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WELSH STATUTORY INSTRUMENTS

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**2017 No. 1024**

**The Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017**

**Amendment of the Environmental Protection Act 1990**

2.—(1) Part II of the Environmental Protection Act 1990 (Waste on Land)(1) is amended as follows.

(2) After section 33ZA (fixed penalty notices for contravention of section 33(1)(a): England) insert—

**“33ZB Fixed penalty notices for contravention of section 33(1)(a): Wales**

(1) Where an authorised officer of a Welsh waste collection authority has reason to believe that a person has committed a waste deposit offence in the area of the authority, the officer may give the person a notice under this section in respect of the offence.

(2) In subsection (1), “waste deposit offence” means an offence under section 33 in respect of a contravention of subsection (1)(a) of that section.

(3) A notice under this section is a notice offering the opportunity of discharging any liability to conviction for the offence to which it relates by payment of a fixed penalty.

(4) Where a person is given a notice under this section in respect of an offence—

- (a) no proceedings may be instituted for the offence before the end of the period of 14 days following the date of the notice, and
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(5) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence and must state—

- (a) the period during which, by virtue of subsection (4)(a), proceedings will not be taken for the offence,
- (b) the amount of the fixed penalty, and
- (c) the person to whom and the address at which the fixed penalty may be paid.

(6) If an authorised officer proposes to give a person a notice under this section, the officer may require the person to give the person’s name and address.

(7) It is an offence to—

- (a) fail to give a name or address when required to do so under subsection (6), or
- (b) give a false or inaccurate name or address in response to a requirement under that subsection.

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(1) 1990 c. 43. Section 33(1)(a) was amended by S.I. 2007/3538 and S.I. 2009/1799.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) The fixed penalty payable in pursuance of a notice under this section—

- (a) is an amount not less than £150 and not more than £400, as specified by the Welsh waste collection authority whose authorised officer gave the notice, or
- (b) if no amount is specified by that authority, is £200.

(10) A Welsh waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section may make provision for treating the fixed penalty as having been paid if a lesser amount of not less than £120 is paid before the end of the period of 10 days following the date of the notice.

(11) In any proceedings, a certificate which—

- (a) purports to be signed by or on behalf of the chief finance officer of a Welsh waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section, and
- (b) states that the payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(12) In this section—

“authorised officer” in relation to a Welsh waste collection authority, means—

- (a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;
- (b) a person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;
- (c) an employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

“chief finance officer”, in relation to a Welsh waste collection authority, means the person having responsibility for the financial affairs of the authority;

“Welsh waste collection authority” means a waste collection authority whose area is in Wales.”

(3) In section 73A (use of fixed penalty receipts)(2), in subsection (2) after “33ZA,” insert “33ZB,”.