

This note provides statutory guidance to Waste Collection Authorities (WCA) in England and Wales on their duties under regulations 13 and 14 of the Waste (England and Wales) Regulations 2011 as amended by the Waste (England and Wales) (Amendment) Regulations 2012.

1. What is the legal framework for separate collection of waste paper, metal plastic and glass?

Articles 10 and 11 of the revised Waste Framework Directive require the UK to take measures to promote high quality recycling. They include a specific requirement by 2015 to set up separate collections of waste paper, glass, plastic and metal where 'necessary' and 'practicable'. There is also a requirement to not then mix the separately-collected streams with other waste or other material with different properties, if it is 'necessary' to keep them separate.

Regulations 13 and 14 of the Waste (England and Wales) Regulations 2011 as amended by the Waste (England and Wales) (Amendment) Regulations 2012 implement these provisions. They have been upheld in the High Court as properly transposing the relevant provisions.

The effect of the regulations on WCAs is that where the WCA collects or make arrangements for the collection of waste paper, metal, plastic or glass, they must ensure that such collection is, or those arrangements are, by way of separate collection. These requirements apply where separate collection is both:

- (a) necessary, in effect, to provide high quality recyclates, and
- (b) technically, environmentally and economically practicable.

The requirements apply from 1st January 2015.

2. Who is responsible and accountable for making the decision?

Where the WCA is responsible for collecting the waste, they are responsible for determining whether separate collection is necessary and practicable on the basis of their unique ability to take into account local circumstances. This principle was recognised by the High Court when the transposing regulations were upheld.

3. How should the Waste Collection Authority assure itself that it has met its statutory requirements from 2015?

Where collection of waste paper, metal, plastic and glass is not already undertaken by means of separate collection the WCA can assure themselves by:

- Assessing the extent to which separate collection is necessary and practicable within the terms of the regulations
- Updating the assessment when making decisions affecting waste collection
- Documenting their decisions and retaining a record of the evidence underpinning them

- Collecting the four waste streams in accordance with the assessment.

4. What is the definition of “necessary” in regard to high quality recycling?

Two or more of the waste streams may be collected using a co-mingled system if the system achieves high quality recycling. The bench-mark of “high quality” should be taken as meaning that the recyclate is similar in both quality and quantity to that achieved with good separate collection and is therefore able to be used by reprocessors for turning back into a product of similar quality to what it was originally. This is not commonly the case for glass. Hybrid solutions are possible, whereby separate collection is necessary for one stream but not the others.

5. What is the definition of practicable?

When considering what is practicable the WCA should aim for the best environmental outcome and consider what is technically, environmentally and economically practicable. In this context “practicability” has a specific meaning which is set out in EC guidance¹. That is:

- ‘Technically practicable’ means that the separate collection may be implemented through a system which has been technically developed and proven to function in practice.
- ‘Environmentally practicable’ should be understood such that the added value of ecological benefits justifies possible negative environmental effects of the separate collection (e. g. additional emissions from transport).
- ‘Economically practicable’ refers to a separate collection which does not cause excessive costs in comparison with the treatment of a non-separated waste stream, considering the added value of recovery and recycling and the principle of proportionality.

Different solutions may be practicable in different areas of the WCA, or for different types of households.

6. What are the consequences of a failure to comply with regulatory requirements?

From 2015 the Environment Agency will have the ability under regulation 38 and 39 of The Waste (England and Wales) Regulations 2011 to issue a compliance notice requiring an operator or authority collecting any of the four waste streams to take specified steps within a period to ensure that a contravention does not continue or recur or a stop notice prohibiting any further activity until steps specified in the notice are complied with.

WCAs are legally responsible for their decisions in accordance with the regulations.

¹ http://ec.europa.eu/environment/waste/framework/pdf/guidance_doc.pdf