

2016 No. 691 (W. 189)

**ENVIRONMENTAL
PROTECTION, WALES**

**The Waste (Meaning of Recovery)
(Miscellaneous Amendments)
(Wales) Regulations 2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain statutory instruments concerned with waste, which refer to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives (OJ No L 312, 22.11.2008, p.3) (“the Waste Directive”).

The amendments made by these Regulations are necessary in order to implement Commission Directive (EU) 2015/1127 of 10 July 2015 amending Annex II to Directive 2008/98/EC of the European Parliament and of the Council on Waste and repealing certain Directives (OJ No L 184, 11.7.2015, p. 13).

Regulations 2, 3 and 6, amend the Landfill Allowances Scheme (Wales) Regulations 2004 (S.I. 2004/1490 (W. 155)), the Hazardous Waste (Wales) Regulations 2005 (S.I.2005/1806 (W. 138)) and the Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011 (S.I. 2011/1014 (W. 152)) respectively, by expressing the reference to the Waste Directive in each of those regulations, as a reference to that Directive as amended by Commission Directive (EU) 2015/1217.

Regulations 4 and 5 amend the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675) (“the Environmental Permitting Regulations”) and the Waste (England and Wales) Regulations 2011 (S.I. 2011/988) (“the Waste Regulations”) respectively. In order to ensure consistency between the amendments made to those instruments by these Regulations, and corresponding amendments made by the Secretary of State in relation

to England, the reference to the Waste Directive in the amended regulations, is substituted by an identical provision. The substituted provision does not refer expressly to the amending Commission Directive (EU) 2015/1227, but the effect of section 20A of the Interpretation Act 1978 (c.30) (“the 1978 Act”), is that where an Act passed after the commencement of that section refers to a European Union instrument, unless a contrary intention appears, the reference is to the instrument as amended at the date the Act comes into force. Section 23(1) of the 1978 Act applies that principle in relation to secondary legislation. Accordingly, the substitutions made by Regulations 4 and 5, have the effect that references to the Waste Directive in the Environmental Permitting and the Waste Regulations, become references to that Directive as amended at the date on which these Regulations come into force.

The Welsh Ministers’ Code of Practice on the carrying out of regulatory impact assessments for subordinate legislation was considered in relation to these Regulations. A regulatory impact assessment in relation to Wales has been prepared on the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff CF10 3NQ and is published on www.gov.wales.

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**ENVIRONMENTAL
PROTECTION, WALES**

**The Waste (Meaning of Recovery)
(Miscellaneous Amendments)
(Wales) Regulations 2016**

Made 28 June 2016

*Laid before the National Assembly
for Wales* 1 July 2016

Coming into force 31 July 2016

The Welsh Ministers have, in accordance with section 2(4) of the Pollution Prevention and Control Act 1999⁽¹⁾ (“the PPCA1999”), consulted—

- (a) the Natural Resources Body for Wales;
- (b) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate; and
- (c) such other bodies or persons as they consider appropriate.

The Welsh Ministers have, in accordance with section 27(2) and (4) of the Waste and Emissions Trading Act 2003⁽²⁾ (“the WETA 2003”), consulted—

- (a) such bodies or persons appearing to them to be representative of the interests of waste disposal authorities in their area as they consider appropriate;
- (b) such bodies or persons appearing to them to be representative of the interests of persons

(1) 1999 c. 24. Section 2 was amended by section 62(13) of the Water Act 2014 (c. 21) and by S.I. 2013/755 (W. 90). Schedule 1 was amended by section 38 of the Waste and Emissions Trading Act 2003 (c. 33), by section 105(1) of the Clean Neighbourhoods and Environment Act 2005 (c. 16), and by S.I. 2011/1043 and 2015/664.

(2) 2003 c. 33. Sections 11 and 12 were amended by S.I. 2011/2499.

concerned in the operation of landfills in their area as they consider appropriate; and

- (c) such bodies or persons appearing to them to be representative of any other affected persons as they consider appropriate.

The Welsh Ministers have, in accordance with section 8 of the Waste (Wales) Measure 2010(1) (“the W(W)M 2010”), consulted—

- (a) the Natural Resources Body for Wales;
- (b) each local authority; and
- (c) such other persons as the Welsh Ministers consider appropriate.

The Welsh Ministers are designated(2) for the purposes of section 2(2) of the European Communities Act 1972(3) (“the ECA 1972”) in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste(4).

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 2(2) of the ECA 1972, section 2 of and Schedule 1 to the PPCA 1999, sections 11, 12, 13 and 36 of the WETA 2003 and sections 5(1)(a) and (b) and (d) to (f) and 19(2) of the W(W)M 2010.

Title, commencement and application

1.—(1) The title of these Regulations is the Waste (Meaning of Recovery) (Miscellaneous Amendments) (Wales) Regulations 2016.

(2) These Regulations come into force on 31 July 2016.

(3) These Regulations apply in relation to Wales.

(1) 2010 nawm 8.

(2) By virtue of section 59(2) of the Government of Wales Act 2006 (c.32) (“GOWA 2006”) the Welsh Ministers may exercise the power conferred by section 2(2) of the European Communities Act 1972 (c.68) (“the ECA 1972”) in relation to any matter, or for any purpose, if they have been designated in relation to that matter or for that purpose. Paragraph 28(1) of Schedule 11 to GOWA 2006 provides that designations made under section 2(2) of the ECA 1972 by virtue of section 29 (1) of the Government of Wales Act 1998 (c. 38) which are in force immediately before the commencement of the repeal of that subsection by GOWA 2006 continue to have effect after the commencement of that repeal as if made by virtue of section 59(1) of GOWA 2006.

(3) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(4) S.I. 2005/850.

Amendment of the Landfill Allowances Scheme (Wales) Regulations 2004

2.—(1) The Landfill Allowances Scheme (Wales) Regulations 2004(1) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “waste facility”, after the words “Council on waste” insert “as last amended by Commission Directive (EU) 2015/1127(2)”.

Amendment of the Hazardous Waste (Wales) Regulations 2005

3.—(1) The Hazardous Waste (Wales) Regulations 2005(3) are amended as follows.

(2) In regulation 2(1)(a)(4) (the Waste Directive and the meaning of waste), for the words “Commission Regulation (EU) No 1357/2014” substitute “Commission Directive (EU) 2015/1127”.

Amendment of the Environmental Permitting (England and Wales) Regulations 2010

4.—(1) The Environmental Permitting (England and Wales) Regulations 2010(5) are amended as follows.

(2) In regulation 3 (interpretation: Directives) for the definition of “the Waste Framework Directive” substitute—

““the Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste;”.

Amendment of the Waste (England and Wales) Regulations 2011

5.—(1) The Waste (England and Wales) Regulations 2011(6) are amended as follows.

(2) In regulation 3(1) (interpretation) for the definition of “the Waste Framework Directive” substitute—

““the Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste;”.

(1) S.I. 2004/1490 (W. 155) as amended by S.I. 2005/1820 (W. 148). There are other amendments not relevant to these Regulations.
(2) OJ No L 184, 11.7.2015, p13.
(3) S.I. 2005/1806 (W. 138) as amended by S.I. 2015/1417 (W. 141), 2011/971 (W. 141) and 2011/988.
(4) Regulation 2(1)(a) was substituted by S.I. 2015/1417 (W. 141).
(5) S.I. 2010/675, as amended by S.I. 2015/1417 (W. 141). There are other amendments not relevant to these Regulations.
(6) S.I. 2011/988 as amended by S.I. 2013/755 and 2014/656.

Amendment of the Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011

6.—(1) The Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011⁽¹⁾ are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “the Waste Framework Directive” after the words “repealing certain Directives” insert “as last amended by Commission Directive (EU) 2015/1127”.

Lesley Griffiths

Cabinet Secretary for Environment and Rural Affairs,
one of the Welsh Ministers
28 June 2016

(1) S.I. 2011/1014 (W. 152) as amended by S.I. 2015/1417 (W. 141).