

GREATER LONDON AUTHORITY ACT 2007

EXPLANATORY NOTES

COMMENTARY

Part 8: Environmental Functions

Waste

Section 37: Duties of waste collection authorities etc

89. Section 353 of the GLA Act 1999 requires the Mayor to prepare and publish a document known as the municipal waste management strategy. This sets the strategic direction for London's waste activities. Section 355 of the 1999 Act requires waste collection authorities and waste disposal authorities in Greater London to "have regard to" the strategy in carrying out some of their waste functions.
90. *Subsection (3)* amends section 355 of the GLA Act 1999 so as to require waste collection and waste disposal authorities in Greater London to "act in general conformity with" the Mayor's strategy. The duty will apply whenever those authorities exercise any of their waste functions under Part 2 of the Environmental Protection Act 1990. This will allow the Mayor to have a stronger strategic role in the management of London's waste.
91. *Subsection (4)* inserts a new subsection (2) into section 355 of the GLA Act 1999 to limit the duty on London waste authorities to "act in general conformity" with the strategy, so that it does not apply where to do so would impose "excessive additional costs" on the authority.
92. *Subsection (5)* inserts a series of new subsections into section 355 of the GLA Act 1999. New subsection (3) gives the Secretary of State the power to issue guidance setting out a definition of "general conformity" and "imposing excessive additional costs on an authority". New subsection (4) requires waste collection authorities and waste disposal authorities in Greater London to act in accordance with the guidance.
93. New subsections (6) and (7) set out the limitations on the duty for waste authorities in Greater London to act in general conformity insofar as waste contracts are concerned. Subsection (6) provides that neither the duty nor any related guidance requires an authority to terminate a waste contract before the expiry of the term of the contract or to do anything which would result in a breach of any term of a waste contract. Subsection (7) provides that if the Mayor's municipal waste management strategy is revised after the authority has sent the second information notice relating to the awarding of the contract to the Official Journal of the European Union, the duty and guidance apply as if the former strategy still had effect.
94. *Subsection (6)*, a transitional provision, provides that the new duty to act in general conformity with the Mayor's municipal waste management strategy and accompanying guidance does not apply in relation to the awarding of a waste contract if the authority had sent the second information notice relating to the awarding of the contract to the Official Journal of the European Union before the new duty comes into force.

Section 38: London Waste and Recycling Board

95. This section inserts into the GLA Act 1999 two new sections (sections 356A and 356B) which establish a London Waste and Recycling Board (“the Board”). The Board’s objectives are to promote within Greater London: the production of less waste; an increase in the proportion of waste which is re-used or recycled and the use of methods of collection, treatment and disposal of waste which are beneficial to the environment.
96. The Board can give financial assistance and provide advice in order to fulfil its objectives. In particular it may provide financial assistance in order to help provide waste facilities; undertake research into new technologies or techniques for the collection, treatment or disposal of waste; and assist London Boroughs and the City of London in their waste functions. The Board will have to act in accordance with the Mayor’s Municipal Waste Management Strategy and in general conformity with the London Plan.
97. Supplemental provision on the nature of the Board is laid out in section 356B. In particular it allows the Secretary of State, by order, to determine the Board’s constitution and membership. The number of members must be between 7 and 13. The Secretary of State may pay grants to the Board on such conditions as he may determine.

Section 39: Information about waste contracts

98. This section amends section 358 of the GLA Act 1999 on information about new waste contracts, and updates the 1999 Act following changes to public procurement legislation. It makes new provision that where an authority is *not* obliged either to send the European Commission a first information notice of its intention to tender a waste contract or to publish such a notice on the authority’s buyer profile, but it *is* obliged to send a second information notice, the authority must inform the Mayor of its intention to tender. An authority is required to notify the Mayor 108 days before issuing the second information notice. Waste authorities that publish their intention to tender on the authority’s buyer profile as an alternative to issuing a first information notice will be required to give the Mayor 56 days prior notification. Where waste authorities are not required to comply with public procurement regulations, existing notification requirements under section 358(2) will continue to apply. The amendments will ensure that the Mayor is informed of all waste tenders in advance.

Climate change and energy

Section 40: The general power of the Authority: duty to have regard

99. Under section 30(1) of the GLA Act 1999, the Authority has a general power, within certain limitations, to take any action for the furtherance of its principal purposes (as defined in that section). Section 30(4) of the 1999 Act requires that the Authority must have regard to the effect which any proposed exercise of its powers will have on the health of persons in Greater London and the achievement of sustainable development in the United Kingdom. Section 30(5) requires that it should exercise its powers in a way best calculated to promote the improvement in the health of those persons and to contribute towards the achievement of sustainable development, where reasonably practicable. Section 40 amends section 30(4) to require that the Authority must also have regard to the effect of any proposed exercise of its powers on climate change, and the consequences of climate change. The section amends section 30(5) to require that the Authority exercises its powers in a way that is best calculated to contribute towards the mitigation of, or adaptation to, climate change, in the United Kingdom, where reasonably practicable.

Section 41: General duties of the Mayor with respect to his strategies

100. Under section 41(4) of the GLA Act 1999 the Mayor is required to have regard to the effect his proposed strategies will have on the health of persons in Greater London

and on the achievement of sustainable development in the United Kingdom. Section 41(7) requires that he include such policies and proposals relating to the content of the strategy he considers best meets those aims. Section 41 makes similar provision in respect to climate change. It amends section 41(4) of the 1999 Act to require the Mayor to have regard to climate change and the consequences of climate change when preparing his strategies. The section also amends section 41(7) to require the Mayor to include such policies and proposals in his strategies he considers best calculated to contribute towards the mitigation of, or adaptation to, climate change, in the United Kingdom.

101. This requirement complements the duty on each of the Mayor and Assembly at section 42 to address climate change, and the requirement on the Mayor to ensure the exercise of the GLA's general power contributes to addressing climate change at section 40.

Section 42: Duty of Mayor and Assembly to address climate change

102. Action is required both globally and domestically to prevent climate change, primarily by reducing emissions of greenhouse gases. In addition to its commitment to reduce emissions of greenhouse gases by 12.5 per cent below base year levels by 2008-12, the Government has set national goals of reducing carbon dioxide emissions by 20% below 1990 levels by 2010 and by 60% by 2050, with real progress by 2020. Action is also required to adapt to the actual and expected consequences of climate change. The Government believes that regional and local government have an important role to play in tackling climate change.
103. **Section 42** amends the GLA Act 1999 and places a duty on each of the Mayor and the Assembly to address climate change.
104. The Mayor is required to take action in Greater London to help prevent climate change and to help Greater London to adapt to both the actual and expected consequences of climate change. The Mayor and Assembly are each required to take into account Government policies on climate change whenever they exercise their functions and to have regard to any guidance and comply with any directions issued by the Secretary of State as to how they are each to discharge their duties with respect to climate change.

Section 43: The London climate change mitigation and energy strategy

105. **Section 43** amends the GLA Act 1999 so as to require the Mayor to prepare a London climate change mitigation and energy strategy, which will contain proposals for the contribution to be made in Greater London towards the mitigation of climate change and the achievement of objectives in national policies relating to energy. The strategy must contain proposals setting out how the Mayor will:
- minimise the emissions of carbon dioxide, and any significant greenhouse substances which the Mayor considers it appropriate to address, from the use of energy in Greater London for the purposes of surface transport and the use of energy more broadly;
 - support innovation and encourage investment in energy technologies; and
 - promote the efficient production and use of energy in Greater London.
106. The strategy will also contain information about fuel poverty in Greater London and emission levels in, or attributable to, Greater London. In addition, the strategy must not be inconsistent with national policies on climate change mitigation, or national policies on energy.
107. The section gives the Secretary of State a limited power to direct the Mayor to change the London climate change mitigation and energy strategy. The Secretary of State will only be able to use this power where the strategy would be inconsistent with national

*These notes refer to the Greater London Authority Act 2007
(c.24) which received Royal Assent on 23 October 2007*

policies on energy or climate change, and the inconsistency would have a detrimental effect on achieving any or all of the objectives of those national policies. The Secretary of State must consult the Mayor before using this power of direction.

108. The London climate change mitigation and energy strategy will be subject to sections 41 to 44 of the GLA Act 1999, which make general provision for the preparation and publication of the Mayor's strategies. These include provisions on timing, the need to have regard to available resources and the persons to be consulted by the Mayor.
109. In addition to the statutory consultees listed in section 42 of the GLA Act 1999, the Mayor must also consult the Gas and Electricity Markets Authority and the Gas and Electricity Consumer Council as well as certain holders of gas and electricity licences. If there ceases to be a body known as the Gas and Electricity Markets Authority or the Gas and Electricity Consumer Council, the Mayor must consult with such other appropriate body as the Secretary of State prescribes by order, which would be set out in an Order made under the strategy provision .

Section 44: The Mayor's adaptation to climate change strategy for London

110. **Section 44** requires the Mayor to prepare and publish an adaptation to climate change strategy for London. The strategy must contain the Mayor's assessment of the consequences of climate change for Greater London and his proposals and policies for adaptation to the effects, both actual and expected, of climate change in Greater London. The Mayor must have regard to any guidance produced by the Secretary of State about the content of the strategy and in relation to the preparation and revision of the strategy. Such guidance may include guidance about the evidence to which the Mayor must have regard in preparing or revising the strategy.
111. The strategy will be subject to the general provisions for the preparation and publication of Mayoral strategies set out in sections 41 to 44 of the GLA Act 1999. The Secretary of State may specify in guidance the persons the Mayor must consult in addition to the statutory consultees listed at section 42 of the 1999 Act. The Secretary of State may direct the Mayor to revise the strategy to remove any inconsistency with Government climate change policies or objectives if he considers the inconsistency would have a detrimental effect on achieving them.