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WELSH STATUTORY INSTRUMENTS

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**2017 No. 1024 (W. 262)**

**ENVIRONMENTAL PROTECTION, WALES**

**The Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017**

*Made - - - - 24 October 2017*

*Coming into force in accordance with regulation 1(2)*

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the prevention, reduction and management of waste<sup>(1)</sup> and make these Regulations in exercise of the powers conferred by that section<sup>(2)</sup>.

In accordance with section 59(3) of the Government of Wales Act 2006<sup>(3)</sup> a draft of these Regulations was laid before and approved by a resolution of the National Assembly for Wales.

**Title, commencement and extent**

1.—(1) The title of these Regulations is the Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017.

(2) These Regulations come into force on the day after the day on which they are made.

(3) These Regulations extend to England and Wales.

**Amendment of the Environmental Protection Act 1990**

2.—(1) Part II of the Environmental Protection Act 1990 (Waste on Land)<sup>(4)</sup> is amended as follows.

(2) After section 33ZA (fixed penalty notices for contravention of section 33(1)(a): England) insert—

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(1) [S.I. 2010/1552](#). By virtue of section 59(2) of the Government of Wales Act 2006 ([c. 32](#)) the Welsh Ministers may exercise the power conferred by section 2(2) of the European Communities Act 1972 ([c. 68](#)) in relation to any matter, or for any purpose, if they have been designated in relation to that matter or for that purpose.

(2) [1972 c. 68](#). Section 2(2) was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 ([c. 7](#)).

(3) [2006 c. 32](#).

(4) [1990 c. 43](#). Section 33(1)(a) was amended by [S.I. 2007/3538](#) and [S.I. 2009/1799](#).

**“33ZB Fixed penalty notices for contravention of section 33(1)(a): Wales**

(1) Where an authorised officer of a Welsh waste collection authority has reason to believe that a person has committed a waste deposit offence in the area of the authority, the officer may give the person a notice under this section in respect of the offence.

(2) In subsection (1), “waste deposit offence” means an offence under section 33 in respect of a contravention of subsection (1)(a) of that section.

(3) A notice under this section is a notice offering the opportunity of discharging any liability to conviction for the offence to which it relates by payment of a fixed penalty.

(4) Where a person is given a notice under this section in respect of an offence—

- (a) no proceedings may be instituted for the offence before the end of the period of 14 days following the date of the notice, and
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(5) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence and must state—

- (a) the period during which, by virtue of subsection (4)(a), proceedings will not be taken for the offence,
- (b) the amount of the fixed penalty, and
- (c) the person to whom and the address at which the fixed penalty may be paid.

(6) If an authorised officer proposes to give a person a notice under this section, the officer may require the person to give the person’s name and address.

(7) It is an offence to—

- (a) fail to give a name or address when required to do so under subsection (6), or
- (b) give a false or inaccurate name or address in response to a requirement under that subsection.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) The fixed penalty payable in pursuance of a notice under this section—

- (a) is an amount not less than £150 and not more than £400, as specified by the Welsh waste collection authority whose authorised officer gave the notice, or
- (b) if no amount is specified by that authority, is £200.

(10) A Welsh waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section may make provision for treating the fixed penalty as having been paid if a lesser amount of not less than £120 is paid before the end of the period of 10 days following the date of the notice.

(11) In any proceedings, a certificate which—

- (a) purports to be signed by or on behalf of the chief finance officer of a Welsh waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section, and
- (b) states that the payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(12) In this section—

“authorised officer” in relation to a Welsh waste collection authority, means—

- (a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;
- (b) a person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;
- (c) an employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

“chief finance officer”, in relation to a Welsh waste collection authority, means the person having responsibility for the financial affairs of the authority;

“Welsh waste collection authority” means a waste collection authority whose area is in Wales.”

(3) In section 73A (use of fixed penalty receipts)(**5**), in subsection (2) after “33ZA,” insert “33ZB,”.

24 October 2017

*Lesley Griffiths*  
Cabinet Secretary for Environment and Rural  
Affairs, one of the Welsh Ministers

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(5) Section 73A was inserted by section 52 of the Clean Neighbourhoods and Environment Act 2005 (c. 16).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations insert a new section 33ZB into Part II (Waste on Land) of the Environmental Protection Act 1990 (c.43) (“the Act”) to enable an authorised officer of a Welsh waste collection authority to issue a fixed penalty notice for contravention of section 33(1)(a) of the Act in the area of the authority.

Section 33(1)(a), subject to certain exemptions, prohibits the deposit of controlled waste or extractive waste in or on any land other than in accordance with an environmental permit. Contravention of that section is an offence.

Section 33ZB allows a Welsh waste collection authority to specify a fixed penalty of not less than £150 and not more than £400. If no amount is specified by the waste collection authority, the amount of the fixed penalty is to be £200. A Welsh waste collection authority may also make provision for a discount for early payment of a fixed penalty.

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](http://www.gov.wales).