



Waste (Wales) Measure 2010

2010 nawm 8

General

17 Interpretation

(1) In this Measure—

“function” (“swyddogaeth”) means power or duty;

“local authority” (“awdurdod lleol”) means a county or county borough council in Wales;

“specified” (“pennu”) means specified in regulations made by the Welsh Ministers;

“waste” (“gwastraff”) means anything that—

(a) is waste for the purposes of the Waste Framework Directive, and

(b) is not excluded from the scope of that Directive by Article 2 of that Directive.

(2) For the purposes of the definition of “waste” in subsection (1), “the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives^[F1], as last amended by ^[F2]Directive (EU) 2018/851^[F3], and read in accordance with subsections (3) to (8) .

^[F4](3) A reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the Welsh Ministers, the Natural Resources Body for Wales or local authority which, immediately before IP completion day (within the meaning given to that expression in the European Union (Withdrawal Agreement) Act 2020), was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of Wales.

(4) Article 2 is to be read as if—

(a) in paragraph 2—

(i) in the words before point (a), for “other Community legislation” there were substituted “^[F5]assimilated] law ”;

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- (ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;
 - (iii) in point (d), for the words from “Directive 2006/21/EC” to the end there were substituted “the Mining Waste Directive (see section 17A)”;
 - (b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;
 - (c) paragraph 4 were omitted.
- (5) Article 5 is to be read as if—
- (a) in paragraph 1, for “Member States shall take appropriate measures to ensure that a”, there were substituted “A”;
 - (b) after paragraph 1 there were inserted—
 - “1A. Any decision as to whether a substance or object is a by-product, must be made—
 - (a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and
 - (b) having regard to any guidance published by the Welsh Ministers or the Natural Resources Body for Wales for the purposes of this Article.”;
 - (c) paragraphs 2 and 3 were omitted.
- (6) Article 6 is to be read as if—
- (a) in paragraph 1 for “Member States shall take appropriate measures to ensure that waste”, there were substituted “Waste”;
 - (b) after paragraph 1 there were inserted—
 - “1A. Any decision as to whether a substance or object has ceased to be waste must be made—
 - (a) in accordance with any regulations or [^{F6}assimilated direct] legislation (within the meaning given to that expression in the European Union (Withdrawal) Act 2018) setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and
 - (b) having regard to any guidance published by the Welsh Ministers or the Natural Resources Body for Wales for the purposes of this Article.”;
 - (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second sub-paragraph, for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
 - (iii) the third and fourth sub-paragraphs were omitted;
 - (d) paragraph 3 were omitted;
 - (e) in paragraph 4—
 - (i) in the first sub-paragraph—
 - (aa) in the first sentence, for the words from the beginning to “Member State”, there were substituted “Where criteria have

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- not been set out as referred to in paragraph 1A(a) the Natural Resources Body for Wales”;
- (bb) the second sentence were omitted;
- (ii) in the second sub-paragraph—
- (aa) for “Member States” there were substituted “The Natural Resources Body for Wales”;
- (bb) “by competent authorities” were omitted.
- (7) Article 7 is to be read as if—
- (a) before paragraph 1 there were inserted—
- “A1. In this Article, the “list of waste” means the list contained in the Annex to Commission [Decision 2000/532/EC](#), as that list has effect in Wales.”;
- (b) in paragraph 1—
- (i) the first and second sentences were omitted;
- (ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission [Decision 2000/532/EC](#), be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;
- (c) paragraphs 2, 3, 6 and 7 were omitted.
- (8) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.]

Textual Amendments

- F1** Words in s. 17(2) inserted (22.3.2019) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(a), **2(3)**
- F2** Words in s. 17(2) substituted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **2(3)**
- F3** Words in s. 17(2) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **6(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 17(3)-(8) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **6(4)(b)** (as amended by S.I. 2020/1339, regs. 1(3), **2(2)(c)(ii)(aa)(bb)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F5** Word in s. 17(4)(a)(i) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Wales\) Regulations 2023 \(S.I. 2023/1332\)](#), regs. 1(2), **3(a)**
- F6** Words in s. 17(6)(b) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Wales\) Regulations 2023 \(S.I. 2023/1332\)](#), regs. 1(2), **3(b)**

Changes to legislation:

There are currently no known outstanding effects for the Waste (Wales) Measure 2010, Section 17.