

EXPLANATORY MEMORANDUM TO
THE JOINT WASTE DISPOSAL AUTHORITIES (RECYCLING PAYMENTS)
(DISAPPLICATION) (ENGLAND) ORDER 2006

2006 No. 651

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order disappplies the duty for waste disposal authorities established under the Waste Regulation and Disposal (Authorities) Order 1985 (“JWDAs”) to pay recycling credits to their constituent Waste Collection Authorities (“WCAs”).

3. Legislative Background

3.1 Section 49 of the Clean Neighbourhoods and Environment Act 2005 (“the 2005 Act”) makes changes to section 52 of the Environmental Protection Act 1990 (“the 1990 Act”). Section 52 of the 1990 Act imposed a duty on waste disposal authorities to make payment to WCAs in their area for the household waste that they retain and recycle. Section 49 of the 2005 Act amends section 52 of the 1990 Act to give the Secretary of State the power to disapply by Order section 52(1) of the 1990 Act in relation to any waste disposal authority constituted under section 10 of the Local Government Act 1985. The Waste Regulation and Disposal (Authorities) Order 1985 was made under the Local Government Act 1985. Section 52(1) of the 1990 Act imposes a duty on waste disposal authorities to make payment to a WCA in respect of waste collected and retained for recycling.

3.2 This Order is made under section 52(1A) in the 1990 Act to disapply the duty on JWDAs to make payment to WCAs in their area for the waste that they retain and recycle. Thus, as from coming into force of this Order, JWDAs are disappplied from the duty under subsection 1 of the 1990 Act.

3.3 The Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 establishes a new levying regime for JWDAs based on the tonnage of waste delivered by the WCA for disposal or treatment. These Regulations will apply in relation to levies issued by JWDAs in respect of any financial years beginning on or after the 1st April 2006.

4. Matters of special interest to the Joint Committee on Statutory Instruments

4.1 None.

5. Extent

5.1 This instrument applies to England only.

6. European Convention on Human Rights

- 6.1 As this Order is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 There are six JWDAs, four in London, 1 each in Greater Manchester and Merseyside which came into existence on 1 January 1986 to assume the waste disposal functions of four areas within the Greater London Council, the Greater Manchester County Council and the Merseyside County Council upon their abolition on 1 April 1986. Between them they cover a total of 35 WCAs. They are corporate bodies with a statutorily specified number of members appointed by each constituent council. The areas covered are those where the Secretary of State thought that there could be advantage in having joint arrangements for the discharge of waste disposal functions, but where no such arrangements had been made by a specified time.
- 7.2 The functions of a JWDA are funded by a levy on each constituent WCAs in their area. The levy basis is either decided by unanimous agreement between the WCAs or the default basis is used. The default was based on a council tax base figure dependent on the numbers and value of Band D dwellings in each council WCA but was changed by the Joint Waste Disposal Authorities (Levies) (England) 2006 to a tonnage based levy.
- 7.3 The Government altered the funding mechanism for JWDAs to help JWDAs to manage waste more sustainably in partnership with their WCAs by introducing a link between the WCAs payments and the tonnage of waste they deliver to their JWDA for disposal. These tonnage-based levy will apply in relation to levies issued by JWDAs in respect of any financial years beginning on or after the 1st April 2006.
- 7.4 The change to the funding mechanism for JWDAs to one based on tonnage negates the need for the payment of recycling credits. Recycling Credits were introduced as a means to pass on to a recycler the savings in the disposal and collection cost, which result from recycling household waste. Under the recycling credits scheme, JWDAs have a duty to pay recycling credits to their WCAs for household waste they retain and recycle.
- 7.5 If the duty for JWDAs to pay recycling credits to their WCA remained alongside a tonnage-based levy there would be an automatic double incentive for the WCA to recycle each tonne of material diverted, as compared to the incentive to recycle in other two-tier areas. This is because diverting one tonne of waste from disposal would reduce the WCA's levy by a corresponding amount. It would also attract a credit payment. Such a double incentive might not be compatible with the strategy for the area as a whole, which might, for example, be based on investment in shared recycling facilities at WDA level. This Order therefore removes the duty for JWDAs to pay recycling credits to the WCAs.
- 7.6 Government consulted local authorities, including the JWDAs and their WCAs, on the proposal to remove the duty for JWDAs to pay recycling credits to their WCAs in the 2004 consultation on changes to the recycling credit scheme and in the 2005 consultation on altering the funding mechanism for JWDAs. There was strong support in both consultations from respondents for the duty to be removed as they agreed that recycling credits could not continue alongside a tonnage-based levy. The full analysis

and Government response to the 2005 consultation can be found on the Defra website at <http://www.defra.gov.uk/corporate/consult/jwda/index.htm>

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this Order, as it has no impact on business, charities or voluntary bodies.
- 8.2 There is no impact on the public sector since there will be no net cost associated with the changes proposed. JWDAs fund their recycling credits through the levy on their WCAs. The removal of the duty for JWDAs to pay recycling credits to their WCAs will mean a decrease in the total costs that need to be levied.

9. Contact

Fiona Tranter at the Local Authority Funding and Governance Team of Waste Strategy Division at the Department for Environment, Food and Rural Affairs Tel: 020 7082 8431 or e-mail: fiona.tranter@defra.gsi.gov.uk can answer any queries regarding the instrument.