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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1490**

**The Landfill Allowances Scheme (Wales) Regulations 2004**

**PART 1**

General

**Citation, commencement and application**

1. These Regulations:

- (a) may be cited as the Landfill Allowances Scheme (Wales) Regulations 2004;
- (b) come into force on 25 June 2004;
- (c) apply in relation to Wales.

**Interpretation**

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Waste and Emissions Trading Act 2003;

<sup>F1</sup>  
...

[<sup>F2</sup>“biodegradable collected municipal waste” (“*gwastraff trefol pydradwy a gasglwyd*”) means biodegradable local authority collected municipal waste;]

<sup>F3</sup>  
...

[<sup>F2</sup>“collected municipal waste” (“*gwastraff trefol a gasglwyd*”) means local authority collected municipal waste;]

“electronic communication” (“*cyfathrebiad electronig*”) has the same meaning as in section 15(1) of the Electronic Communications Act 2000 <sup>F4</sup>;

<sup>F5</sup>  
...

[<sup>F6</sup>“the List of Wastes” (“*y Rhestr Wastraffoedd*”) means the list of wastes established by Commission Decision [2000/532/EC](#) replacing Decision [94/3/EC](#) establishing a list of wastes pursuant to Article 1(a) of Council Directive [75/442/EEC](#) on waste and Council Decision [94/904/EC](#) establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive [91/689/EEC](#) on hazardous waste, as amended from time to time;]

“reconciliation period” (“*cyfnod cysoni*”) means the period of 3 months following the end of each scheme year;

“relevant authority” (“*awdurdod perthnasol*”) means—

- (a) the monitoring authority, and
- (b) [<sup>F7</sup>the Welsh Ministers];

<sup>F8</sup>  
...

<sup>F9</sup>“waste facility” (“*cyfleuster gwastraff*”) means a facility for the disposal or recovery of waste other than a landfill; for the purposes of this definition, “disposal” and “recovery” have the same meaning as in <sup>F10</sup>Article 3(19) and (15) of Directive 2008/98/EC of the European Parliament and of the Council on waste<sup>F11</sup> as last amended by <sup>F12</sup>Directive (EU) 2018/851<sup>F13</sup>].

<sup>F13</sup>“the Waste Framework Directive” (“*y Gyfarwydddeb Fframwaith Gwastraff*”) means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by Directive (EU) 2018/851 and read in accordance with paragraphs (3) to (9).]

(2) In these Regulations —

- (a) references to an amount of waste are references to an amount of waste by tonnage; and
- (b) references to waste being sent by a waste disposal authority to landfill or a waste facility are references to waste being sent to such a landfill or facility in pursuance of arrangements made by the authority.

<sup>F14</sup>(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 “<sup>F15</sup>assimilated] law ”;
  - (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 regulation 2A) ”;
- (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 [<sup>F16</sup>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 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.
- (9) In paragraph (3) “local authority” means a county council or a county borough council.]

#### Textual Amendments

- F1** Words in reg. 2(1) omitted (15.1.2012 immediately after 12:01 am) by virtue of [The Landfill Allowances Scheme \(Wales\) \(Amendment\) Regulations 2012 \(S.I. 2012/65\)](#), regs. 1(3), 2(2), **5(a)**

- F2** Words in reg. 2(1) inserted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **5(c)**
- F3** Words in reg. 2(1) omitted (15.1.2012 immediately after 12:01 am) by virtue of The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **5(b)**
- F4** 2000 c. 7.
- F5** Words in reg. 2(1) omitted (16.7.2005) by virtue of The List of Wastes (Wales) Regulations 2005 (S.I. 2005/1820), reg. 1(1), **Sch. 2 para. 6**
- F6** Words in reg. 2(1) inserted (20.7.2015) by The Hazardous Waste (Miscellaneous Amendments) (Wales) Regulations 2015 (S.I. 2015/1417), regs. 1(2), **2(2)**
- F7** Words in reg. 2 substituted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **6**
- F8** Words in reg. 2(1) omitted (15.1.2012 immediately after 12:01 am) by virtue of The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **5(d)**
- F9** By The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/414), regs. 1(2)(b), **7(2)(a)** (as substituted by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1339), regs. 1(3), **2(3)(a)**) it is provided in reg. 2(1) the words 2(1) “(as substituted by regulation 4(2))” are omitted (31.12.2020) from the definition of “waste facility”
- F10** Words in reg. 2(1) substituted (29.3.2011) by The Waste (Miscellaneous Provisions) (Wales) Regulations 2011 (S.I. 2011/971), regs. 1(2)(a), **3**
- F11** Words in reg. 2(1) substituted (22.3.2019) by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/414), regs. 1(2)(a), **3(2)**
- F12** Words in reg. 2(1) substituted (19.11.2020) by The Waste (Wales) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/1179), regs. 1(2), **3(2)**
- F13** Words in reg. 2(1) inserted (31.12.2020) by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/414), regs. 1(2)(b), **7(2)(b)** (as substituted by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1339), regs. 1(3), **2(3)(a)**)
- F14** Reg. 2(3)-(9) inserted (31.12.2020) by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/414), regs. 1(2)(b), **7(4)**; 2020 c. 1, **Sch. 5 para. 1(1)** (as amended by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1339), regs. 1(3), **2(3)(c)**)
- F15** Word in reg. 2(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), **6(a)**
- F16** Words in reg. 2(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), **6(b)**

## [<sup>F17</sup>Meaning of “the Mining Waste Directive” in regulation 2

**2A.**—(1) In regulation 2(4)(a)(iii), “the Mining Waste Directive” means Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries, read in accordance with paragraphs (2) to (4).

(2) Article 2 is to be read as if—

(a) in paragraph 2(c), the reference to Article 11(3)(j) of Directive [2000/60/EC](#) were a reference to that Article read in accordance with paragraph (4) of this regulation;

(b) paragraphs 3 and 4 were omitted.

(3) Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EC](#)” there were substituted “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive”.

(4) For the purposes of paragraph (2)(a), Article 11(3)(j) of Directive [2000/60/EC](#) is to be read as if—

(a) the first reference to “Member States” were a reference to the Welsh Ministers or the Natural Resources Body for Wales;

- (b) at the end, there were inserted—
- “and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 has the same meaning as in those Regulations.”.]

#### Textual Amendments

- F17** Reg. 2A inserted (31.12.2020) by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/414), regs. 1(2)(b), 7(5); 2020 c. 1, Sch. 5 para. 1(1)

#### Notices, notifications and submissions of forms

- 3.—(1) Subject to paragraph (2), where, under these Regulations, a person is required to—
- (a) submit a form, notice or return to another person, or
  - (b) notify another person of any matter,
- the form, notice, return or notification must be in writing.
- (2) If—
- (a) that other person has an address for the purposes of electronic communications the form, notice, return or notification may be made by way of such communications, or
  - (b) regulation 4(3)(b) applies, the form may be completed and submitted to the authority on the website.

#### Electronic registers and forms

- 4.—(1) Any register established or maintained under these Regulations may be in electronic form.
- (2) Where any register maintained by a relevant authority is in electronic form, that authority may make it available for inspection by the public on a website maintained by that authority for that purpose.
- (3) Any form provided by the monitoring authority for the purposes of these Regulations may be provided—
- (a) in an electronic form, and
  - (b) for completion and submission to the authority on a website maintained by the authority for that purpose.

**Changes to legislation:**

There are currently no known outstanding effects for the The Landfill Allowances Scheme (Wales) Regulations 2004, PART 1.