

WASTE (WALES) MEASURE 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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).
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.