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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1490 (W.155)**

**ENVIRONMENTAL PROTECTION, WALES**

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

*Made* - - - - 8 June 2004  
*Coming into force* - - 25 June 2004

The National Assembly for Wales, acting in exercise of the powers conferred upon it by sections 10, 11, 12, 13, 15, 16, 26 and 36 of the Waste and Emissions Trading Act 2003 <sup>F1</sup> makes the following Regulations:

**Textual Amendments**

**F1** 2003 c. 33. See sections 12(4) and 13(7) for definitions of “prescribed”.

**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>F2</sup> ...

[<sup>F3</sup>“biodegradable collected municipal waste” (“*gwastraff trefol pydradwy a gasglwyd*”) means biodegradable local authority collected municipal waste;]

<sup>F4</sup> ...

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*Changes to legislation: There are currently no known outstanding effects for the The Landfill Allowances Scheme (Wales) Regulations 2004. (See end of Document for details)*

[<sup>F3</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>F5</sup>;

<sup>F6</sup> ...

[<sup>F7</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>F8</sup>the Welsh Ministers];

<sup>F9</sup> ...

<sup>F10</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>F11</sup>Article 3(19) and (15) of Directive [2008/98/EC](#) of the European Parliament and of the Council on waste][<sup>F12</sup>as last amended by [<sup>F13</sup>Directive (EU) 2018/851]].

[<sup>F14</sup>“the Waste Framework Directive” (“*y Gyfarwyddeb 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>F15</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”;
  - (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 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 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.”;

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- (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

- F2** 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)**
- F3** 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)**
- F4** 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)**
- F5** 2000 c. 7.
- F6** 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**
- F7** 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)**
- F8** 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**
- F9** 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)**
- F10** 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”
- F11** 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**
- F12** 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)**
- F13** 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)**
- F14** 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)**)
- F15** 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)**)

[<sup>F16</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**

**F16** [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

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- (b) for completion and submission to the authority on a website maintained by the authority for that purpose.

## PART 2

### Monitoring

#### Monitoring authority

5. The [<sup>F17</sup>Natural Resources Body for Wales] is the monitoring authority for Wales.

#### Textual Amendments

**F17** Words in reg. 5 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 5 para. 25** (with Sch. 7)

#### Obligation for waste disposal authorities to keep records and make returns

6.—(1) A waste disposal authority must keep records containing the following information for each scheme year—

- (a) the amount of collected municipal waste;
- (b) the amount of [<sup>F18</sup>collected municipal waste] sent to landfills by the authority; and
- (c) the amount of [<sup>F19</sup>collected municipal waste] sent to other waste facilities by the authority.

(2) In relation to municipal waste mentioned in sub-paragraphs (1)(b) and (c) the record must contain details of—

- (a) the total amount sent to each landfill or waste facility; and
- (b) the description of the waste, and the appropriate code for the waste, in the [<sup>F20</sup>List of Wastes];

(3) The records under paragraph (1) must be kept for a period of three years beginning on the day after the date that the reconciliation period for the scheme year ends.

(4) A waste disposal authority must submit to the monitoring authority a return containing the information in paragraph (1) for each 3 month period ending on 31 March, 30 June, 30 September and 31 December within one month of the end of that period.

(5) The monitoring authority, or a person authorised in writing by the monitoring authority, may by notice require a waste disposal authority to—

- (a) produce for inspection, or for removal for inspection elsewhere, any of the records that it is required to maintain under paragraph (1);
- (b) supply the monitoring authority with information about, or evidence as to, matters connected with the sending of [<sup>F21</sup>biodegradable collected municipal waste] to landfills;

and to do so in such form, at such reasonable place and within such reasonable time as is specified in the notice.

(6) The monitoring authority, or a person authorised in writing by the monitoring authority, may make copies of any records produced or supplied under paragraph (5).

### Textual Amendments

- F18** Words in reg. 6(1)(b) 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), 7(a)
- F19** Words in reg. 6(1)(c) 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), 7(a)
- F20** Words in reg. 6(2)(b) substituted (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), 2(3)
- F21** Words in Regulations 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), 8

### Obligation for operators of landfills to keep records and make returns

7.—(1) An operator of a landfill must keep records containing the following information for each scheme year—

- (a) the amount of each load of municipal waste accepted at the landfill;
- (b) the description of the waste, and the appropriate code for the waste, in the [<sup>F22</sup>List of Wastes];
- (c) the County or County Borough in which the municipal waste originated; and
- (d) any treatment applied to the waste before it was landfilled.

(2) The records under paragraph (1) must be kept for a period of three years beginning on the day after the day that the reconciliation period for the scheme year ends.

(3) An operator of a landfill must submit to the monitoring authority a return containing the information in paragraph (1) for each 3 month period ending on 31 March, 30 June, 30 September and 31 December within one month of the end of that period.

(4) The monitoring authority, or a person authorised in writing by the monitoring authority, may, by notice, require an operator of a landfill to produce for inspection, or for removal for inspection elsewhere, any records that the operator is required to maintain under paragraph (1), in such form, at such reasonable place and within such reasonable time as is specified in the notice.

(5) The monitoring authority, or a person authorised in writing by the monitoring authority, may make copies of any records produced under paragraph (4).

(6) A person authorised in writing by the monitoring authority may enter at any reasonable time and, if need be, by reasonable force, premises other than premises used as a dwelling, occupied by a person concerned in the operation of a landfill for the purposes of—

- (a) searching for records relating to the operation of a landfill;
- (b) inspecting records relating to the operation of a landfill or removing them for inspection elsewhere;
- (c) copying records relating to the operation of a landfill.

(7) A person entering any premises under paragraph (6), may take with him or her—

- (a) any other person duly authorised by the monitoring authority;
- (b) if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;
- (c) any equipment or materials required for any purpose for which the power of entry is being exercised.

(8) The power of the monitoring authority, or a person authorised by the monitoring authority, under paragraphs (4) to (6) includes power to require any person to afford to them, such reasonable

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facilities and assistance within the person’s control as are necessary to enable the monitoring authority and authorised person to exercise their powers

(9) In this regulation “operator of a landfill” means the person who has control over the landfill.

(10) In this regulation, “treatment” has the same meaning as in Article 2(h) of Council Directive 1999/31/EC on the landfill of waste <sup>F23</sup>[<sup>F24</sup>as last amended by [<sup>F25</sup>Directive (EU) 2018/850]]<sup>F26</sup>read in accordance with paragraph (11)].

[<sup>F27</sup>(11) For the purposes of regulation 7(10) Directive 1999/31/EC is to be read as if—

(a) in Article 2—

(i) in point (a), the reference to the definition of ‘waste’ were omitted;

(ii) after point (a) there were inserted—

“(aa) ‘Waste’ has the meaning given in Article 3(1) of Directive 2008/98/EC (“the Waste Framework Directive”), as read with Articles 5 and 6 of that Directive”;

(b) in Article 3—

(i) in paragraph (2) for “Without prejudice to existing Community legislation the” there were substituted “The”;

(ii) for paragraph (3) there were substituted—

“(3) The management of extractive waste, within the meaning given in regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016, is excluded from the scope of this Directive where it falls within the scope of Schedule 20, or paragraph 8(a) or (b) of Schedule 22, to those Regulations.”]

#### Textual Amendments

- F22** Words in reg. 7(1)(b) substituted (20.7.2015) by [The Hazardous Waste \(Miscellaneous Amendments\) \(Wales\) Regulations 2015 \(S.I. 2015/1417\)](#), regs. 1(2), **2(4)**
- F23** OJ L 182, 16.7.1999, p.1.
- F24** Words in reg. 7(10) inserted (22.3.2019) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(a), **3(3)**
- F25** Words in reg. 7(10) substituted (19.11.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/1179\)](#), regs. 1(2), **3(3)**
- F26** Words in reg. 7(10) inserted (31.12.2020) by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **7(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F27** Reg. 7(11) inserted by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/414\)](#), regs. 1(2)(b), **7(7)** (as substituted by [The Waste \(Wales\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1339\)](#), regs. 1(3), **2(3)(e)**)

#### [<sup>F28</sup>Determining the amount of biodegradable collected municipal waste in an amount of collected municipal waste

8. Sixty-one percent of an amount of collected municipal waste is deemed to be biodegradable collected municipal waste.]

#### Textual Amendments

- F28** Reg. 8 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), **9**



## Reconciliation of landfill allowances

9. No later than two months after the end of the reconciliation period, the monitoring authority must determine in relation to each waste disposal authority the amount of [<sup>F21</sup>biodegradable collected municipal waste] sent to landfills.

### Textual Amendments

**F21** Words in Regulations 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), **8**

## PART 3

### Registers

#### Landfill allowances register

10. The monitoring authority must establish and maintain a landfill allowances register which, in relation to each waste disposal authority for each scheme year, contains—

- (a) the allowance allocated under section 4 of the Act;
- (b) any alteration of the allowance referred to in paragraph (a) under section 5 of the Act;
- (c) the amount of [<sup>F21</sup>biodegradable collected municipal waste] sent to landfills by that waste disposal authority; and
- (d) the balance of the following:
  - (i) the allowance registered under paragraph (a), as altered by any alteration registered under paragraph (b), (the “total allowance”); and
  - (ii) the amount of [<sup>F21</sup>biodegradable collected municipal waste] sent to landfills by that waste disposal authority as registered under paragraph (c).

### Textual Amendments

**F21** Words in Regulations 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), **8**

#### Penalties register

11. [<sup>F29</sup>The Welsh Ministers] must establish and maintain a register to be known as “the penalties register” which, in relation to each waste disposal authority, must contain the following information—

- (a) any liability of that authority to a penalty under Part 1, Chapter 1 of the Act;
- (b) the amount of the penalty;
- (c) the date when payment of the penalty is due;
- (d) the amount of any interest incurred under regulation 15;
- (e) details of any decision to—
  - (i) extend the time for paying the whole or part of the penalty or any interest on it under section 26(1)(c)(i) of the Act.

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- (ii) relieve the waste disposal authority, in whole or in part, from liability to the whole or part of the penalty or any interest on it under section 26(1)(c)(ii) of the Act; and
- (f) the date that any payment in respect of a penalty or interest on a penalty was made to [F29 the Welsh Ministers].

#### Textual Amendments

**F29** Words in reg. 11 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**

#### Availability of registers

- 12.** In relation to any register maintained under this Part, a relevant authority must—
- (a) make the register maintained by it under this Part available for inspection by members of the public at its principal office free of charge at all reasonable times; and
  - (b) afford to members of the public facilities for obtaining copies of entries in that register on payment of a reasonable charge.

## PART 4

### Penalties

#### Penalties: exceeding allowances

**13.** The amount of the penalty to which a waste disposal authority is liable under section 9(2) of the Act is £200 per tonne of [F21 biodegradable collected municipal waste] sent to landfill in excess of that authority's total allowance for that scheme year.

#### Textual Amendments

**F21** Words in Regulations 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), **8**

#### Penalties: failure to comply with reporting requirements

**14.—**(1) Except where paragraphs (2) and (4) apply, the amount of the penalty to which a waste disposal authority is liable under section 12(3) of the Act is £1,000.

(2) Where a waste disposal authority—

- (i) understates the amount of collected municipal waste or the amount of [F30 collected municipal waste] sent to landfills; or
- (ii) overstates the amount of [F31 collected municipal waste] diverted to other waste facilities,

the penalty to which a waste disposal authority is liable under section 12(3) of the Act is £200 per tonne of the error.

(3) For the purposes of paragraph (2), “the error” is the amount by which the actual amount of [F21 biodegradable collected municipal waste] which was sent to landfill by the waste disposal authority in the scheme year exceeds the amount of [F21 biodegradable collected municipal waste]

which would have been sent to landfill for that year if the figures stated by the authority had been correct.

(4) Where a waste disposal authority fails to submit any returns in relation to a scheme year in accordance with regulation 6(4), that authority is liable to a penalty equal to £400 for each tonne of the total allowance allocated to that authority for that scheme year.

#### Textual Amendments

**F21** Words in Regulations 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), **8**

**F30** Words in reg. 14(2)(i) 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), **7(b)**

**F31** Words in reg. 14(2)(ii) 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), **7(c)**

#### Penalties: general

**15.**—(1) Where a waste disposal authority is liable to a penalty, [<sup>F32</sup>the Welsh Ministers] may assess the amount due by way of penalty and notify the waste disposal authority accordingly.

(2) The penalty is due one month after the date on which the waste disposal authority is notified by [<sup>F32</sup>the Welsh Ministers] of the amount of the penalty under paragraph (1).

(3) Where a waste disposal authority is liable to a penalty under the Act and does not pay the penalty by the date upon which it is due under paragraph (2), the waste disposal authority is liable to pay interest on the penalty for the period which—

(a) begins on the date under paragraph (2); and

(b) ends on the day before the day on which the penalty assessed under paragraph (1) is paid.

(4) Interest under this regulation is payable at a rate of one percentage point above LIBOR on a day to day basis.

(5) For the purposes of paragraph (4), “LIBOR” means the sterling three month London interbank offered rate in force during the period between the date on which the penalty becomes due and the date on which the penalty is paid to [<sup>F32</sup>the Welsh Ministers].

(6) Where a penalty has been assessed and notified to a waste disposal authority under paragraph (1), the penalty and any interest incurred under paragraph (3) is recoverable as a civil debt.

(7) For the purposes of this regulation, references to penalties include references to interest when payable.

#### Textual Amendments

**F32** Words in reg. 15 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**

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Landfill Allowances Scheme (Wales) Regulations 2004. (See end of Document for details)*

## PART 5

### Guidance

#### Guidance to waste disposal authorities

16. A waste disposal authority, in exercising functions in relation to waste that is or contains [<sup>F21</sup>biodegradable collected municipal waste], shall have regard to any guidance issued by [<sup>F33</sup>the Welsh Ministers] for the purposes of these regulations.

#### Textual Amendments

- F21** Words in Regulations 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\(2\), 8](#)
- F33** Words in reg. 16 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](#)

<sup>F34</sup> Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

#### Textual Amendments

- F34** 1998 c. 38.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

<sup>F35F36</sup>The Waste and Emissions Trading Act 2003 (“the Act”) is intended to achieve in the UK significant reductions in the quantity of biodegradable municipal waste sent to landfills, as required by Article 5 of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (“the Landfill Directive”). The Act sets the framework for the creation of a landfill allowance scheme.

Section 1 of the Act obliges the Secretary of State to specify by regulations the maximum amount of biodegradable municipal waste that may be sent to landfills from the United Kingdom, England, Scotland, Wales and Northern Ireland. The maximum amount that may be authorised for the United Kingdom as a whole must be consistent with the obligations under Article 5 of the Landfill Directive.

Section 4 of the Act obliges the National Assembly for Wales (“the Assembly”) to allocate allowances to waste disposal authorities in Wales. The total allocation of allowances must not exceed the maximum specified in relation to Wales under section 1 of the Act.

These Regulations supplement the Waste and Emissions Trading Act 2003, by making detailed provision for the monitoring and enforcement of the landfill allowances allocated to waste disposal authorities under the Act.

Part 1 of the Regulations includes provisions on citation, commencement and application (regulation 1); interpretation (regulation 2); notices, notifications and submissions of forms (regulation 3); and electronic registers and forms (regulation 4).

Part 2 concerns monitoring.

Regulation 5 appoints the Environment Agency (“the Agency”) as the monitoring authority for Wales.

Regulation 6 imposes obligations on waste disposal authorities to keep detailed records on waste collection and the amount of waste sent to landfills; to make returns to the Agency; and to make other information available to the Agency on written notice.

Regulation 7 imposes obligations on operators of landfills to keep detailed records concerning waste accepted at landfills; to make returns to the Agency; and to make other information available to the Agency.

Regulation 8 provides that for the purposes of the Regulations, the amount of biodegradable waste in an amount of collected municipal waste is deemed to be 61 per cent.

Regulation 9 obliges the Agency to determine the amount of biodegradable municipal waste sent to landfills by each waste disposal authority.

Part 3 concerns registers.

Regulation 10 requires the Agency to establish and maintain a landfill allowances register.

Regulation 11 obliges the Assembly to establish and maintain a penalties register.

Regulation 12 obliges the Agency and the Assembly to ensure that the registers for which they are responsible are made available to the public.

Part 4 concerns penalties.

Regulation 13 makes provision for penalties to be imposed on waste disposal authorities for exceeding the allocated allowances.

Regulation 14 makes provision for penalties to be imposed on waste disposal authorities for failing to comply with the reporting requirements under these Regulations.

Regulation 15 makes general provision for penalties.

Part 5 concerns guidance.

Regulation 16 makes provision for guidance to waste disposal authorities.

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

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