



Waste (Wales) Measure 2010

2010 nawm 8

[^{F1}Disposal in a landfill or by incineration]

Textual Amendments

F1 cross-heading substituted (18.10.2023) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), s. 88(3)(b), [Sch. 2 para. 17\(2\)](#); S.I. 2023/1096, art. 2(e)

9 Regulations prohibiting deposit of waste in a landfill

- (1) The Welsh Ministers may by regulations make provision for and in connection with prohibiting or otherwise regulating the deposit of specified kinds of waste in a landfill in Wales.
- (2) Regulations under subsection (1) may (among other things)—
 - (a) amend regulations made under section 2 of the Pollution Prevention and Control Act 1999 which relate to the operation of a landfill;
 - (b) provide for offences in relation to failure to comply with provision made under the regulations;
 - (c) provide for penalties in relation to such offences;
 - (d) provide for enforcement authorities and the functions of such authorities.
- (3) In subsection (1), “landfill” has the meaning given in Article 2(g) of Council Directive [1999/31/EC](#) of 26 April 1999 on the landfill of waste^[F2], as last amended by ^[F3]Directive (EU) 2018/850^[F4], and read as if—
 - (a) in Article 2—
 - (i) in point (a) the reference to the definition of ‘waste’ were omitted;
 - (ii) after point (a) there were inserted—
 - “(aa) ‘Waste’ has the meaning given in Article 3(1) of [Directive 2008/98/EC](#) (“the Waste Framework Directive”), as read with Articles 5 and 6 of that Directive.”;
 - (b) in Article 3—

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- (i) in paragraph (2) for “Without prejudice to existing Community legislation the” there were substituted “The”;
- (ii) for paragraph (3) there were substituted—
 - “3. The management of extractive waste, within the meaning given in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016, is excluded from the scope of this Directive where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to those Regulations.”]

Textual Amendments

- F2** Words in s. 9(3) inserted (22.3.2019) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(a), **2(2)**
- F3** Words in s. 9(3) substituted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **2(2)**
- F4** Words in s. 9(3) inserted (31.12.2020) by S.I. 2019/414, reg. 6(2) (as substituted by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(2)(a)**)

[^{F5}9A Regulations prohibiting incineration of waste

- (1) The Welsh Ministers may by regulations make provision for and in connection with prohibiting or otherwise regulating the incineration in Wales of specified kinds of waste.
- (2) Regulations under subsection (1) may (among other things)—
 - (a) amend regulations made under section 2 of the Pollution Prevention and Control Act 1999 which relate to the operation of waste incineration plants or waste co-incineration plants;
 - (b) provide for offences in relation to failure to comply with provision made under the regulations;
 - (c) provide for penalties in relation to such offences;
 - (d) provide for enforcement authorities and the functions of such authorities.
- (3) In this section—
 - “incineration” (“*llosgi*”), in relation to waste, means—
 - (a) incineration of the waste in a waste incineration plant or waste co-incineration plant, and
 - (b) any other thermal treatment of the waste prior to its incineration;
 - “waste incineration plant” (“*peiriant llosgi gwastraff*”) has the meaning given in Article 3(40) of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast);
 - “waste co-incineration plant” (“*peiriant cydlosgi gwastraff*”) has the meaning given in Article 3(41) of that Directive.]

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Textual Amendments

- F5** S. 9A inserted (18.10.2023) by Environment (Wales) Act 2016 (anaw 3), ss. 67, 88(3)(b); S.I. 2023/1096, art. 2(b)

10 Civil sanctions in respect of ^{F6}offences created by regulations under sections 9 and 9A]

- (1) This section applies where the power to make regulations in section 9(1) ^{F7}or 9A(1)] has been or is being exercised so as to create an offence.
- (2) ^{F8}[The power may be exercised to] make provision, in relation to an enforcement authority, which could be made by an order under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (“RESA 2008”) as if, for the purposes of Part 3 of that Act—
 - (a) the enforcement authority were a regulator, and
 - (b) the offence were a relevant offence in relation to that regulator.
- ^{F9}(3) But sections 39(4) and 42(6) of RESA 2008 do not apply to the provision that may be made by regulations under section 9(1) or 9A(1) by virtue of subsection (2).]
- (4) Sections 63 to 69 of RESA 2008 apply ^{F10}where regulations under section 9(1) or 9A(1) make provision by virtue of subsection (2) as they apply where provision is] made under or by virtue of Part 3 of RESA 2008.
- (5) For the purposes of subsection (4), the references to a “regulator” in sections 63 to 69 of RESA 2008 are to be read as references to an enforcement authority.
- (6) In this section, “enforcement authority” means a person who has an enforcement function in relation to an offence created by regulations under section 9(1) ^{F11}or 9A(1) (as appropriate)].

Textual Amendments

- F6** Words in s. 10 title substituted (18.10.2023) by Environment (Wales) Act 2016 (anaw 3), ss. 68(3), 88(3)(b); S.I. 2023/1096, art. 2(c)
- F7** Words in s. 10(1) inserted (18.10.2023) by Environment (Wales) Act 2016 (anaw 3), ss. 68(4), 88(3)(b); S.I. 2023/1096, art. 2(c)
- F8** Words in s. 10(2) substituted (18.10.2023) by Environment (Wales) Act 2016 (anaw 3), ss. 68(5), 88(3)(b); S.I. 2023/1096, art. 2(c)
- F9** S. 10(3) substituted (18.10.2023) by Environment (Wales) Act 2016 (anaw 3), ss. 68(6), 88(3)(b); S.I. 2023/1096, art. 2(c)
- F10** Words in s. 10(4) substituted (18.10.2023) by Environment (Wales) Act 2016 (anaw 3), ss. 68(7), 88(3)(b); S.I. 2023/1096, art. 2(c)
- F11** Words in s. 10(6) inserted (18.10.2023) by Environment (Wales) Act 2016 (anaw 3), ss. 68(8), 88(3)(b); S.I. 2023/1096, art. 2(c)

11 Consultation

- (1) Before making any regulations under section 9 ^{F12}or 9A] the Welsh Ministers must consult the following—
 - (a) ^{F13}[the Natural Resources Body for Wales];

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- (b) each local authority;
- (c) such persons appearing to them to be representative of the interests of persons liable to be subject to duties under the regulations as they consider appropriate;
- (d) such other persons as they consider appropriate.

^{F14}(2)

Textual Amendments

- F12** Words in s. 11(1) inserted (18.10.2023) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), s. 88(3)(b), **Sch. 2 para. 17(3)(a)**; S.I. 2023/1096, art. 2(e)
- F13** Words in s. 11(1)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 3 para. 2** (with Sch. 7)
- F14** S. 11(2) omitted (18.10.2023) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\)](#), s. 88(3)(b), **Sch. 2 para. 17(3)(b)**; S.I. 2023/1096, art. 2(e)

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