

SCHEDULES

SCHEDULE 5

Section 71

WASTE REDUCTION SCHEMES

PART 1

MAIN PROVISIONS

- 1 After section 60 of the Environmental Protection Act 1990 (c. 43) insert—

“Waste reduction schemes

60A Waste reduction schemes

A waste collection authority whose area is in England may make a waste reduction scheme in accordance with Schedule 2AA to this Act.”

- 2 After Schedule 2A to that Act insert—

“SCHEDULE
2AA

WASTE REDUCTION SCHEMES

Introductory

- 1 (1) The purpose of a waste reduction scheme is to provide a financial incentive—
- (a) to produce less domestic waste, and
 - (b) to recycle more of what is produced,
- and accordingly to reduce the amount of residual domestic waste.
- (2) A waste reduction scheme—
- (a) may cover the whole or any part of the area of a waste collection authority, and
 - (b) may apply to all domestic premises, to domestic premises other than those of a specified description or to specified descriptions of domestic premises.

Conditions for making waste reduction scheme

- 2 (1) A waste collection authority may make a waste reduction scheme only if—
- (a) a good recycling service is available to the occupiers of premises to which the scheme applies,

Status: This is the original version (as it was originally enacted).

- (b) the scheme takes account of the needs of groups who might be unduly disadvantaged by it, and
 - (c) the authority has a strategy for preventing, minimising or otherwise dealing with the unauthorised deposit or disposal of waste.
- (2) In sub-paragraph (1)(a) above—
- (a) a “recycling service” means arrangements for the collection of recyclable domestic waste from premises separately from other waste; and
 - (b) a “good” recycling service means a recycling service that meets the standards specified for the purposes of this definition in guidance issued by the Secretary of State.
- (3) The Secretary of State may by order amend sub-paragraphs (1) and (2) above.

Incentive under waste reduction scheme

- 3 (1) A waste reduction scheme must provide for a financial incentive that the authority considers will be effective to achieve the purpose of the scheme.
- (2) The scheme may provide for the incentive to be provided—
- (a) by means of rebates from council tax or by other payments, or
 - (b) by means of charges under paragraph 4,
- or by any combination of those means.

Charges in respect of residual domestic waste

- 4 (1) A waste reduction scheme may include provision for charging by reference to—
- (a) the amount of residual domestic waste collected from premises,
 - (b) the size of receptacles used for the purposes of the collection of residual domestic waste from premises,
 - (c) the number of receptacles used for such purposes, or
 - (d) the frequency with which residual domestic waste is collected from premises,
- or by reference to any combination of those factors.
- (2) The scheme may, in particular, make provision for occupiers of premises—
- (a) to be required (by notice under section 46) to place residual domestic waste for collection in receptacles of a specified kind,
 - (b) to be required (by such notice) to place such waste in receptacles that are identified by such means as may be specified, or
 - (c) to be required to do both,
- and for a charge to be made by the authority in respect of the receptacles, the means of identifying them or both.

Status: This is the original version (as it was originally enacted).

- (3) A charge under this paragraph in respect of a receptacle is in addition to any charge under section 46 in respect of the cost of providing the receptacle.
- (4) The amount of any charge under this paragraph need not be related to the authority's costs.
- (5) The scheme may make provision as to the person or persons by whom any charge is payable.
- (6) The scheme may—
 - (a) require any charge to be paid in advance on the basis of an estimate of the amount that is likely to be payable in respect of any premises; or
 - (b) require payments in respect of any charge to be made on account or by instalments.

Charging: supplementary provisions

- 5 (1) The Secretary of State may by order set a limit on the amount of the charge under paragraph 4 that may be imposed in respect of any premises in any financial year.
- (2) A failure to pay a charge under paragraph 4 does not affect the authority's duty under section 45(1)(a) (general duty to arrange for collection of household waste).
- (3) Section 45(3) (general prohibition on charging for collection of household waste) has effect subject to paragraph 4.

Requirement of revenue neutrality

- 6 (1) From year to year, and taking one year with another, the aggregate amount of charges under a waste reduction scheme must not exceed the aggregate amount of the rebates or other payments under the scheme.
- (2) The Secretary of State may by order amend sub-paragraph (1) above.
- (3) Any such order may make any amendments of paragraph 4(4) that appear to the Secretary of State to be necessary or expedient in consequence of, or in connection with, the amendment of sub-paragraph (1) above.

Procedure for putting scheme in place

- 7 (1) The authority must comply with the following requirements after making a waste reduction scheme and before it is brought into operation.
- (2) The authority must publish the scheme in such manner as it considers appropriate.
- (3) The authority must send to the occupier of any premises to which the scheme applies a notice setting out—

Status: This is the original version (as it was originally enacted).

- (a) the requirements applicable under the scheme in relation to the collection of domestic waste from premises to which the scheme applies;
- (b) any rebates or other payments available under the scheme and the manner in which they are to be made; and
- (c) any charges provided for by the scheme and the manner in which they are to be collected.

Appeals

- 8 A waste reduction scheme must contain provision enabling a person to appeal against any decision affecting, directly or indirectly, that person's entitlement to a rebate or other payment, or liability to pay a charge, under the scheme.

Separate account to be kept

- 9 (1) A waste collection authority that operates a waste reduction scheme must keep a separate account of—
- (a) any rebates or other payments under the scheme, and
 - (b) any charges received by it under the scheme.
- (2) Any person interested may at any reasonable time and without payment inspect the account and make copies of it or any part of it.
- (3) A person having custody of the account who intentionally obstructs a person in the exercise of the rights conferred by sub-paragraph (2) above commits an offence.
- (4) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Contributions by waste disposal authority

- 10 (1) Where a waste collection authority that operates a waste reduction scheme is not also the waste disposal authority, the waste disposal authority may pay to the collection authority contributions of such amounts as the disposal authority may determine towards expenditure of the collection authority attributable to the scheme.
- (2) The collection authority must supply to the disposal authority such information as the disposal authority may reasonably require for the purpose of determining amounts under this paragraph.

Power to make provision as to administration etc

- 11 (1) The Secretary of State may by regulations make provision as to—
- (a) the manner in which the amount of any rebate or other payment is to be determined, and any rebate or payment is to be given, and
 - (b) the manner in which—
 - (i) the amount of any charge is to be determined, and
 - (ii) any charge is to be collected or enforced.

Status: This is the original version (as it was originally enacted).

- (2) The regulations may in particular provide—
 - (a) for appeals against determinations or any failure to make a determination,
 - (b) for the appointment of persons or bodies to hear appeals, and
 - (c) for charges to be recoverable, if a county court so orders, as if they were payable under a county court order.
- (3) The regulations may include provision—
 - (a) for integrating the administration of the scheme with the administration of council tax, and
 - (b) for that purpose modifying, to such extent as appears to the Secretary of State to be necessary or expedient, any of the enactments relating to council tax.

In paragraph (b) “modifying” includes making additions, amendments or omissions.

- (4) The regulations may in particular provide—
 - (a) for including material relating to the scheme in the notice containing the council tax demand,
 - (b) for applying to questions arising under the scheme the procedure for appeals about liability to council tax, and
 - (c) for applying to any liability under the scheme the procedures for the enforcement of liability for council tax.

Use of information obtained for council tax purposes

- 12 An authority may use for the purpose of administering a waste reduction scheme information it has obtained for the purpose of carrying out its functions under the enactments relating to council tax.

Amendment or revocation of waste reduction scheme

- 13 (1) An authority that has made a waste reduction scheme may amend or revoke the scheme.
- (2) After amending a scheme and before bringing the amendment into operation, the authority must—
 - (a) publish the amended scheme in such manner as it thinks appropriate, and
 - (b) if the amendment affects any of the matters previously notified to occupiers, send to the occupier of any premises to which the scheme applies a notice setting out the effect of the amendment.
- (3) The amendment or revocation of a scheme does not affect any entitlement or liability under the scheme in respect of a period before the amendment or revocation takes effect.
- (4) The revocation of a scheme does not affect the duty of the authority to comply with paragraph 6(1).

Status: This is the original version (as it was originally enacted).

Guidance

- 14 (1) The Secretary of State may issue guidance to waste collection authorities and waste disposal authorities as respects the exercise of their functions under this Schedule.
- (2) Any such guidance issued—
- (a) must be published in such manner as the Secretary of State considers appropriate, and
 - (b) may be amended or replaced by further guidance, or revoked.
- (3) In exercising their functions under this Schedule waste collection authorities and waste disposal authorities must have regard to any guidance in force under this paragraph.

Interpretation

- 15 (1) In this Schedule—
- “domestic premises” means—
- (a) a building or self-contained part of a building which is used wholly for the purposes of living accommodation,
 - (b) a caravan (as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960 (c. 62)) that usually and for the time being is situated on a caravan site (within the meaning of that Act), or
 - (c) a moored vessel used wholly for the purposes of living accommodation;
- “domestic waste” means household waste from domestic premises;
- “enactment” includes an enactment contained in subordinate legislation;
- “recyclable waste” means waste that is capable of being recycled;
- “residual domestic waste” means domestic waste that is not—
- (a) waste meeting the conditions for collection by the authority as recyclable waste, or
 - (b) waste for which a charge may be made by virtue of regulations under section 45(3) (power to charge for collection of household waste in prescribed cases);
- “specified” means specified in the waste reduction scheme.
- (2) The Secretary of State may by order amend the definition of “domestic premises” in sub-paragraph (1).
- (3) References in this Schedule to recycling include re-using and composting.

Orders and regulations

- 16 (1) An order under paragraph 2(3), 6(2) or 15(2) is subject to affirmative resolution procedure.
- (2) Section 161(3) (negative resolution procedure: orders) applies in relation to an order under paragraph 5(1), subject as follows.
- (3) An order under that paragraph is subject to affirmative resolution procedure if—
- (a) it is the first order to be made under that paragraph, or
 - (b) it increases the limit for the time being set by an order under that paragraph by more than is necessary to reflect changes in the value of money since that limit was set.
- (4) Section 161(2) (negative resolution procedure: regulations) applies in relation to regulations under paragraph 11, subject as follows.
- (5) Regulations under that paragraph are subject to affirmative resolution procedure if they modify an enactment contained in an Act of Parliament.
- (6) Where an order or regulations are subject to “affirmative resolution procedure” the Secretary of State must not make the order or regulations unless a draft of the statutory instrument containing them has been laid before and approved by resolution of each House of Parliament.”.

PART 2

CONSEQUENTIAL AMENDMENTS

- 3 (1) Section 46 of the Environmental Protection Act 1990 (c. 43) (receptacles for household waste) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where—
- (a) subsection (1) applies to a waste collection authority, and
 - (b) a waste reduction scheme under Schedule 2AA to this Act is in operation in the authority’s area,
- the authority may require the occupier to place the waste for collection in receptacles identified by such means as may be specified.
- (1B) A requirement under subsection (1A)—
- (a) must be imposed by notice served on the occupier;
 - (b) may be imposed instead of, or in addition to, any requirement imposed on the occupier under subsection (1).”.

(3) In subsection (6) (penalties for failure to comply with requirements under subsection (1) etc) after “subsection (1),” insert “(1A),”.

(4) In subsection (10) (interpretation), in the definition of “specified”, after “subsection (1)” insert “or (1A)”.

Status: This is the original version (as it was originally enacted).

- 4 (1) Section 161 of that Act (regulations, orders and directions) is amended as follows.
- (2) After subsection (2) (negative resolution procedure: regulations) insert—
- “(2ZA) Subsection (2) does not apply to a statutory instrument containing regulations under paragraph 11 of Schedule 2AA to this Act to which paragraph 16(5) of that Schedule applies.”
- (3) In subsection (4) (instruments not subject to negative resolution procedure), after paragraph (a) insert—
- “(aa) which contains—
- (i) an order under paragraph 2(3), 6(2) or 15(2) of Schedule 2AA to this Act, or
 - (ii) an order under paragraph 5(1) of that Schedule to which paragraph 16(3) of that Schedule applies, or”.