenty-one days mentioned in that subsection, appeal against the requirement to a magistrates' court or, in Scotland, to the sheriff by way of summary application.
- (3) On any appeal under subsection (2) above the court shall quash the requirement if it is satisfied that—
  - (a) the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste; or
  - (b) there is a material defect in the notice;and in any other case shall either modify the requirement or dismiss the appeal.
- (4) Where a person appeals against any requirement imposed under subsection (1) above, the requirement shall be of no effect pending the determination of the appeal; and where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.
- (5) If a person on whom a requirement imposed under subsection (1) above fails, without reasonable excuse, to comply with the requirement he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to one-tenth of level 5 on the standard scale for each day on which the failure continues after conviction of the offence and before the authority has begun to exercise its powers under subsection (6) below.
- (6) Where a person on whom a requirement has been imposed under subsection (1) above by an authority fails to comply with the requirement the authority may do what that person was required to do and may recover from him any expenses reasonably incurred by the authority in doing it.
- (7) If it appears to a waste regulation authority or waste collection authority that waste has been deposited in or on any land in contravention of section 33(1) above and that—
  - (a) in order to remove or prevent pollution of land, water or air or harm to human health it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; or
  - (b) there is no occupier of the land; or
  - (c) the occupier neither made nor knowingly permitted the deposit of the waste;the authority may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps.

- (8) Where an authority exercises any of the powers conferred on it by subsection (7) above it shall be entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste—
- (a) in a case falling within subsection (7)(a) above, from the occupier of the land unless he proves that he neither made nor knowingly caused nor knowingly permitted the deposit of the waste;
  - (b) in any case, from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste;
- except such of the cost as the occupier or that person shows was incurred unnecessarily.
- (9) Any waste removed by an authority under subsection (7) above shall belong to that authority and may be dealt with accordingly.

## **60 Interference with waste sites and receptacles for waste**

- (1) No person shall sort over or disturb—
- (a) anything deposited at a place for the deposit of waste provided by a waste collection authority, by a waste disposal contractor under arrangements made with a waste disposal authority or by any other local authority or person or, in Scotland, by a waste disposal authority;
  - (b) anything deposited in a receptacle for waste, whether for public or private use, provided by a waste collection authority, by a waste disposal contractor under arrangements made with a waste disposal authority, by a parish or community council or by a holder of a waste management licence or, in Scotland, by a waste disposal authority or a roads authority; or
  - (c) the contents of any receptacle for waste which, in accordance with a requirement under section 46 or 47 above, is placed on any highway or, in Scotland, road or in any other place with a view to its being emptied;
- unless he has the relevant consent or right to do so specified in subsection (2) below.
- (2) The consent or right that is relevant for the purposes of subsection (1)(a), (b) or (c) above is—
- (a) in the case of paragraph (a), the consent of the authority, contractor or other person who provides the place for the deposit of the waste;
  - (b) in the case of paragraph (b), the consent of the authority, contractor or other person who provides the receptacle for the deposit of the waste;
  - (c) in the case of paragraph (c), the right to the custody of the receptacle, the consent of the person having the right to the custody of the receptacle or the right conferred by the function by or under this Part of emptying such receptacles.
- (3) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine of an amount not exceeding level 3 on the standard scale.

## **61 Duty of waste regulation authorities as respects closed landfills**

- (1) Except as respects land in relation to which a site licence is in force, it shall be the duty of every waste regulation authority to cause its area to be inspected from time to time to detect whether any land is in such a condition, by reason of the relevant matters affecting the land, that it may cause pollution of the environment or harm to human health.

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- (2) The matters affecting land relevant for the purposes of this section are the concentration or accumulation in, and emission or discharge from, the land of noxious gases or noxious liquids caused by deposits of controlled waste in the land.
- (3) For the purpose of discharging the duty imposed by subsection (1) above on a waste regulation authority, the authority may enter and inspect any land—
  - (a) in or on which controlled waste has been deposited at any time under the authority of a waste management licence or a disposal licence under section 5 of the Control of Pollution Act 1974; or
  - (b) as respects which the authority has reason to believe that controlled waste has been deposited in the land at any time (whether before or after 1st January 1976); or
  - (c) in which there are, or the authority has reason to believe there may be, concentrations or accumulations of noxious gases or noxious liquids.

In this subsection “controlled waste” means household, industrial or commercial waste as defined in section 75(5), (6) and (7) below (subject, if the regulations so provide, to regulations under section 63(1) or 75(8) below).

- (4) Where it appears to a waste regulation authority that the condition of any land in its area is such as is specified in subsection (1) above it shall be the duty of the authority, from time to time during the period of its responsibility for the land, to enter and inspect the land for the purpose of keeping its condition under review.
- (5) Where, at any time during the period of its responsibility for any land, it appears to a waste regulation authority that the condition of the land is, by reason of the relevant matters affecting the land, such that pollution of water is likely to be caused, it shall be the duty of the authority to consult the National Rivers Authority or, in Scotland, the river purification authority whose area includes the land in question as to the discharge by the authority of the duty imposed on it in relation to the land by subsection (7) below.
- (6) The “period of responsibility” for any land for the purposes of subsections (4) and (5) above extends from the time at which the condition of the land first appears to the authority to be such as is referred to in that subsection until the authority is satisfied that no pollution of the environment or harm to human health will be caused by reason of the relevant matters affecting the land.
- (7) Where, on an inspection by a waste regulation authority of any land under this section, it appears to the authority that the condition of the land is, by reason of the relevant matters affecting the land, such that pollution of the environment or harm to human health is likely to be caused it shall be the duty of the authority to do such works and take such other steps (whether on the land affected or on adjacent land) as appear to the authority to be reasonable to avoid such pollution or harm.
- (8) Where an authority exercises in relation to waste on any land the duty imposed by subsection (7) above, the authority shall, except in a case falling within subsection (9) below, be entitled to recover the cost or part of the cost incurred in doing so from the person who is for the time being the owner of the land, except such of the cost as that person shows was incurred unreasonably.
- (9) Subsection (8) above does not apply in a case where the authority accepted the surrender under section 39 above of the waste management licence which authorised the activities in the course of which the waste was deposited.

- (10) In deciding whether to recover the cost and, if so, how much to recover of the cost which it is entitled to recover under subsection (8) above, the authority shall have regard to any hardship which the recovery may cause to the owner of the land.
- (11) It shall be the duty of waste regulation authorities to have regard to any guidance issued to them by the Secretary of State as respects the discharge of their functions under this section.