Environment (Wales) Act 2016

2016 anaw 3

PART 4

COLLECTION AND DISPOSAL OF WASTE

Separate collection etc. of waste

65 Requirements relating to separate collection etc. of waste

In the Environmental Protection Act 1990 (c. 43), after section 45A insert—

"**45AA Wales: separate collection etc. of waste**

(1) Where a waste collection authority in Wales arranges for the collection of controlled waste in its area under section 45, it must arrange for the waste to be collected in accordance with any applicable separation requirements.

(2) A person acting in the course of a business who—
   (a) collects controlled waste from premises in Wales, or
   (b) receives, keeps, treats or transports controlled waste in Wales,

   must do so in accordance with any applicable separation requirements.

(3) For the purposes of subsection (2), a person is acting in the course of a business if the person is—
   (a) carrying on any business or undertaking, whether for profit or not, or
   (b) exercising any functions of a public nature.

(4) An occupier of premises in Wales who presents controlled waste for collection (whether by a waste collection authority or by any other person) must do so in accordance with any applicable separation requirements.

(5) Subsection (4) does not apply to an occupier of premises within paragraph (a) or (b) of section 75(5) (domestic property and caravans).

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(6) A separation requirement is a requirement to take steps specified in regulations made by the Welsh Ministers for the purpose of ensuring or maintaining the separation of one or more types of waste from other types of waste or from other substances or articles.

(7) A separation requirement is applicable in the circumstances specified in relation to that requirement in regulations made by the Welsh Ministers.

(8) A person commits an offence if the person fails without reasonable excuse to comply with subsection (2) or (4).

(9) A person who commits an offence under subsection (8) is liable on summary conviction, or on conviction on indictment, to a fine.

(10) The Welsh Ministers may by regulations make provision (which may include provision amending this section)—

(a) for subsection (1) or (2) to apply subject to exceptions;

(b) for subsection (4) to apply subject to exceptions in addition to those in subsection (5).

(11) Regulations under this section may make different provision for different purposes, different cases (including different persons, premises or types of waste) and different areas.

45AB Code of practice

(1) The Welsh Ministers may issue one or more codes of practice for the purpose of giving practical guidance about how to comply with requirements imposed by or under section 45AA.

(2) The Welsh Ministers may revoke or revise a code of practice issued under this section.

(3) Before issuing a code of practice (or revised code), the Welsh Ministers must consult such persons as they think appropriate.

(4) Where the Welsh Ministers issue a code of practice (or revised code) they must—

(a) publish the code, and

(b) lay a copy before the National Assembly for Wales.

(5) A code of practice issued under this section is admissible in evidence in any proceedings and must be taken into account by a court in determining any question to which it appears to the court to be relevant.”

Commencement Information

I1 S. 65 in force at 18.10.2023 by S.I. 2023/1096, **art. 2(a)**

Changes to legislation: *Environment (Wales) Act 2016, PART 4 is up to date with all changes known to be in force on or before 10 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Disposal of waste

66 Prohibition on disposal of food waste to sewer

(1) In the Environmental Protection Act 1990, after section 34C insert—

"Wales: disposal of food waste

34D Prohibition on disposal of food waste to sewer

(1) An occupier of premises in Wales must not—
- (a) discharge food waste produced on or brought onto the premises, or
- (b) knowingly cause or knowingly permit food waste produced on or brought onto the premises to be discharged,

into a public sewer or a sewer or drain communicating with a public sewer.

(2) Subsection (1) does not apply to an occupier of premises within paragraph (a) or (b) of section 75(5) (domestic property and caravans).

(3) A person commits an offence if, without reasonable excuse, the person contravenes subsection (1).

(4) A person who commits an offence under subsection (3) is liable on summary conviction, or on conviction on indictment, to a fine.

(5) In subsection (1)—

"food waste" means controlled waste that—
- (a) has at any time been food (which for this purpose does not include drink) intended for human consumption, or
- (b) is biodegradable waste arising from the processing or preparation of food or drink,

but does not include waste that is mixed with water or any other liquid as a result of the water or liquid having been used to clean any place or equipment used in processing or preparing food or drink;

"drain", "public sewer" and "sewer" have the meanings given in section 219(1) of the Water Industry Act 1991.

(6) The Welsh Ministers may by regulations—
- (a) provide for subsection (1) to apply only in circumstances specified in the regulations;
- (b) make provision (which may include provision amending this section) for subsection (1) to apply subject to exceptions in addition to those in subsection (2);
- (c) amend the definition of "food waste" in subsection (5).

(7) Regulations under subsection (6)(a) or (b) may make different provision for different purposes, different cases (including different persons, premises or types of food waste) and different areas."

(2) In section 118 of the Water Industry Act 1991 (c. 56)—
- (a) in subsection (1), after "trade premises" insert " in England ";
- (b) after subsection (1) insert—

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"(1A) Subject to the following provisions of this Chapter and section 34D of the Environmental Protection Act 1990, the occupier of any trade premises in Wales in the area of a sewage undertaker may discharge any trade effluent proceeding from those premises into the undertaker's public sewers if the occupier does so with the undertaker's consent."

Commencement Information

I2 S. 66 in force at 6.4.2024 by S.I. 2023/1096, **art. 3**

67 Power to prohibit or regulate disposal of waste by incineration

In the Waste (Wales) Measure 2010 (nawm 8), after section 9 insert—

"**9A Regulations prohibiting incineration of waste**

(1) The Welsh Ministers may by regulations make provision for and in connection with prohibiting or otherwise regulating the incineration in Wales of specified kinds of waste.

(2) Regulations under subsection (1) may (among other things)—

(a) amend regulations made under section 2 of the Pollution Prevention and Control Act 1999 which relate to the operation of waste incineration plants or waste co-incineration plants;

(b) provide for offences in relation to failure to comply with provision made under the regulations;

(c) provide for penalties in relation to such offences;

(d) provide for enforcement authorities and the functions of such authorities.

(3) In this section—

"incineration" ("*llosgi*"), in relation to waste, means—

(a) incineration of the waste in a waste incineration plant or waste co-incineration plant, and

(b) any other thermal treatment of the waste prior to its incineration;

"waste incineration plant" ("*peiriant llosgi gwastraff*") has the meaning given in Article 3(40) of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast);

"waste co-incineration plant" ("*peiriant cydlosgi gwastraff*") has the meaning given in Article 3(41) of that Directive."

Commencement Information

I3 S. 67 in force at 18.10.2023 by S.I. 2023/1096, **art. 2(b)**

Changes to legislation: *Environment (Wales) Act 2016, PART 4 is up to date with all changes known to be in force on or before 10 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Enforcement

68 Civil sanctions

(1) For the purposes of Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (c. 13) ("RESA 2008"), the offences under sections 34D and 45AA of the Environmental Protection Act 1990 (as inserted by sections 65 and 66) are to be treated as having been contained in that Act immediately before the day on which RESA 2008 was passed.

(2) Section 10 of the Waste (Wales) Measure 2010 is amended as follows.

(3) In the title, for "the deposit of waste in a landfill" substitute " offences created by regulations under sections 9 and 9A ".

(4) In subsection (1), after "9(1)" insert " or 9A(1) ".

(5) In subsection (2), for "Regulations under section 9(1) may" substitute " The power may be exercised to ".

(6) For subsection (3) substitute—

"(3) But sections 39(4) and 42(6) of RESA 2008 do not apply to the provision that may be made by regulations under section 9(1) or 9A(1) by virtue of subsection (2)."

(7) In subsection (4), for "to provision made under or by virtue of regulations under subsection (2) as they apply to provision" substitute " where regulations under section 9(1) or 9A(1) make provision by virtue of subsection (2) as they apply where provision is ".

(8) In subsection (6), after "9(1)" insert " or 9A(1) (as appropriate) ".

Commencement Information

I4 S. 68 in force at 18.10.2023 by S.I. 2023/1096, **art. 2(c)**

General

69 Regulations

(1) Section 161 of the Environmental Protection Act 1990 (regulations, orders and directions) is amended in accordance with subsections (2) to (4).

(2) In subsection (1), for "National Assembly for Wales" substitute " the Welsh Ministers ".

(3) In subsection (2A), for "made solely by the National Assembly for Wales" substitute " containing regulations made solely by the Welsh Ministers ".

(4) After subsection (2A) insert—

"(2AA) A statutory instrument containing regulations under section 34D or 45AA(10) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

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(2AB) Any other statutory instrument containing regulations made by the Welsh Ministers under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales."

(5) In section 20(3) of the Waste (Wales) Measure 2010 (orders and regulations requiring approval of National Assembly for Wales), after "9," insert " 9A ".

Commencement Information

I5 S. 69(5) in force at 18.10.2023 by S.I. 2023/1096, **art. 2(d)**

70 Minor and consequential amendments and repeals

Part 3 of Schedule 2 contains minor and consequential amendments and repeals relating to this Part.

Commencement Information

I6 S. 70 in force at 18.10.2023 by S.I. 2023/1096, **art. 2(e)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(10)(d) substituted by S.I. 2024/706 reg. 22(a)
- s. 6(10)(d) substituted by S.I. 2024/706 reg. 22(b)