



# 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<sup>[F1]</sup>, as last amended by <sup>[F2]</sup>Directive (EU) 2018/851<sup>[F3]</sup>, and read in accordance with subsections (3) to (8) .

<sup>[F4]</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 “retained EU 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 retained direct EU 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)**

#### [<sup>F5</sup>17A Meaning of the “Mining Waste Directive”

- (1) In reading Article 2 of the Waste Framework Directive in accordance with section 17(4), “the Mining Waste Directive” (as inserted by paragraph (a)(iii) of section 17(4)) 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 subsections (2) to (5).
- (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 subsection (4);
- (b) paragraphs 3 and 4 were omitted.

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- (3) Article 3(1) is to be read as if, for “Article 1(a) of Directive [75/442/EEC](#)” 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 subsection (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.”.
- (5) In reading the Mining Waste Directive in accordance with subsection (3), the reference in that Directive, to the “Waste Framework Directive” (as inserted by subsection (3)) has the meaning given by section 17(2) of this measure.]

**Textual Amendments**

**F5** S. 17A inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **6(5)**; 2020 c. 1, Sch. 5 para. 1(1)

**18 Minor and consequential amendments**

The Schedule contains minor and consequential amendments.

**19 Orders and regulations**

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.
- (2) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power—
  - (a) to make different provision for different cases or classes of case, different areas, different persons or descriptions of person or different purposes;
  - (b) to make different provision to apply at different times;
  - (c) to make provision generally or in relation to specific cases;
  - (d) to make incidental, supplementary, consequential, transitory, transitional or saving provision as the Welsh Ministers think fit.

<sup>F6</sup>(3) .....

<sup>F6</sup>(4) .....

**Textual Amendments**

**F6** S. 19(3)(4) omitted (11.9.2019) by virtue of [Legislation \(Wales\) Act 2019 \(anaw 4\)](#), s. 44(1)(e), **Sch. 2 para. 3(2)**

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## 20 Orders and regulations: procedures

- (1) Any statutory instrument containing an order or regulations made under this Measure is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (2) Subsection (1) does not apply to—
  - (a) an order under section 21(1);
  - (b) orders and regulations to which subsection (3) applies.
- (3) A statutory instrument containing an order under section 3(4) or regulations under section 4, 5(1)(g), 6, 9, or 14 (whether alone or with other provisions) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

<sup>F7</sup>(4) .....

<sup>F7</sup>(5) .....

### Textual Amendments

- F7** S. 20(4)(5) omitted (11.9.2019) by virtue of [Legislation \(Wales\) Act 2019 \(anaw 4\)](#), s. 44(1)(e), [Sch. 2 para. 3\(3\)](#)

## 21 Commencement

- (1) Section 3 comes into force in accordance with provision made by the Welsh Ministers by order.
- (2) The remaining provisions of this Measure come into force at the end of a period of two months beginning on the day on which this Measure is approved by Her Majesty in Council.

## 22 Short title

This Measure may be cited as the Waste (Wales) Measure 2010.

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**Changes to legislation:**

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