

Financial Provision for Non-Landfill Waste Management Activities

The Scottish Environment Protection Agency (“SEPA”) requires to assess whether applicants for, and holders of, certain licences, consents or permissions under specified legislation are fit and proper persons. This legislation includes the Pollution Prevention and Control (Scotland) Regulations 2012 (in respect of specified waste management activities) and the Environmental Protection Act 1990. Financial provision is part of this assessment.

This guidance note describes what is required from applicants. It is only relevant if you are applying for a new waste management licence or pollution prevention and control permit for a specified waste management activity, or for the modification or transfer of such an authorisation, and is only applicable to authorisations for non-landfill activities.

Authorisations for non-landfill sites.

Section 74(3)(c) of the Environmental Protection Act 1990 says that a person is not a fit and proper person to hold a waste management licence if it appears to SEPA that that person *“has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the licence”*.

Section 18(4)(b) of the Pollution Prevention and Control (Scotland) Regulations 2012 says that a person is not a fit and proper person to hold a permit in respect of a specified waste management activity if it appears to SEPA that that person *“has not made adequate financial provision to ensure that obligations arising from the permit in relation to that activity are met and any closure procedures required by the permit in relation to that activity are followed”*.

For non-landfill waste management authorisations applications SEPA will accept that applicants are “in a position to make financial provision” if they can demonstrate that they have sufficient financial means to fund the requirements of the authorisation, including those arising on closure.

How does an applicant demonstrate financial standing?

This may be demonstrated in either of the following ways:

a) Credit Reference Check

SEPA will carry out a credit reference check to assess whether an applicant is of sufficient financial standing. There may be occasions where the applicant may have to grant SEPA written authorisation to carry out such checks.

b) Provision of Alternative Evidence

Where a Credit Reference Check has failed (or is not appropriate) an applicant may provide recent evidence (not more than 3 months old) from a third party as to its financial standing. It must be credible evidence stating that the applicant is in a position to access adequate funds. This could include:

- **A Statement of Account addressed to the applicant from a Financial Institution;**
- **A letter to the Applicant from a Financial Institution showing that the applicant has sufficient overdraft or loan facilities.**

NB:- It should always be remembered that ultimately the responsibility and onus lies with the applicant to satisfy SEPA as to their financial standing. SEPA reserves the right to require additional evidence if the evidence submitted by an applicant is not satisfactory.

How much financial provision?

For non-landfill sites, we have devised a formula to assist the applicant in calculating the amount of any potential financial obligation concerned. This is based on the maximum quantity of wastes that you can keep, store or treat at your site, and the haulage costs associated with their removal as shown in the table below.

Indicative costs for site clearance (figures include transport costs).

Waste storage/treatment activity	Multiplier per tonne -including transport (£'s)
Non-hazardous waste (e.g. Commercial & Industrial Waste)	£45
Construction & demolition waste	£40
Tyres - baled	£105
Tyres - loose	£215
Green waste	£45
Non-hazardous liquids	£150
Hazardous soils	£160
Batteries	£80
WEEE	£250
Asbestos	£180
Other solid hazardous (e.g. contaminated drums)	£550
Oil	£90
Other liquid hazardous	£700
Inert waste	£25
Metal	£20
Glass	£20

The above figures are indicative only. There may be site/licence specific circumstances which will merit a different/increased multiplier being used. There is a £500 minimum financial provision that must be demonstrated. SEPA may adjust this figure from time to time.

Will an applicant have to continue to provide evidence?

No. The financial provision test is only relevant at the application stage, and currently does not check an applicant's financial standing on an ongoing basis.

Does it apply to all applications?

Nearly all. The financial provision test is relevant for new licence applications, most applications for licence modifications where the obligations have increased (e.g. changing waste types, or increasing volumes of waste on site) and on the transfer of a licence.

Limitations

This guidance applies only in Scotland. The Guidance may be subject to periodical review and be changed or withdrawn in light of technological developments, regulatory or legislative changes, future government guidance or experience of its use. SEPA reserves its discretion to depart from the guidance and to take appropriate action to avoid any risk of pollution or harm to human health or the environment.