



# Mesur Gwasttraff (Cymru) 2010

2010 mccc 8

Nodiadau Esboniadol

# Waste (Wales) Measure 2010

2010 nawm 8

Explanatory Notes

£5.75

## MESUR GWASTRAFF (CYMRU) 2010

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### NODIADAU ESBONIADOL

#### CYFLWYNIAD

1. Mae'r Nodiadau Esboniadol hyn yn ymwneud â Mesur Gwastraff (Cymru) 2010 fel y cafodd ei basio gan Gynulliad Cenedlaethol Cymru ar 2 Tachwedd 2010 a'i gymeradwyo gan Ei Mawrhydi yn y Cyfrin Gyngor ar 15 Rhagfyr 2010.
2. Mae Adran yr Amgylchedd, Cynaliadwyedd a Thai Llywodraeth Cynulliad Cymru wedi eu paratoi er mwyn cynorthwyo'r sawl sy'n darllen y Mesur. Nid ydynt yn rhan o'r Mesur drafft nac wedi eu hategu gan Gynulliad Cenedlaethol Cymru.
3. Dylid darllen y Nodiadau Esboniadol ar y cyd â'r Mesur arfaethedig. Nid ydynt, ac ni fwriedir iddynt fod, yn ddisgrifiad cynhwysfawr o'r Mesur. Felly, pan fo adran neu ran o adran yn hunanesboniadol, ni roddir unrhyw esboniad pellach na sylw pellach.
4. Mae'r Mesur yn gwneud darpariaeth ynghylch—
  - pen taith enillion o daliadau a godir am fagiau siopa untro;
  - y targedau sydd i'w cyrraedd gan awdurdodau lleol mewn perthynas â gwastraff;
  - gwahardd neu reoleiddio fel arall y weithred o ollwng gwastraff ar safle tirlenwi;
  - cynlluniau rheoli gwastraff safle i weithiau sy'n cynnwys adeiladu neu ddymchwel.
5. Ceir cymhwysedd y Cynulliad Cenedlaethol i ddeddfu ar y pynciau hyn ym Materion 6.1, 6.3 a 6.4 sydd wedi eu cynnwys ym Maes 6 o Ran 1 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006 (p.32). Ychwanegwyd y Materion hyn at Atodlen 5 i Orchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Yr Amgylchedd) 2010 ac maent yn galluogi'r Cynulliad Cenedlaethol i wneud darpariaeth ynghylch—
  - atal, lleihau, casglu, rheoli, trin neu waredu gwastraff,
  - diogelu neu wella'r amgylchedd, o ran llygredd<sup>1</sup>,
  - a diogelu neu wella'r amgylchedd o ran niwsansau<sup>2</sup>.
6. Mae cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol o dan faterion 6.1, 6.3 a 6.4 yn ddarostyngedig i nifer o eithriadau, nad yw'r un ohonynt yn eithrio'r ddarpariaeth a wneir yn y Mesur hwn o gymhwysedd deddfwriaethol y Cynulliad.

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<sup>1</sup> Mae'r term "pollution" yn destun darpariaeth ddehongli ym Maes 6 o Ran 1 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006.

<sup>2</sup> Mae'r term "nuisance" yn destun darpariaeth ddehongli ym Maes 6 o Ran 1 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006.

# WASTE (WALES) MEASURE 2010

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## EXPLANATORY NOTES

### INTRODUCTION

1. These Explanatory Notes relate to the Waste (Wales) Measure 2010 as passed by the National Assembly for Wales on 2 November 2010 and approved by Her Majesty in Council on 15 December 2010.
2. The Welsh Assembly Government's Department for Environment, Sustainability and Housing has prepared them in order to assist the reader of the proposed Measure. They do not form part of the draft Measure and have not been endorsed by the National Assembly for Wales.
3. The Explanatory Notes should be read in conjunction with the proposed Measure. They are not, and are not meant to be, a comprehensive description of the Measure. So where a section or part of a section is self-explanatory, no further explanation or comment is provided.
4. The Measure makes provision about—
  - the destination of proceeds from charges for single use carrier bags;
  - targets to be met by local authorities in relation to waste;
  - prohibiting or otherwise regulating the deposit of waste in a landfill;
  - site waste management plans for works involving construction or demolition.
5. The National Assembly's competence to legislate on these topics is found in Matters 6.1, 6.3 and 6.4 contained in Field 6 of Part 1 of Schedule 5 to the Government of Wales Act 2006 (c. 32). These Matters were added to Schedule 5 by the National Assembly for Wales (Legislative Competence) (Environment) Order 2010 and enable the National Assembly to make provision relating to—
  - preventing, reducing, collecting, managing, treating or disposing of waste,
  - protecting or improving the environment in relation to pollution<sup>1</sup>, and
  - protecting or improving the environment in relation to nuisances<sup>2</sup>,
6. The National Assembly's legislative competence under matters 6.1, 6.3 and 6.4 is subject to a number of exceptions, none of which excludes the provision made in this Measure from the legislative competence of the Assembly.

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<sup>1</sup> The term "pollution" is the subject of an interpretation provision in Field 6 of Part 1 of Schedule 5 to the Government of Wales Act 2006.

<sup>2</sup> The term "nuisance" is the subject of an interpretation provision in Field 6 of Part 1 of Schedule 5 to the Government of Wales Act 2006.

## **SYLWEBAETH AR YR ADRANNAU**

### **Adran 1 – Y taliadau a godir am fagiau siopa untro: pen taith yr enillion**

7. Mae'r adran hon yn diwygio Atodlen 6 i Ddeddf Newid yn yr Hinsawdd 2008 (p.27) ("Deddf 2008"). Mae'r Atodlen hon yn rhoi pŵer i Weinidogion Cymru wneud darpariaeth drwy reoliadau ynghylch y broses o godi tâl gan werthwyr nwyddau am gyflenwi bagiau siopa untro. Mae Gweinidogion Cymru, yn ddarostyngedig i gymeradwyaeth gan Gynulliad Cenedlaethol Cymru, yn bwriadu i reoliadau sy'n ei gwneud yn ofynnol i werthwyr godi tâl ddod i rym yn 2011.
8. Nid oedd Deddf 2008 yn galluogi Gweinidogion Cymru i osod dyletswyddau ar werthwyr nwyddau, nac unrhyw un arall, mewn cysylltiad â phen taith yr enillion o'r taliadau a osodir o dan reoliadau. Mae adran 1 o'r Mesur hwn yn rhoi'r pŵer i Weinidogion Cymru i wneud hynny drwy fewnosod paragraff 4A newydd a pharagraff 4B newydd yn Atodlen 6 i Ddeddf 2008.
9. Diben ac effaith y paragraff 4A newydd yw caniatáu i Weinidogion Cymru wneud darpariaeth drwy reoliadau i ddefnyddio enillion net y tâl at ddibenion y mae'n rhaid iddynt ymwneud â materion amgylcheddol penodol ac a bennir mewn rheoliadau. Mae effaith wedi ei rhoi i hyn yn bennaf drwy is-baragraff (2) o baragraff 4A sy'n darparu y gall y ddarpariaeth honno gael ei gwneud drwy reoliadau o dan Atodlen 6.
10. Mae i "net proceeds of the charge" yr un ystyr at y diben hwn ag sydd iddo at bob diben arall o dan Atodlen 6 ac o'r herwydd caiff ei ddiffinio drwy gyfeirio at y diffiniad o'r term hwnnw sydd eisoes ym mharagraff 7(4) o Atodlen 6<sup>3</sup>. Wrth wneud rheoliadau ynghylch defnyddio enillion net y tâl bydd y rheoliadau gan hynny yn canolbwyntio ar y symiau sy'n cynrychioli'r balans rhwng y cyfanswm a gafwyd gan y gwerthwyr drwy'r tâl statudol am fagiau siopa untro, yn llai unrhyw symiau a bennir mewn rheoliadau (er enghraifft, mae'r Rheoliadau Drafft sydd gerbron Cynulliad Cenedlaethol Cymru ar hyn o bryd yn pennu TAW a chostau rhesymol).
11. Diben is-baragraff (1) yw egluro ar wyneb Atodlen 6 i Ddeddf 2008 (sy'n rhychwantu Cymru a Lloegr a Gogledd Iwerddon) mai dim ond i reoliadau a wneir gan Weinidogion Cymru mewn perthynas â Chymru y mae'r pwerau a roddir gan baragraff 4A yn gymwys.
12. Mae is-baragraff (2) yn ehangu cwmpas pwerau Gweinidogion Cymru i wneud rheoliadau o dan Atodlen 6 i Ddeddf 2008 fel bod y rheoliadau hefyd yn gallu cynnwys darpariaeth i gymhwyso enillion net y tâl i'r dibenion penodedig.
13. Mae is-baragraff (3) yn gosod rhestr nad yw'n hollgynhwysfawr o'r ddarpariaeth y caniateir ei gwneud o dan y pŵer a geir yn is-baragraff (2). Gallai rheoliadau ei gwneud yn ofynnol i werthwyr ddefnyddio enillion net y tâl at ddibenion a bennir yn y rheoliadau (is-baragraff (3)(a)). Gallent ddarparu hefyd i unrhyw ddyletswydd o'r fath gael ei chyflawni drwy drydydd partïon yn derbyn enillion net gwerthwyr. Byddai'r trydydd partïon hynny yn cael eu pennu yn y rheoliadau a gallent fod yn bersonau neu'n gategorïau o bersonau (is-baragraff (3)(b)). Gallai'r rheoliadau'r

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<sup>3</sup> "The seller's gross proceeds of the charge reduced by such amounts as may be specified": paragraff 7(4) o Atodlen 6.

## **COMMENTARY ON SECTIONS**

### **Section 1 – Charges for single use carrier bags: destination of proceeds**

7. This section amends Schedule 6 to the Climate Change Act 2008 (c. 27) (“the 2008 Act”). That Schedule empowers the Welsh Ministers to make provision by regulations about charging by sellers of goods for the supply of single use carrier bags. The Welsh Ministers intend that, subject to the approval of the National Assembly, regulations requiring sellers to charge will come into force in 2011.
8. The 2008 Act did not empower the Welsh Ministers to impose duties on sellers of goods, or anyone else, in respect of the destination of proceeds from charges imposed under regulations. Section 1 of this Measure empowers the Welsh Ministers to do so by inserting new paragraphs 4A and 4B into Schedule 6 to the 2008 Act.
9. The purpose and effect of the new paragraph 4A is to allow the Welsh Ministers to make provision by regulations for the application of the net proceeds of the charge to purposes, which must relate to certain environmental matters, specified in regulations. This is principally given effect by sub-paragraph (2) of paragraph 4A which provides that such provision can be made by regulations under Schedule 6.
10. The “net proceeds of the charge” has the same meaning for this purpose as it has for all other purposes under Schedule 6 and so is defined by reference to the definition of that term already contained in paragraph 7(4) of Schedule 6<sup>3</sup>. When making regulations about applying the net proceeds of the charge the regulations will therefore be focussed on the amounts which represent the balance between the total amount received by sellers by way of the statutory charge for single use carrier bags, less any amounts specified in regulations (for example, the Draft Regulations currently before the National Assembly for Wales specify VAT and reasonable costs).
11. The purpose of sub-paragraph (1) is to make clear on the face of Schedule 6 of the 2008 Act (which extends to England and Wales and Northern Ireland) that the powers conferred by paragraph 4A apply only to regulations made by the Welsh Ministers in relation to Wales.
12. Sub-paragraph (2) widens the scope of the Welsh Ministers’ regulation-making powers under Schedule 6 to the 2008 Act so that regulations can also contain provision for the application of the net proceeds of the charge to specified purposes.
13. Sub-paragraph (3) sets out a non-exhaustive list of the provision that may be made under the power contained in sub-paragraph (2). Regulations could require sellers to apply the net proceeds of the charge to purposes specified in the regulations (sub-paragraph (3)(a)). They could also provide for any such duty to be discharged by sellers’ net proceeds being accepted by third parties. Those third parties would be specified in the regulations and could be persons or categories of persons (sub-paragraph (3)(b)). The regulations could deal with the arrangements for passing net proceeds to any third persons (sub-paragraph (3)(c)) and could require the third

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<sup>3</sup> “The seller’s gross proceeds of the charge reduced by such amounts as may be specified”: paragraph 7(4) of Schedule 6.

- ymdrin â'r trefniadau i drosglwyddo enillion net i unrhyw drydydd partion (is-baragraff (3)(c)), a gallent ei gwneud yn ofynnol i'r trydydd partion a bennir yn y rheoliadau ddefnyddio'r enillion at un neu fwy o ddibenion penodedig (is-baragraff (3)(d)).
14. Mae is-baragraff (3)(e) yn caniatáu i reoliadau ymdrin ag adennill symiau pan na fo'r enillion net wedi cael eu derbyn na'u defnyddio fel y dylasid eu defnyddio. Mae'n caniatáu i Weinidogion Cymru wneud darpariaeth ynghylch adennill symiau oddi wrth werthwyr ac oddi wrth unrhyw bersonau sy'n cael yr enillion wrth werthwyr. Mae is-baragraff (3)(f) yn caniatáu i reoliadau ymdrin â defnyddio unrhyw symiau a adenillwyd at ddibenion penodedig. Mae'n ei gwneud yn glir ar wyneb y ddeddfwriaeth bod rheoliadau sy'n gwneud darpariaeth ynghylch defnyddio symiau a adenillwyd at ddibenion penodedig hefyd yn gallu gwneud darpariaeth fel nad yw'r symiau hynny yn mynd i Gronfa Gyfunol Cymru. Gallai'r rheoliadau ei gwneud yn ofynnol hefyd i Weinidogion Cymru roi canllawiau ynghylch cydymffurfio â'r rheoliadau (is-baragraff 3(g)).
  15. Mae is-baragraffau (4) a (5) yn ymwneud â'r dibenion y gellir eu pennu mewn rheoliadau fel dibenion y mae'n rhaid defnyddio enillion net y tâl ar eu cyfer. Mae'r rhain yn gysylltiedig â chymhwysedd y Cynulliad Cenedlaethol i ddeddfu yn y maes hwn.
  16. Gall y rheoliadau, o dan amgylchiadau penodol, fod yn gymwys i bersonau nad ydynt yn werthwyr os yw Gweinidogion Cymru o'r farn y byddai hynny'n briodol i gyrraedd y naill neu'r llall neu'r ddau amcan hyn. Mae a wnelo'r amcan cyntaf â gorfodi unrhyw ddarpariaeth ynghylch defnyddio enillion net y tâl. Mae a wnelo'r ail amcan â gwneud unrhyw ddarpariaeth am ddefnyddio'r enillion net yn effeithiol (is-baragraff (6)).
  17. Mae is-baragraffau (7) ac (8) yn ychwanegu hyblygrwydd o ran sut y gellir cymhwyso rheoliadau o dan Atodlen 6 i Ddeddf 2008.
  18. Mae Atodlen 6 eisoes yn caniatáu cymhwyso rheoliadau i bob gwerthwr, i werthwyr a enwir neu i werthwyr a ddynodir drwy gyfeirio at ffactorau a nodir yn Atodlen 6 (neu gyfuniad o enw a ffactorau). Mae is-baragraff (7) yn awr yn caniatáu i reoliadau gael eu cymhwyso drwy gyfeirio at drefniadau gwerthwr i ddefnyddio enillion net y tâl a thrwy gyfeirio at unrhyw ffactor arall sy'n briodol ym marn Gweinidogion Cymru. Enghreifftiau o'r canlyniadau y gellid eu cyflawni o dan yr hyblygrwydd ychwanegol hwn yw cymhwyso rheoliadau i werthwyr a ddynodir drwy gyfeirio at y nifer neu'r math o fagiâu siopa untro y maent yn eu cyflenwi.
  19. Mae is-baragraff (8) yn caniatáu i reoliadau wneud eithriadau ac esemptiadau. Mae hyn er enghraifft yn dangos y tu hwnt i amheuaeth y gellid esemptio gwerthwyr a ddynodir wrth eu henwau o'r rheoliadau.
  20. Mae paragraff 4B yn diffinio nifer o dermau a ddefnyddir ym mharagraff 4A.
  21. Caiff diwygiadau pellach i Atodlen 6 i Ddeddf Newid yn yr Hinsawdd 2008 eu gwneud gan adran 1(3) ac 1(4) o'r Mesur.

- parties specified in the regulations to apply the proceeds to one or more specified purposes (sub-paragraph (3)(d)).
14. Sub-paragraph (3)(e) allows regulations to deal with the recovery of sums where the net proceeds have not been accepted or used as they should have been. It permits the Welsh Ministers to make provision about recovering sums from sellers and any persons who accept the proceeds from sellers. Sub-paragraph (3)(f) allows regulations to deal with applying any recovered sums to specified purposes. It makes clear on the face of the legislation that regulations which do make provision for applying recovered sums to specified purposes can also make provision so that those sums do not go into the Welsh Consolidated Fund. The regulations could also require the Welsh Ministers to give guidance about compliance with the regulations (sub-paragraph 3(g)).
  15. Sub-paragraphs (4) and (5) are about the purposes that can be specified in regulations as being purposes to which the net proceeds of the charge must be applied. These are connected to the National Assembly's competence to legislate in this area.
  16. The regulations can, in certain circumstances, apply to persons other than sellers if the Welsh Ministers consider that to do so would be appropriate to achieve either of both of two objectives. The first objective concerns the enforcement of any provision about application of the net proceeds of the charge. The second objective relates to making any provision about the application of the net proceeds effective (sub-paragraph (6)).
  17. Sub-paragraphs (7) and (8) add flexibility to how regulations under Schedule 6 to the 2008 Act can be applied.
  18. Schedule 6 already allows regulations to be applied to all sellers, to named sellers or to sellers identified by reference to factors which are set out in Schedule 6 (or to a combination of both name and factors). Sub-paragraph (7) now allows regulations to be applied by reference to a seller's arrangements for applying the net proceeds of the charge and by reference to any other factor which the Welsh Ministers consider appropriate. Examples of results which could be achieved under this additional flexibility are the application of regulations to sellers identified by reference to the number or type of single use carrier bags they supply.
  19. Sub-paragraph (8) permits regulations to make exceptions and exemptions. This puts beyond doubt for example, that sellers identified by name could be exempted from regulations.
  20. Paragraph 4B defines a number of terms used in paragraph 4A.
  21. Further amendments to Schedule 6 to the Climate Change Act 2008 are made by section 1(3) and 1(4) of the Measure.
  22. Section 1(3) inserts a new paragraph 7(3A) into Schedule 6. Paragraph 7 of Schedule 6 is about record keeping and the publication of records. The effect of paragraph 7(3A) is that regulations made by the Welsh Ministers under that Schedule may also

22. Mae adran 1(3) yn mewnosod paragraff 7(3A) newydd yn Atodlen 6. Mae paragraff 7 o Atodlen 6 yn ymwneud â chadw cofnodion a chyhoeddi cofnodion. Effaith paragraff 7(3A) yw y caiff rheoliadau a wneir gan Weinidogion Cymru o dan yr Atodlen honno ei gwneud yn ofynnol hefyd i gyhoeddi neu gyflenwi cofnodion neu wybodaeth ynglŷn â'r swm a gafwyd gan berson oddi wrth werthwr fel enillion net y tâl. Byddai hyn, er enghraifft, yn caniatáu i'r rheoliadau i'w gwneud yn ofynnol i bersonau sy'n cael yr enillion net wrth werthwr gyhoeddi a chyflenwi cofnodion.
23. Mae adran 1(4) yn mewnosod paragraff 8(2A) newydd yn Atodlen 6. Mae paragraff 8 yn ymwneud â gorfodi. Effaith paragraff 8(2A) yw galluogi Gweinidogion Cymru i roi pwerau i weinyddydd i holi'r rhai y mae gan y gweinyddydd sail resymol dros gredu eu bod wedi cael unrhyw enillion net o'r tâl. Caiff gweinyddwyr eu penodi o dan y rheoliadau i weinyddu a gorfodi'r ddarpariaeth a wneir ganddynt.

### **Adran 2 – Rheoliadau: y weithdrefn**

24. Mae'r adran hon yn diwygio adran 77 o Ddeddf Newid yn yr Hinsawdd 2008. Mae adran 77 yn cyflwyno Atodlen 6 ac yn cynnwys darpariaeth ynghylch y weithdrefn sydd i'w defnyddio pan fo rheoliadau'n cael eu gwneud o dan yr Atodlen. Mae adran 2 yn mewnosod is-adran 4(aa) newydd yn adran 77 a'i heffaith yw y bydd y set gyntaf o reoliadau sydd i'w gwneud gan Weinidogion Cymru o dan baragraff 4A o Atodlen 6 fod yn ddarostyngedig i'r weithdrefn penderfyniad cadarnhaol. Mae hyn yn golygu na all y rheoliadau ddod i rym oni osodir drafft ohonynt gerbron y Cynulliad Cenedlaethol a'i gymeradwyo ganddo drwy benderfyniad.

### **Adran 3 – Targedau ar gyfer ailgylchu, paratoi i ailddefnyddio a chompostio**

25. Mae adran 3 yn gosod targedau ar gyfer awdurdodau lleol o ran ailgylchu, paratoi i ailddefnyddio a chompostio gwastraff trefol ac yn gwneud awdurdodau nad ydynt yn cyrraedd y targedau yn atebol i dalu cosb ariannol. Mae'r awdurdodau lleol y cyfeirir atynt yn yr adran hon yn gynghorau sir a chynghorau bwrdeistref sirol yng Nghymru (gweler y diffiniadau yn adran 17).
26. Mae is-adran (2) yn ei gwneud yn ofynnol i awdurdodau lleol sicrhau bod o leiaf y maint targed o'u gwastraff trefol ym mhob blwyddyn ariannol darged yn cael ei adfer (drwy weithrediadau ailgylchu, paratoi i ailddefnyddio neu gompostio). Mae'n ei gwneud yn ofynnol hefyd i awdurdodau lleol gyrraedd y maint targed ym mhob blwyddyn ariannol ddilynol nes cyrraedd y flwyddyn ariannol darged nesaf, ac ar yr adeg honno bydd maint targed newydd yn cael ei ddefnyddio. Mae'r tabl yn is-adran (3) yn pennu'r blynyddoedd targed a'r meintiau targed ar gyfer pob un ohonynt. Mae is-adran (4) yn galluogi Gweinidogion Cymru i ddiwygio'r tabl hwn drwy orchymyn. Mae unrhyw orchymyn o'r fath yn ddarostyngedig i weithdrefn penderfyniad cadarnhaol yng Nghynulliad Cenedlaethol Cymru (adran 20 (2) a (3)).
27. At ddibenion y targed, mae "compostio" yn cynnwys unrhyw ffurf arall ar drawsnewid drwy brosesau biolegol (is-adran (5)). Caiff Gweinidogion Cymru wneud darpariaeth ychwanegol hefyd drwy orchymyn, sy'n nodi sut i gadarnhau a yw gwastraff yn cael ei ailgylchu, ei baratoi i'w ailddefnyddio, neu ei gompostio at ddibenion y targedau. Mae'r gorchymynion hynny yn ddarostyngedig i weithdrefn penderfyniad negyddol yng Nghynulliad Cenedlaethol Cymru (gweler adran 20(1)).



require the publication or supply of records or information relating to the amount received by a person from a seller as net proceeds of the charge. This would, for example, allow the regulations to require persons who accept the net proceeds from a seller to publish and supply records.

23. Section 1(4) inserts a new paragraph 8(2A) into Schedule 6. Paragraph 8 is about enforcement. The effect of paragraph 8(2A) is to enable the Welsh Ministers to confer powers on an administrator to question those who the administrator reasonably believes has received any net proceeds of the charge. Administrators are appointed under the regulations to administer and enforce the provision they make.

### **Section 2 – Regulations: procedure**

24. This section amends section 77 of the Climate Change Act 2008. Section 77 introduces Schedule 6 and contains provision about the procedure to be applied when regulations are made under the Schedule. Section 2 inserts a new subsection 4(aa) into section 77 with the effect that the first set of regulations to be made by the Welsh Ministers under paragraph 4A of Schedule 6 are subject to the affirmative resolution procedure. This means that the regulations cannot come into force unless a draft of them is laid before, and approved by a resolution of, the National Assembly.

### **Section 3 – Recycling, preparation for re-use and composting targets**

25. Section 3 sets targets for local authorities in respect of the recycling, preparation for re-use and composting of municipal waste and makes authorities that do not meet the targets liable to a financial penalty. The local authorities referred to in this section are county councils and county borough councils in Wales (see the definitions in section 17).
26. Subsection (2) requires local authorities to secure the recovery (by recycling, preparation for re-use or composting operations), of at least the target amount of its municipal waste in each target financial year. It also requires local authorities to meet the target amount in all subsequent financial years until the next target financial year is reached, at which point a new target amount will apply. The table in subsection (3) specifies the targets years and the target amounts for each of them. Subsection (4) enables the Welsh Ministers to amend this table by order. Any such order is subject to an affirmative resolution procedure in the National Assembly for Wales (section 20(2) and (3)).
27. For the purposes of the target, “composting” includes any other form of transformation by biological processes (subsection (5)). The Welsh Ministers may also make further provision by order, setting out how to establish whether waste is recycled, prepared for re-use or composted for the purposes of the targets. Such orders are subject to a negative resolution procedure in the National Assembly for Wales (see section 20(1)).
28. If a local authority does not meet a recycling, preparation for re-use or composting target, liability to a penalty arises under subsection (7). Penalties are to be paid to the Welsh Ministers. Further provision is made about penalties in section 6 (see the relevant explanatory notes below).

28. Os na fydd awdurdod lleol yn cyrraedd targed ailgylchu, paratoi i aildefnyddio neu gompostio, bydd atebolrwydd i dalu cosb yn codi o dan is-adran (7). Mae cosbau i'w talu i Weinidogion Cymru. Gwneir darpariaeth ychwanegol am gosbau yn adran 6 (gweler y nodiadau esboniadol perthnasol isod).
29. Mae is-adran (8) yn esbonio beth a olygir gan wastraff trefol awdurdod lleol o flwyddyn ariannol darged. Maint cyfan y canlynol yn ôl eu pwysau ydyw-
- yr holl wastraff y mae'r awdurdod yn ei gasglu yn y flwyddyn honno yn rhinwedd ei swydd fel awdurdod casglu gwastraff o dan adran 45 o Ddeddf Diogelu'r Amgylchedd 1990 (p. 43) ("Deddf 1990") (ar y cyfan mae hynny'n cynnwys pob gwastraff cartref; gwastraff masnachol o fangre pan fo meddiannydd y fangre honno wedi gofyn iddo gael ei gasglu; a gwastraff diwydiannol o fangre pan fo meddiannydd y fangre wedi gofyn iddo gael ei gasglu gan yr awdurdod a bod yr awdurdod yn fodlon ei gasglu);
  - yr holl wastraff sydd wedi ei ollwng i ofal yr awdurdod yn y manau y mae'n eu darparu at y diben hwnnw yn rhinwedd ei swydd fel awdurdod gwaredu gwastraff o dan is-adrannau (1)(b) a (3) o adran 51 - e.e. manau a nodir fel "safleoedd amwynder dinesig" neu "ganolfannau ailgyrchu"; (rhaid darparu'r manau hyn er mwyn i bersonau sy'n preswyllo yn ei ardal ollwng eu gwastraff cartref a chaniateir i'r awdurdod drefnu iddynt fod ar gael i bersonau eraill ollwng gwastraff cartref, gwastraff masnachol neu wastraff diwydiannol); ac
  - unrhyw wastraff arall a bennir gan Weinidogion Cymru drwy orchymyn (mae'r gorchymynion hyn yn ddarostyngedig i weithdrefn penderfyniad negyddol (gweler adran 20(1)).

#### **Adran 4 - Rheoliadau i osod targedau gwastraff**

30. Mae'r adran hon yn galluogi Gweinidogion Cymru i wneud rheoliadau i bennu targedau gwastraff eraill, yn ychwanegol at y rhai a osodir o dan adran 3, sy'n ymwneud ag atal, lleihau, casglu, rheoli, trin neu waredu gwastraff gan awdurdodau lleol. Mae'r adran hon hefyd yn galluogi Gweinidogion Cymru i wneud rheoliadau i bennu dangosyddion i fesur perfformiad awdurdod lleol mewn perthynas â'r targedau hyn ac i osod cosb ariannol ar awdurdodau lleol os na chyrraedd y targedau hyn.
31. Mae rheoliadau o dan yr adran hon yn ddarostyngedig i weithdrefn penderfyniad cadarnhaol yng Nghynulliad Cenedlaethol Cymru (gweler adran 20(3)).

#### **Adran 5 - Monitro ac archwilio cydymffurfedd â thargedau**

32. Mae'r adran hon yn galluogi Gweinidogion Cymru i wneud rheoliadau ynghylch asesu, monitro ac archwilio cydymffurfedd mewn perthynas â thargedau ar gyfer ailgylchu, paratoi i aildefnyddio a chompostio o dan adran 3 neu dargedau gwastraff eraill o dan adran 4. Caiff rheoliadau wneud darpariaeth—
- ar gyfer y dull o asesu cydymffurfedd â thargedau;
  - ynghylch trefniadau ar gyfer monitro ac archwilio cydymffurfedd;
  - rhoi pwerau mynediad a phwerau arolygu i'r personau hynny sy'n monitro ac archwilio cydymffurfedd;

29. Subsection (8) explains what is meant by a local authority's municipal waste from a target financial year. It is the total amount by weight of the following –
- all the waste the authority collects in that year in its capacity as a waste collection authority under section 45 of the Environmental Protection Act 1990 (c. 43) (“the 1990 Act”) (this includes virtually all household waste; commercial waste from premises where the occupier of those premises has requested collection; and industrial waste from premises where the occupier of the premises has made a request for collection by the authority and the authority is content to collect it);
  - all the waste deposited with the authority at the places it provides for that purpose in its capacity as a waste disposal authority under subsections (1)(b) and (3) of section 51 - e.g. places badged as “civic amenity sites” or “recycling centres”(these places must be provided for persons resident in its area to deposit their household waste and the authority may make them available for the deposit of household, commercial or industrial waste by other persons); and
  - such other waste as may be specified by the Welsh Ministers by order (these orders are subject to a negative resolution procedure (see section 20(1))).

#### **Section 4 – Regulations to set waste targets**

30. This section enables the Welsh Ministers to make regulations to specify other waste targets, in addition to those set under section 3, relating to the prevention, reduction, collection, management, treatment or disposal of waste by local authorities. This section also enables the Welsh Ministers to make regulations to specify indicators to measure a local authority's performance in relation to these targets and to impose a financial penalty on local authorities if these waste targets are not met.
31. Regulations under this section are subject to an affirmative resolution procedure in the National Assembly for Wales (see section 20(3)).

#### **Section 5 – Monitoring and auditing compliance with targets**

32. This section enables the Welsh Ministers to make regulations about assessing, monitoring and auditing compliance in relation to targets for recycling, preparation for re-use and composting under section 3 or other waste targets under section 4. Regulations may make provision –
- for the method of assessing compliance with targets;
  - about arrangements for monitoring and auditing compliance;
  - conferring powers of entry and inspection for those persons monitoring and auditing compliance;
  - requiring local authorities to keep records and provide information;
  - about the publication of information in relation to targets; and
  - imposing liability on a local authority to pay a penalty if it fails to comply with any requirement of regulations made under this section.
33. Regulations under this section which impose liability to pay a penalty are subject to an affirmative resolution procedure in the National Assembly for Wales (see section 20(3)). All other regulations under this section are subject to a negative procedure (see section 20(1), (2) and (3)).

- yn ei gwneud yn ofynnol i awdurdodau lleol gadw cofnodion a darparu gwybodaeth;
- ynghylch cyhoeddi gwybodaeth mewn perthynas â thargedau; a
- gosod atebolrwydd ar awdurdod lleol i dalu cosb os yw'n methu cydymffurfio ag unrhyw ofyniad mewn rheoliadau a wneir o dan yr adran hon.

33. Mae rheoliadau o dan yr adran hon sy'n gosod atebolrwydd i dalu cosb yn ddarostyngedig i weithdrefn penderfyniad cadarnhaol yng Nghynulliad Cenedlaethol Cymru (gweler adran 23). Mae pob rheoliad arall o dan yr adran hon yn ddarostyngedig i weithdrefn negyddol (gweler adran 20(1), (2) a (3)).

### **Adran 6 – Rheoliadau am gosbau**

34. Mae'r adran hon yn galluogi Gweinidogion Cymru i wneud rheoliadau am gosbau y gall awdurdodau lleol fod yn atebol i'w talu –

- am fethu â chyrraedd y targedau ar gyfer ailgylchu, paratoi i ailddenyddio a chompostio a osodir o dan adran 3;
- am fethu â chyrraedd targedau gwastraff o dan adran 4, neu
- am dorri rheoliadau o dan adran 5 sy'n ymwneud â monitro ac archwilio cydymffurfedd.

35. Caiff y Rheoliadau o dan adran 6 osod swm y gosb neu osod rheolau ar gyfer ei chyfrifo. Caniateir iddynt hefyd bennu pryd y mae taliadau i'w talu a gwneud darpariaeth ynghylch llog ar gosbau sydd heb eu talu; ynghylch adennill, gwrth-hawlio neu sicrhau symiau sydd heb eu talu o ran cosbau a llog; ac ynghylch hepgor cosbau.

36. Mae rheoliadau o dan yr adran hon yn ddarostyngedig i weithdrefn penderfyniad cadarnhaol yng Nghynulliad Cenedlaethol Cymru (gweler adran 20(3)).

### **Adran 7 – Canllawiau**

37. Mae'r adran hon yn ei gwneud yn ofynnol i awdurdodau lleol roi sylw i unrhyw ganllawiau a ddyroddir gan Weinidogion Cymru wrth arfer eu swyddogaethau o dan adrannau 3 i 6 o'r Mesur.

### **Adran 8 – Ymgynghori**

38. Mae is-adran (1) yn ei gwneud yn ofynnol i Weinidogion Cymru ymgynghori ag Asiantaeth yr Amgylchedd, awdurdodau lleol, ac unrhyw bersonau eraill y maent yn barnu eu bod yn briodol cyn gwneud gorchmynion neu reoliadau o dan adran 3 neu reoliadau o dan adrannau 4, 5 neu 6 neu cyn rhoi unrhyw ganllawiau o dan adran 7.

39. Mae is-adran (2) yn darparu, os bydd Gweinidogion Cymru wedi cynnal unrhyw ymgynghoriad at ddibenion is-adran (1) cyn i'r Mesur gael ei basio, fod yr ymgynghoriad hwnnw'n cael effaith fel petai wedi ei wneud ar ôl i'r Mesur gael ei basio. Hynny yw, mae'n bodloni'r gofyniad yn is-adran (1).

## **Section 6 – Regulations about penalties**

34. This section enables the Welsh Ministers to make regulations about penalties to which local authorities may be liable –
- for failure to meet the targets for recycling, preparation for re-use and composting set under section 3
  - failure to meet waste targets under section 4, or
  - for breaches of regulations under section 5 relating to monitoring and auditing compliance.
35. Regulations under section 6 may set the amount of a penalty, or lay down rules for calculating it. They can also specify when payments are to be paid, and make provision about interest on unpaid penalties; about recovering, setting off or securing unpaid amounts in respect of penalties and interest; and about waiver of penalties.
36. Regulations under this section are subject to an affirmative resolution procedure in the National Assembly for Wales (see section 20(3)).

## **Section 7 – Guidance**

37. This section requires local authorities to have regard to any guidance issued by the Welsh Ministers in exercising their functions under sections 3 to 6 of the Measure.

## **Section 8 – Consultation**

38. Subsection (1) requires the Welsh Ministers to consult the Environment Agency, local authorities, and such other persons as they consider appropriate before making orders or regulations under section 3 or regulations under sections 4, 5 or 6, or before providing any guidance under section 7.
39. Subsection (2) provides that if the Welsh Ministers have carried out any consultation for the purposes of subsection (1) prior to the Measure being passed, it has effect as if it were undertaken after the Measure was passed. In other words, it satisfies the requirement in subsection (1).

## **Section 9 – Regulations prohibiting deposit of waste in a landfill**

40. Subsection (1) provides the Welsh Ministers with a power to make provision by regulations for and in connection with prohibiting or otherwise regulating the deposit of specified kinds of waste in landfill sites in Wales. “Specified” means specified in regulations made by the Welsh Ministers (section 17).
41. The deposit of waste in a landfill is currently regulated (in part) by the Environmental Permitting (England and Wales) Regulations 2007 (SI 2007/3538). Those regulations are made under section 2 of the Pollution Prevention and Control Act 1999 (c. 24). The purpose of section 2 of the 1999 Act is (among other things) to regulate activities that are capable of causing any environmental pollution. The regulation-making power under section 2 is exercisable by the Welsh Ministers in relation to Wales<sup>4</sup>. The purpose of section 9 of this Measure is to give the Welsh

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<sup>4</sup> Except in so far as the power is exercisable in relation to offshore oil and gas exploration and exploitation: the power rests with the Secretary of State in these circumstances. Where the power is exercisable in relation to a cross-border body but, by its nature, cannot be specifically exercised in

## **Adran 9 – Rheoliadau yn gwahardd gollwng gwastraff ar safle tirlenwi**

40. Mae is-adran (1) yn rhoi i Weinidogion Cymru bŵer i wneud darpariaeth drwy reoliadau ar gyfer gwahardd neu reoleiddio fel arall y weithred o ollwng mathau penodedig o wastraff ar safleoedd tirlenwi yng Nghymru. Ystyr “pennu” yw pennu mewn rheoliadau a wnaed gan Weinidogion Cymru ac ystyr “penodedig” yw wedi ei bennu mewn rheoliadau o’r fath (adran 17).
41. Mae'r weithred o ollwng gwastraff ar safle tirlenwi yn cael ei reoleiddio (yn rhannol) ar hyn o bryd gan Reoliadau Caniatáu Amgylcheddol (Cymru a Lloegr) 2007 (OS 2007/3538). Mae'r Rheoliadau hynny wedi eu gwneud o dan adran 2 o Ddeddf Atal a Rheoli Llygredd 1999 (p. 24). Diben adran 2 o Ddeddf 1999 (ymhlith pethau eraill) yw rheoleiddio gweithgareddau a allai achosi unrhyw lygredd amgylcheddol. Mae'r pŵer i wneud rheoliadau o dan adran 2 yn arferadwy gan Weinidogion Cymru mewn perthynas â Chymru<sup>4</sup>. Diben adran 9 o'r Mesur hwn yw rhoi i Weinidogion Cymru bŵer i wahardd neu reoleiddio fel arall y weithred o ollwng gwastraff ar safle tirlenwi p'un a fyddai gollwng y math hwnnw o wastraff yn gallu achosi llygredd amgylcheddol ai peidio.
42. Mae is-adran (2) yn pennu y caiff y rheoliadau ddiwygio rheoliadau a wnaed o dan adran 2 o Ddeddf Atal a Rheoli Llygredd 1999 sy'n ymwneud â gweithredu safle tirlenwi. Bydd hyn yn caniatáu i ddarpariaeth o dan adran 9 o'r Mesur hwn gael ei hymgorffori yn y drefn bresennol ar gyfer caniatáu amgylcheddol. Mae'r is-adran yn darparu hefyd y caiff rheoliadau (ymhlith pethau eraill) wneud i fethiant i gydymffurfio â'r rheoliadau yn dramgwydd; darparu ar gyfer cosbau mewn perthynas â'r tramgwyddau hynny; a nodi pwy fydd yr awdurdodau gorfodi a beth fydd eu swyddogaethau.
43. Mae pŵer Gweinidogion Cymru i greu tramgwyddau troseddol o dan yr adran hon yn ddarostyngedig i'r terfynau a osodir gan baragraff 2 o Ran 2 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006. Ni fyddent yn gallu defnyddio'r pŵer hwn i greu unrhyw dramgwydd troseddol y gellid ei gosbi –
- ar gollfarn ddiannod, â charchariad am gyfnod hwy na'r tymor rhagnodedig neu â dirwy sy'n uwch na lefel 5 ar y raddfa safonol (£5000 ar hyn o bryd), neu
  - ar gollfarn ar dditiad, â chyfnod o garchariad sy'n hwy na dwy flynedd.
- Ar hyn o bryd y cyfnod rhagnodedig yw chwe mis mewn perthynas â cholffarn ddiannod, p'un a oedd y tramgwydd yn ddull neillfordd ai peidio. Ond pan ddaw adrannau 154(1) a 281(5) o Ddeddf Cyfiawnder Troseddol 2003 (p. 44) i rym, bydd y cyfnod yn 51 o wythnosau mewn achos o dramgwydd diannod ac yn 12 mis pan fydd y tramgwydd yn un neillfordd<sup>5</sup>.
44. Mae rheoliadau o dan yr adran hon yn ddarostyngedig i weithdrefn penderfyniad cadarnhaol yng Nghynulliad Cenedlaethol Cymru (adran 20(3)).

<sup>4</sup> Ac eithrio i'r graddau y mae'r pŵer yn arferadwy mewn perthynas â chwilio am olew a nwy alltraeth ac elwa arnynt: erys y pŵer gan yr Ysgrifennydd Gwladol yn yr amgylchiadau hyn. Os yw'r pŵer yn arferadwy mewn perthynas â chorff trawsffiniol ond, o ran eu natur, ni ellir ei arfer yn benodol mewn perthynas â Chymru, mae'r pŵer yn arferadwy gan Weinidogion Cymru mewn perthynas â'r corff hwnnw yn gydamserol â'r Ysgrifennydd Gwladol (Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 2005 (OS 2005/1958), erthygl 3).

<sup>5</sup> Paragraff 52, Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

Ministers the power to prohibit or otherwise regulate deposit of waste in a landfill whether or not the deposit of that type of waste is capable of causing environmental pollution.

42. Subsection (2) specifies that the regulations may amend regulations made under section 2 of the Pollution Prevention and Control Act 1999 which relate to the operation of a landfill. This will allow provision under section 9 of the Measure to be incorporated into the existing environmental permitting regime. The subsection also provides that regulations may (among other things) make failure to comply with the regulations an offence; provide for penalties in relation to such offences; and set out who the enforcement authorities will be, and what their functions will be.
43. The power of the Welsh Ministers to create criminal offences under this section is subject to the limits imposed by paragraph 2 of Part 2 of Schedule 5 to the Government of Wales Act 2006. They would not be able to use this power to create any criminal offence punishable—
- on summary conviction, with imprisonment for more than the prescribed term or with a fine exceeding level 5 on the standard scale (currently £5000), or
  - on conviction on indictment, with a period of imprisonment exceeding two years.

The prescribed term is currently six months in relation to a summary conviction, whether or not the offence was triable either way. But on the coming into force of sections 154(1) and 281(5) of the Criminal Justice Act 2003 (c. 44) it will be 51 weeks in the case of a summary offence and 12 months where the offence is triable either way<sup>5</sup>.

44. Regulations under this section are subject to an affirmative resolution procedure in the National Assembly for Wales (section 20(3)).

### **Section 10 – Civil sanctions in respect of the deposit of waste in a landfill**

45. This section specifies that the power to make regulations in section 9 includes power to provide for civil sanctions in respect of offences created under section 9. Civil sanctions are an alternative to criminal penalties as a way of addressing breaches.
46. The power allows the Welsh Ministers to make equivalent provision, in relation to an enforcement authority, to that which could be made by an order under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (c. 13) (“RESA”) in relation to a regulator.

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relation to Wales, the power is exercisable by the Welsh ministers in relation to that body concurrently with the Secretary of State (National Assembly for Wales (Transfer of Functions) Order 2005 (SI 2005/1958), article 3).

<sup>5</sup> Paragraph 52, Schedule 11 Government of Wales Act 2006.

### **Adran 10 – Sanctsiynau sifil mewn cysylltiad â gollwng gwastraff ar safle tirlenwi**

45. Mae'r adran hon yn pennu bod y pŵer i wneud rheoliadau yn adran 9 yn cynnwys pŵer i ddarparu ar gyfer sanctsiynau sifil o ran tramgwyddau a grëir o dan adran 9. Mae sanctsiynau sifil yn ddewis amgen i gosbau troseddol fel dull o fynd i'r afael â thorri rheoliadau.
46. Mae'r pŵer yn caniatáu i Weinidogion Cymru wneud darpariaeth gyfatebol, mewn perthynas ag awdurdod gorfodi, i ddarpariaeth y gellid ei gwneud drwy orchymyn o dan Ran 3 o Ddeddf Gorfodi Rheoleiddiol a Sanctsiynau 2008 (p. 13) ("RESA") mewn perthynas â rheoleiddiwr.
47. Mae hyn yn golygu bod Gweinidogion Cymru yn gallu gwneud darpariaeth sy'n galluogi awdurdod gorfodi wneud y canlynol –
- gosod cosb ariannol sefydlog (gweler adran 39 o RESA);
  - gosod cosb ariannol amrywiadwy a ddyfarnwyd gan yr awdurdod gorfodi (gweler adran 42 o RESA);
  - ei gwneud yn ofynnol bod camau penodedig yn cael eu cymryd er mwyn sicrhau nad yw'r tramgwydd yn parhau neu'n digwydd eto (ibid);
  - ei gwneud yn ofynnol bod camau penodedig yn cael eu cymryd er mwyn sicrhau bod y sefyllfa yn cael ei hadfer i'r hyn a fyddai wedi bod pe na bai'r tramgwydd wedi ei gyflawni (ibid);
  - dyroddi hysbysiad stop, sy'n hysbysiad sy'n gwahardd person rhag cyflawni gweithgaredd hyd nes y bydd y camau a bennir yn yr hysbysiad wedi eu cymryd (adran 46 o RESA);
  - derbyn ymrwymiad gorfodi gan berson mewn achos lle mae gan yr awdurdod sail resymol dros amau bod y person wedi cyflawni tramgwydd perthnasol (adran 50 o RESA) (ymrwymiad gorfodi yw ymrwymiad i gymryd camau a bennwyd; mae cyflawni'r ymrwymiad yn cael yr effaith o atal y person hwnnw rhag cael ei gollfarnu o dramgwydd mewn perthynas â'r weithred neu'r anweithred y mae'r ymrwymiad yn berthnasol iddi neu rhag bod yn destun cosbau ariannol sefydlog neu ofynion disgresiynol a osodir arno mewn perthynas â'r weithred neu'r anweithred honno).
48. Mae adrannau 39(4) a 42(6) wedi eu datgymhwyso yn achos darpariaeth a wneir o dan adran 9(1) o'r Mesur yn rhinwedd is-adran 3. Mae hyn oherwydd bod y ddwy ddarpariaeth yn RESA yn gosod terfynau ar gosbau, ac mae'r terfynau y maent yn eu gosod yn gallu bod yn uwch na'r terfynau a ganiateir mewn Mesurau yn rhinwedd paragraff 2 o Ran 2 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006 (gweler paragraff 37 uchod).
49. Mae is-adran (3)(b) hefyd yn addasu is-adran 49(1) o RESA, am yr un rheswm. Mae adran 49 o RESA yn gwneud darpariaeth sy'n ei gwneud yn ofynnol i orfodi hysbysiau stop drwy greu tramgwyddau troseddol. Mae'r ddirwy uchaf ar gollfarn ddiannod a bennir yn adran 49 yn fwy na'r swm y gellir ei osod mewn perthynas â thramgwydd a grëwyd gan neu o dan Fesur Cynulliad (gweler uchod, paragraff 37). Mae is-adran (3)(b) yn addasu is-adran 49(1) o RESA er mwyn cael gwared o'r anghysondeb hwn drwy ei gwneud yn glir bod y cyfeiriad yn adran



47. This means that the Welsh Ministers can make provision enabling an enforcement authority to—
- impose a fixed monetary penalty (section 39 RESA);
  - impose a variable monetary penalty, determined by the enforcement authority (section 42 RESA);
  - require specified steps to be taken so as to secure that the offence does not continue or recur (*ibid*);
  - require specified steps to be taken so as to secure that the position is restored to what it would have been if the offence had not been committed (*ibid*);
  - issue a stop notice, which is a notice prohibiting a person from carrying on an activity until steps specified in the notice are taken (section 46 RESA);
  - accept an enforcement undertaking from a person in a case where the authority has reasonable grounds to suspect that the person has committed a relevant offence (section 50 RESA) (an enforcement undertaking is an undertaking to take specified action; fulfilling the undertaking will have the effect of preventing the person from being convicted of an offence in respect of the act or omission to which the undertaking relates or having fixed monetary penalties or discretionary requirements imposed on them in relation to that act or omission).
48. Sections 39(4) and 42(6) of RESA are disapplied in relation to the regulations made under section 9(1) of the Measure by subsection (3). This is because both provisions of RESA impose limits on penalties, and the limits they impose are potentially higher, than the limits permissible in Measures by virtue of paragraph 2 of Part 2 of Schedule 5 to the Government of Wales Act 2006 (see paragraph 37 above).
49. Subsection (3)(b) also modifies subsection 49(1) of RESA, for the same reason. Section 49 of RESA makes provision requiring the enforcement of stop notices by the creation of criminal offences. The maximum fine on summary conviction specified in section 49 is more than the amount that can be imposed in relation to an offence created by or under an Assembly Measure (see above, paragraph 37). Subsection (3)(b) modifies subsection 49(1) of RESA so as to remove this discrepancy, by making clear that reference in section 49(1)(a) of RESA to “£20,000” is to be read as a reference to “level 5 on the standard scale” – the maximum fine allowed under paragraph 2 of Part 2 of Schedule 5 to the Government of Wales Act 2006.
50. Subsection (4) applies section 63 to 69 of RESA to regulations made under section 9 of the Measure as they would apply to an order made under Part 3 of RESA. Subsections (5) and (6) make related provision.
51. The combined effect of subsections (4) to (6) is set out in the following paragraphs.

- 49(1)(a) at “£20,000” i'w ddarllen fel cyfeiriad at “level 5 on the standard scale” – sef y ddirwy uchaf a ganiateir o dan baragraff 2 o Ran 2 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006.
50. Mae is-adran (4) yn cymhwyso adrannau 63 i 69 o RESA i reoliadau a wneir o dan adran 9 o'r Mesur yn yr un modd ag y byddent yn gymwys i orchymyn a wneid o dan Ran 3 o RESA. Mae is-adrannau (5) a (6) yn gwneud darpariaeth gysylltiedig.
51. Nodir effaith gyfunol is-adrannau (4) i (6) yn y paragraffau a ganlyn.
52. Pan fo Gweinidogion Cymru'n rhoi pŵer i awdurdod gorfodi i osod sancsiwn sifil mewn perthynas â thramgwydd, rhaid i Weinidogion Cymru hefyd sicrhau'r canlyniadau canlynol (gweler adran 63 o RESA) –
- bod yr awdurdod yn cyhoeddi canllawiau am ei ddefnydd o'r sancsiwn;
  - bod y canllawiau'n cynnwys gwybodaeth benodedig, gan ddibynnu ar y math o sancsiwn, megis o dan ba amgylchiadau y byddai gosod cosb ariannol neu hysbysiad stop yn debygol, ac o dan ba amgylchiadau na ellid eu gosod; swm unrhyw gosb ariannol; sut i ryddhau cosbau a hawliau i apelio a phethau tebyg;
  - bod y canllawiau yn cael eu diwygio lle y bo hynny'n briodol;
  - bod yr awdurdod yn ymgynghori â'r personau a bennir yn rheoliadau Gweinidogion Cymru cyn cyhoeddi unrhyw ganllawiau;
  - bod yr awdurdod yn rhoi sylw i'r canllawiau wrth iddo arfer ei swyddogaethau.
53. Pan fo pŵer yn cael ei roi i awdurdod gorfodi i osod sancsiwn sifil mewn perthynas â thramgwydd rhaid i'r awdurdod hefyd –
- paratoi a chyhoeddi canllawiau ynghylch sut y gorfodir y gyfraith ynglŷn â'r tramgwydd (gweler adran 64 o RESA);
  - cyhoeddi adroddiadau ynghylch yr achosion lle mae'r sancsiwn sifil wedi ei osod (gweler adran 65 o RESA).
54. Ni chaiff Gweinidogion Cymru wneud darpariaeth sy'n galluogi awdurdod gorfodi i osod sancsiwn sifil mewn perthynas â thramgwydd oni fydd Gweinidogion Cymru wedi eu bodloni y bydd yr awdurdod yn gweithredu'n unol â'r egwyddorion canlynol (y cyfeirir atynt yn RESA fel yr egwyddorion rheoleiddiol (“the regulatory principles”)) wrth arfer y pŵer hwnnw –
- y dylai gweithgareddau rheoleiddiol gael eu cyflawni mewn ffordd sy'n dryloyw, atebol, cymesur a chyson; ac
  - y dylai gweithgareddau rheoleiddiol gael eu targedu'n unig ar achosion lle mae angen gweithredu.
55. Pan fo Gweinidogion Cymru wedi rhoi pŵer i osod sancsiynau sifil, rhaid iddynt adolygu'r modd y gweithredir y pŵer hwnnw (gweler adran 67 o RESA) a chânt atal dros dro bŵer awdurdod gorfodi i osod sancsiynau o'r fath (gweler adran 68 o RESA).
56. Rhaid i dderbyniadau o sancsiynau sifil – e.e. oddi wrth gosbau am daliadau ariannol – gael eu talu i Gronfa Gyfunol Cymru pan fo gan yr awdurdod gorfodi

52. Where the Welsh Ministers confer power on an enforcement authority to impose a civil sanction in relation to an offence, the Welsh Ministers must also ensure the following results (see section 63 of RESA) –
- that the authority publishes guidance about its use of the sanction;
  - that guidance contains specified information, depending on the type of sanction - such as the circumstances in which a monetary penalty or stop notice is likely to be imposed, the circumstances in which it cannot be imposed; the amount of any monetary penalty; how to discharge penalties and rights of appeal and similar;
  - that the guidance is revised where appropriate;
  - that the authority consults persons specified in the Welsh Ministers' regulations before publishing any guidance;
  - that the authority has regard to the guidance in exercising functions.
53. Where power is conferred on an enforcement authority to impose a civil sanction in relation to an offence the authority must also –
- prepare and publish guidance about how the offence is to be enforced (see section 64 RESA);
  - publish reports about the cases in which the civil sanction has been imposed (see section 65 RESA).
54. The Welsh Ministers may not make provision enabling an enforcement authority to impose a civil sanction in relation to an offence unless the Welsh Ministers are satisfied that the authority will act in accordance with the following principles (referred to in RESA as “the regulatory principles”) in exercising that power –
- that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent; and
  - that regulatory activities should be targeted only at cases in which action is needed.
55. Where the Welsh Ministers have conferred a power to impose civil sanctions, they must review how that power is being operated (see section 67 of RESA) and may suspend the power of an enforcement authority to impose such sanctions (see section 68 of RESA).
56. Receipts from civil sanctions – e.g. from the payment of monetary penalties – must be paid into the Welsh Consolidated Fund where the enforcement authority has functions only in relation to Wales, and into the UK Consolidated Fund where the enforcement authority has functions in relation to Wales and another part of the UK (see section 69 of RESA).

### **Section 11 - Consultation**

57. Section 11(1) provides that before making any regulations under section 9, the Welsh Ministers must consult the Environment Agency; local authorities; representatives of those persons likely to be placed under duties by the regulations; and other persons as considered appropriate.

swyddogaethau mewn perthynas â Chymru'n unig, ac i Gronfa Gyfunol y DU pan fo gan yr awdurdod gorfodi swyddogaethau mewn perthynas â Chymru a rhan arall o'r DU (gweler adran 69 o RESA).

### **Adran 11 – Ymgynghori**

57. Mae adran 11(1) yn darparu bod yn rhaid i Weinidogion Cymru, cyn gwneud unrhyw reoliadau o dan adran 9, ymgynghori ag Asiantaeth yr Amgylchedd; awdurdodau lleol; cynrychiolwyr y personau hynny y mae'n debygol y gosodir dyletswyddau arnynt gan y rheoliadau; a phersonau eraill yn ôl yr hyn a fernir ei fod yn briodol.
58. Effaith is-adran (2) yw caniatáu i ymgynghori a wneir cyn pasio'r Mesur gyfrif at ddibenion is-adran (1).

### **Adran 12 – Cynlluniau Rheoli Gwastraff Safle**

59. Mae adrannau 12 i 16 o'r Mesur yn ailddatgan, gydag addasiadau, adran 54 o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 (p. 16). Mae'r addasiadau'n ymwneud â gweinyddu a gorfodi'r drefn: mae adran 12 yn galluogi Gweinidogion Cymru i wneud rheoliadau am gynlluniau codi ffioedd a thaliadau, mae adran 14 yn galluogi i sancsiynau sifil gael eu cymhwyso i dramgwyddau ac mae adran 16 yn darparu ar gyfer ymgynghori.
60. Diben ac effaith adran 12(1) yw caniatáu i Weinidogion Cymru wneud darpariaeth, drwy reoliadau, i'w gwneud yn ofynnol i bersonau penodedig wneud cynlluniau sy'n nodi sut y byddant yn rheoli ac yn gwaredu gwastraff a grëir wrth wneud gweithiau penodedig sy'n cynnwys adeiladu a dymchwel (is-adran (1)(a)). Caiff y rheoliadau ei gwneud yn ofynnol i'r rhai y mae gofyn iddynt wneud cynlluniau gydymffurfio â hwy (is-adran (1)(b)).
61. Mae is-adran (2) yn gosod rhestr nad yw'n hollgynhwysfawr o'r ddarpariaeth y gellid ei gwneud drwy reoliadau o dan is-adran (1). Mae'r rhain yn cynnwys o dan ba amgylchiadau y mae'n rhaid paratoi'r cynlluniau (is-adran (2) (a)); cynnwys cynlluniau (is-adran (2)(b)); darpariaethau am awdurdodau gorfodi a'u swyddogaethau (is-adran (2)(c)) ac am gadw cynlluniau a'u dangos i awdurdodau gorfodi (is-adran (2)(d)). Caiff y rheoliadau ei gwneud yn ofynnol hefyd i Weinidogion Cymru, neu awdurdod gorfodi, sefydlu cynllun codi ffioedd a thaliadau i alluogi costau rhesymol a dynnir gan awdurdod gorfodi wrth gyflawni'r swyddogaethau a roddir iddo gan y rheoliadau i gael eu hadennill (is-adran (2)(e)).
62. Caniateir i'r gweithiau yr effeithir arnynt gan y rheoliadau gael eu disgrifio, yn rhinwedd is-adran (3), drwy gyfeirio at gost neu gost debygol y gweithiau hynny neu drwy gyfeirio at feini prawf eraill.
63. Darpariaeth arbed yw is-adran (4). Bydd yn sicrhau, os bydd Gweinidogion Cymru yn gwneud rheoliadau am gynlluniau rheoli gwastraff safle o dan adran 54 o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 cyn i'r Mesur ddod i rym, y bydd effaith i'r rheoliadau hynny fel petaent wedi eu gwneud o dan y ddarpariaeth yn y Mesur hwn.

58. Subsection (2) has the effect of allowing consultation undertaken before the passing of the Measure to count for the purposes of subsection (1).

### **Section 12 - Site waste management plans**

59. Sections 12 to 16 of the Measure restate, with modifications, section 54 of the Clean Neighbourhoods and Environment Act 2005 (c. 16). The modifications concern the administration and enforcement of the regime: section 12 enables the Welsh Ministers to make regulations about fees and charges schemes, section 14 enables civil sanctions to be applied to offences and section 16 provides for consultation.
60. The purpose and effect of section 12(1) are to allow the Welsh Ministers to make provision, by regulations, to require specified persons to make plans setting out how they will manage and dispose of waste created in the course of specified works involving construction and demolition (subsection (1)(a)). The regulations may require those required to make plans to comply with them (subsection (1)(b)).
61. Subsection (2) sets out a non-exhaustive list of the provisions that could be made by regulations under subsection (1). These include the circumstances in which plans must be prepared (subsection (2)(a)); the contents of plans (subsection (2)(b)); provisions about enforcement authorities and their functions (subsection (2)(c) and the keeping of plans and their production to enforcement authorities (subsection (2)(d)). The regulations may also require the Welsh Ministers, or an enforcement authority, to establish a fees and charging scheme to enable the recovery of reasonable costs incurred by an enforcement authority in performing the functions that will be conferred on it by the regulations (subsection(2)(e)).
62. The works which will be affected by the regulations may, by virtue of subsection (3), be described by reference to the cost or likely cost of such works, or by reference to other criteria.
63. Subsection (4) is a savings provision. It will ensure that, if the Welsh Ministers make regulations about site waste management plans under section 54 of the Clean Neighbourhoods and Environment Act 2005 before the Measure comes into force, those regulations have effect as if they were made under the provision in this Measure.

### **Section 13 - Offences and penalties**

64. This section enables the Welsh Ministers to make regulations in relation to offences and penalties for breaches of the requirements established in regulations made under section 12. It also sets out, or clarifies, the limits on the criminal sanctions that can be imposed for such offences.
65. As set out above, section 12 largely re-enacts provision in section 54 of the Clean Neighbourhoods and Environment Act 2005. For that reason, the limits on the criminal sanctions that can be imposed in Measures do not apply to offences created under it. (These limits are set out in paragraph 2 of Part 2 of Schedule 5 to the Government of Wales Act 2006; and the fact that they do not apply in cases where a Measure is restating the law is contained in paragraph 9 of Part 3 of Schedule 5).

### **Adran 13 - Tramgwyddau a chosbau**

64. Mae'r adran hon yn galluogi Gweinidogion Cymru i wneud rheoliadau mewn perthynas â thramgwyddau a chosbau am dorri'r gofynion a sefydlwyd mewn rheoliadau a wnaed o dan adran 12. Mae'r adran hefyd yn gosod, neu'n gwneud yn eglur, y terfynau y gellir eu gosod am dramgwyddau o'r fath.
65. Fel y nodir uchod, mae adran 12 ar y cyfan yn ailddeddfu darpariaeth yn adran 54 o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005. O'r herwydd, nid yw'r terfynau ar y sancsiynau troseddol y gellir eu gosod mewn Mesurau yn gymwys i dramgwyddau a gaiff eu creu oddi tani. (Gosodir y terfynau hyn ym mharagraff 2 o Ran 2 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006; a gwelir y ffaith nad ydynt yn gymwys mewn achosion pan fo Mesur yn ailddatgan y gyfraith ym mharagraff 9 o Ran 3 o Atodlen 5).
66. Yn lle hynny, mae adran 13(2) a (3) yn gosod y terfynau sy'n gymwys i sancsiynau am dramgwyddau a gafodd eu creu o dan adran 12. Mae adran 13(2) yn ymdrin â thramgwyddau am dorri amodau mewn darpariaethau sydd wedi eu hailddatgan, h.y. torri gofynion a sefydlwyd o dan adran 12(2)(a) i (d). Mae'n gosod cyfyngiadau sy'n gwahardd creu tramgwyddau y gellir eu cosbi drwy garchariad, neu drwy ddirwy sy'n uwch na £50,000 ar gollfarn ddiannod.
67. Er hynny, nid yw'r ddarpariaeth a wneir gan adran 12(2)(e) yn ailddatgan y gyfraith gyfredol ond mae'n ychwanegu ati. Mae hyn y golygu nad yw'r terfynau ar sancsiynau troseddol a osodir ym mharagraff 2 o Ran 2 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006 yn gymwys yn yr achos hwn. Er hynny, yr oedd Llywodraeth Cynulliad Cymru o'r farn ei bod yn ddymunol gwneud y terfyn ar y sancsiynau yn eglur ar wyneb y Mesur, ac mae adran 13(3) gan hynny'n darparu na ddylid cosbi tramgwyddau a wneir o dan y ddarpariaeth hon gan ddirwy sy'n uwch na lefel 5 ar y raddfa safonol.

### **Adran 14 - Sancsiynau sifil mewn cysylltiad â chynlluniau rheoli gwastraff safle**

68. Mae'r adran hon yn caniatáu i Weinidogion Cymru alluogi awdurdodau gorfodi i osod sancsiynau sifil mewn perthynas â thramgwyddau a gyflawnir o dan rheoliadau cynlluniau rheoli gwastraff safle, fel dewis amgen i erlyniad o'r tramgwyddau hynny yn y llysoedd troseddol. Mae'r dull hwn yn dilyn dull adran 10 mewn perthynas â thramgwyddau tirlenwi. Yn benodol, mae'r Mesur arfaethedig yn amrywio adran 49(1) o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008 i alluogi'r drefn sancsiynau sifil mewn perthynas â Chynlluniau Rheoli Gwastraff Safle i gydymffurfio â therfyn Deddf Llywodraeth Cymru 2006 ar uchafswm cosbau. Er hynny, nid yw'r terfyn yn gymwys i dramgwyddau cynlluniau rheoli gwastraff safle yn yr un modd ag y mae'n gymwys i dramgwyddau tirlenwi, ac o'r herwydd nid yw adrannau 39(4) a 42(6) yn cael eu datgymhwyso.

66. Instead, section 13 (2) and (3) set out the limits that apply to sanctions for offences created under section 12. Section 13(2) deals with offences for breaches of restated provisions, i.e. breaches of requirements established under section 12(2)(a) to (d). It imposes restrictions prohibiting the creation of offences which are punishable by imprisonment, or by a fine exceeding £50,000 on summary conviction.
67. However, the provision made by section 12(2)(e) is not a restatement of the existing law but an addition to it. This means that the limits on criminal sanctions set out in paragraph 2 of Part 2 to Schedule 5 of the Government of Wales Act 2006 do apply in this case. Nevertheless, the Welsh Assembly Government thought it desirable to make the limit on sanctions clear on the face of the Measure, and section 13(3) therefore provides that offences made under this provision must not be punishable on summary conviction by a fine exceeding level 5 on the standard scale.

#### **Section 14 – Civil sanctions in respect of site waste management plans**

68. This section allows the Welsh Ministers to enable enforcement authorities to impose civil sanctions in relation to offences committed under site waste management plan regulations, as an alternative to prosecution of those offences in the criminal courts. The approach follows that taken at section 10 in relation to landfill offences. In particular, the proposed Measure modifies section 49(1) of Regulatory Enforcement and Sanctions Act 2008 to enable the civil sanctions regime in relation to Site Waste Management Plans to comply with the Government of Wales Act 2006 limit on maximum penalties. However, that limit does not apply to site waste management plans offences in the same way that it applies to landfill offences, and therefore section 39(4) and 42(6) of the 2008 Act are not disapplied.

#### **Section 15 - Guidance**

69. This section requires an enforcement authority to have regard to any guidance issued by the Welsh Ministers in regard to site waste management plans.

#### **Section 16 - Consultation**

70. Section 16(1) provides that before making any regulations under section 12, the Welsh Ministers must consult the Environment Agency; local authorities; appropriate representatives of persons affected by the regulations; and other persons that the Welsh Ministers consider appropriate.
71. Subsection (2) has the effect of allowing consultation undertaken before the passing of the Measure to count for the purposes of subsection (1).

#### **Section 17 - Interpretation**

72. This section provides definitions for the purpose of the Measure.

#### **Section 18 – Minor and consequential amendments**

73. This section introduces minor and consequential amendments which are set out in the Schedule to the Measure.

#### **Section 19 – Orders and regulations**

74. This section contains general provisions about regulations and orders made under the Measure.

### **Adran 15 - Canllawiau**

69. Mae'r adran hon yn ei gwneud yn ofynnol i awdurdod gorfodi roi sylw i unrhyw ganllawiau a ddyroddir gan Weinidogion Cymru ynghylch cynlluniau rheoli gwastraff safle.

### **Adran 16 - Ymgynghori**

70. Mae adran 16(1) yn darparu bod rhaid i Weinidogion Cymru, cyn gwneud unrhyw reoliadau, ymgynghori ag Asiantaeth yr Amgylchedd; awdurdodau lleol; cynrychiolwyr priodol o bersonau yr effeithir arnynt gan y rheoliadau; a phersonau eraill sy'n briodol ym marn Gweinidogion Cymru.
71. Effaith is-adran (2) yw caniatáu i ymgynghoriad a wnaed cyn pasio'r Mesur gyfrif at ddibenion is-adran (1).

### **Adran 17 - Dehongli**

72. Mae'r adran hon yn darparu diffiniadau at ddiben y Mesur.

### **Adran 18 - Mân ddiwygiadau a diwygiadau canlyniadol**

73. Mae'r adran hon yn cyflwyno mân ddiwygiadau a diwygiadau canlyniadol sydd wedi eu nodi yn yr Atodlen i'r Mesur.

### **Adran 19 - Gorchmynion a rheoliadau**

74. Mae'r adran hon yn cynnwys darpariaethau cyffredinol am reoliadau a gorchmynion a wneir o dan y Mesur hwn.
75. Mae is-adran (1) yn darparu, pan fo pŵer wedi ei roi i Weinidogion Cymru gan y Mesur i wneud gorchmynion neu reoliadau, eu bod i'w gwneud drwy offerynnau statudol. Mae is-adran (2) yn darparu bod unrhyw bŵer i wneud rheoliadau neu orchmynion, a roddir i Weinidogion Cymru o dan y Mesur hwn, yn cynnwys pŵer i wneud darpariaethau gwahanol ar gyfer achosion gwahanol neu ddisbarthiadau gwahanol ar achosion, personau gwahanol neu ddisgrifiadau gwahanol o berson, a dibenion gwahanol. Hefyd, mae'n galluogi gorchmynion neu reoliadau i beri i ddarpariaethau gwahanol fod yn gymwys ar adegau gwahanol ac i wneud darpariaethau sydd yn gymwys yn gyffredinol neu mewn perthynas ag achosion penodol. Mae is-adran (2) yn galluogi Gweinidogion Cymru hefyd i wneud darpariaethau cysylltiedig, atodol, canlyniadol, dros dro, trosiannol neu ddarpariaethau arbed fel y gwel Gweinidogion Cymru yn dda.
76. O dan is-adran (3), caniateir i ddarpariaeth y caniateir ei gwneud drwy orchymyn o dan y Mesur hwn gael ei gwneud drwy reoliadau. O dan is-adran (4), caniateir i ddarpariaeth y caniateir ei gwneud drwy reoliadau o dan y Mesur hwn gael ei gwneud drwy orchymyn. Mae hyn yn galluogi i amrywiol ddarpariaethau o dan y Mesur gael eu cyfuno mewn un offeryn statudol unigol, yn hytrach na bod mewn dau offeryn ar wahân.



75. Subsection (1) provides that where the Welsh Ministers are empowered by the Measure to make orders or regulations, these are to be made by statutory instrument. Subsection (2) provides that any power to make regulations or orders, given to the Welsh Ministers under this Measure, includes the power to make different provisions for different cases or classes of cases, different areas, different persons or descriptions of person, and different purposes. It also enables orders or regulations to make different provisions apply at different times and to make provisions that apply generally or in relation to specific cases. Subsection (2) also enables the Welsh Ministers to make incidental, supplementary, consequential, transitory, transitional or saving provision, as the Welsh Ministers think fit.
76. Under subsection (3), a provision that may be made by order under this Measure may be made by regulations. Under subsection (4), a provision that may be made by regulations under this Measure may be made by order. This enables various provisions under the Measure to be combined in a single statutory instrument, rather than two separate ones.

#### **Section 20 - Orders and regulations: procedures**

77. Subsection (1) provides the default position that any statutory instrument made under the Measure will be subject to the National Assembly's negative resolution procedure. There are two exceptions to this, set out in subsection (2). The first is orders under section 21(1) of the Measure, commencing section 3 of the Measure. These commencement orders are not subject to any Assembly procedure. Subsection (2) also provides that the negative procedure does not apply to the orders and regulations listed in subsection (3). These orders and regulations are subject to an affirmative resolution procedure.
78. Subsection (3) specifies the orders and regulations that need to be laid before, and be approved by a resolution of, the National Assembly (i.e. the orders and regulations that are subject to the affirmative procedure). These are –
- orders made under section 3(4) – orders amending the table of recycling, preparation for re-use and composting targets set out in section 3(3);
  - regulations made under section 4 (regulations to set waste targets);
  - regulations made under section 5 (1) (g) (regulations imposing liability on a local authority to pay a penalty if it fails to comply with regulations relating to monitoring and auditing compliance with targets);
  - regulations made under section 6 (regulations about penalties for breach of targets under sections 3 or 4 or for breach of monitoring and auditing requirements under section 5);
  - regulations made under section 9 (regulations prohibiting deposit of waste in a landfill); and regulations made under section 14 (regulations making provision for civil sanctions in respect of site waste management plans).
79. Subsection (4) provides that where regulations make provision that may be made by order, the procedure that would apply to the order under this section applies to the regulations. Similarly, under subsection (5), where an order makes provision that may be made by regulations, the procedure that would apply to the regulations under this section applies to the order. This ensures that, where provisions made

## **Adran 20 – Gorchmynion a rheoliadau: gweithdrefnau**

77. Mae is-adran (1) yn darparu'r sefyllfa ddiodyn y bydd unrhyw offeryn statudol a wneir o dan y Mesur hwn yn ddarostyngedig i weithdrefn penderfyniad negyddol y Cynulliad Cenedlaethol. Mae dau eithriad i hyn, a cheir hwy yn is-adran (2). Y cyntaf yw gorchmynion o dan adran 21(1) o'r Mesur sy'n cychwyn adran 3 o'r Mesur. Nid yw'r gorchmynion cychwyn hyn yn ddarostyngedig i unrhyw un o weithdrefnau'r Cynulliad. Mae is-adran (2) yn darparu hefyd nad yw'r weithdrefn negyddol yn gymwys i'r gorchmynion a'r rheoliadau a restrir yn is-adran (3). Mae'r gorchmynion a'r rheoliadau hyn yn ddarostyngedig i weithdrefn penderfyniad cadarnhaol.
78. Mae is-adran (3) yn pennu'r gorchmynion a'r rheoliadau y mae angen eu gosod gerbron y Cynulliad Cenedlaethol, a'u cymeradwyo ganddo drwy benderfyniad (hynny yw, y gorchmynion a'r rheoliadau sy'n ddarostyngedig i'r weithdrefn gadarnhaol). Sef –
- gorchmynion a wneir o dan adran 3(4) – gorchmynion sy'n diwygio'r tabl o dargedau ailgylchu, paratoi i ailddefnyddio a chompostio a nodir yn adran 3(3).
  - rheoliadau a wneir o dan yr adran 4 (rheoliadau i osod targedau gwastraff);
  - rheoliadau a wneir o dan adran 5(1)(g) (rheoliadau sy'n gosod atebolrwydd ar awdurdod lleol i dalu cosb os yw'n methu â chydymffurfio â rheoliadau mewn perthynas â monitro ac archwilio cydymffurfedd â thargedau);
  - rheoliadau a wneir o dan adran 6 (rheoliadau ynghylch cosbau am dorri amodau targedau o dan adrannau 3 neu 4 neu am dorri amodau gofynion monitro ac archwilio o dan adran 5);
  - rheoliadau a wneir o dan adran 9 (rheoliadau sy'n gwahardd gollwng gwastraff ar safle tirlenwi) a rheoliadau a wneir o dan adran 14 (rheoliadau sy'n gwneud darpariaeth ar gyfer sancsiynau sifil mewn cysylltiad â chynlluniau rheoli gwastraff safle).
79. Mae is-adran (4) yn darparu, pan fo rheoliadau yn gwneud darpariaeth y caniateir ei gwneud drwy orchymyn, y bydd y weithdrefn a fyddai'n gymwys i'r gorchymyn o dan yr adran hon yn gymwys i'r rheoliadau. Yn yr un modd, o dan is-adran (5), pan fo gorchymyn yn gwneud darpariaeth y caniateir ei gwneud drwy reoliadau, bydd y weithdrefn a fyddai'n gymwys i'r rheoliadau o dan yr adran hon yn gymwys i'r gorchymyn. Mae hyn yn sicrhau, pan wneir darpariaethau o dan wahanol adrannau o'r Mesur mewn offeryn statudol unigol, bod gweithdrefn y Cynulliad sy'n gymwys i'r offeryn hwnnw yn glir.

## **Adran 21 – Cychwyn**

80. Mae is-adran (1) yn nodi y daw adran 3 i rym drwy orchymyn a wneir gan Weinidogion Cymru.
81. Mae is-adran (2) yn darparu y daw gweddill darpariaethau'r Mesur i rym yn awtomatig ar ddiwedd cyfnod o ddeufis sy'n dechrau ar y diwrnod y cymeradwyir y Mesur gan Ei Mawrhydi yn y Cyfrin Gyngor.

## **Adran 22 – Enw byr**

82. Mae'r adran hon yn darparu enw byr y Mesur.

*These notes refer to the Waste (Wales) Measure 2010 (nawm 8)  
which received approval by Her Majesty in Council on 15 December 2010*

under different sections of the Measure are made in a single statutory instrument, the Assembly procedure applicable to that instrument is clear.

### **Section 21 – Commencement**

80. Subsection (1) sets out that section 3 will be brought into force by an order made by the Welsh Ministers.
81. Subsection (2) provides that the remaining provisions of the Measure will come into force automatically, at the end of a period of two months beginning on the day on which the Measure is approved by Her Majesty in Council.

### **Section 22 – Short title**

82. This section provides the short title of the Measure.

### **Schedule**

83. The Schedule makes consequential amendments to Section 54 of the Clean Neighbourhoods and Environment Act 2005 (c.16) and the Climate Change Act 2008 (c.27).

## **RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES**

The following table sets out the dates for each stage of the Measure's passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Measure can be found on the National Assembly for Wales' website at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-waste.htm>

<b>Stage</b>	<b>Date</b>
Introduced	22 February 2010
Stage 1 - Debate	6 July 2010
Stage 2 Scrutiny Committee – consideration of amendments	30 September 2010
Stage 3 Plenary - consideration of amendments	2 November 2010
Stage 4 Approved by the Assembly	2 November 2010
Royal Approval in Privy Council	15 December 2010

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## **Yr Atodlen**

83. Mae'r Atodlen yn gwneud diwygiadau canlyniadol i Adran 54 o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 (p.16) a Deddf Newid yn yr Hinsawdd 2008 (p. 27).

## **COFNOD O'R TRAFODION YNG NGHYNULLIAD CENEDLAETHOL CYMRU**

Mae'r tabl canlynol yn nodi'r dyddiadau ar gyfer pob cyfnod o daith Mesur drwy Gynulliad Cenedlaethol Cymru. Gellir cael Cofnod o'r Trafodion a gwybodaeth bellach ar daith y Mesur hwn ar wefan Cynulliad Cenedlaethol Cymru yn:

<http://www.cynulliadcymru.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-waste.htm>

<b>Cyfnod</b>	<b>Dyddiad</b>
Cyflwyno	22 Chwefror 2010
Cyfnod 1 - Dadl	6 Gorffennaf 2010
Cyfnod 2 Pwyllgor Craffu yn ystyried y gwelliannau	30 Medi 2010
Cyfnod 3 Y Cyfarfod Llawn yn ystyried gwelliannau	2 Tachwedd 2010
Cyfnod 4 Cymeradwyaeth gan y Cynulliad	2 Tachwedd 2010
Cymeradwyaeth Frenhinol yn y Cyfrin Gyngor	15 Rhagfyr 2010

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