



Waste (Wales) Measure 2010

2010 nawm 8

Site waste management plans

12 Site waste management plans

- (1) The Welsh Ministers may by regulations make provision requiring persons of a specified description—
 - (a) to prepare plans for the management and disposal of waste created in the course of specified descriptions of works in Wales involving construction or demolition;
 - (b) to comply with such plans.
- (2) Regulations may also include provision as to—
 - (a) the circumstances in which plans must be prepared;
 - (b) the contents of plans;
 - (c) enforcement authorities in relation to plans and the functions of such authorities;
 - (d) the keeping of plans and their production to enforcement authorities;
 - (e) the making of schemes by the Welsh Ministers or an enforcement authority which impose requirements on persons of a specified description to pay fees or other charges as a means of recovering the reasonable costs incurred by an enforcement authority in performing its functions under this section.
- (3) Descriptions of works that may be specified under subsection (1) include (among other things) description by reference to the cost or likely cost of such works.
- (4) Any regulations made by the Welsh Ministers under section 54 of the Clean Neighbourhoods and Environment Act 2005 that are in force immediately before this Part comes into force have effect as if made under this section and section 13.
- (5) In this section, “Wales” does not include any area of the sea adjacent to Wales.

13 Offences and penalties

- (1) The Welsh Ministers may make provision by regulations for—

- (a) offences in relation to failure to comply with provision made under section 12;
 - (b) penalties in relation to such offences;
 - (c) the discharging of liability for an offence under paragraph (a) by the payment of a fixed penalty to an enforcement authority under section 12;
 - (d) about the uses to which payments under paragraph (c) may be put by enforcement authorities exercising functions under section 12.
- (2) The regulations may not create offences that are–
- (a) punishable by imprisonment, or
 - (b) punishable on summary conviction by a fine exceeding £50,000.
- (3) The regulations may not create offences for failure to comply with provision made under section 12(2)(e) that are punishable on summary conviction by a fine exceeding level 5 on the standard scale.

14 Civil sanctions in respect of site waste management plans

- (1) This section applies where the power to make regulations in section 13 has been or is being exercised so as to create an offence.
- (2) Regulations may make provision, in relation to an enforcement authority, which could be made by an order under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (“RESA 2008”) as if, for the purposes of Part 3 of that Act–
- (a) the enforcement authority were a regulator, and
 - (b) the offence were a relevant offence in relation to that regulator.
- (3) But section 49(1) of RESA 2008 is modified in its application to offences created by the regulations so that the reference to “£20,000” is to be read as a reference to “level 5 on the standard scale”.
- (4) Sections 63 to 69 of RESA 2008 apply to provision made under or by virtue of regulations under section 13 as they apply to provision made under or by virtue of Part 3 of RESA 2008.
- (5) For the purposes of subsection (4), the references to a “regulator” in sections 63 to 69 of RESA 2008 are to be read as references to an enforcement authority.
- (6) In this section, “enforcement authority” means a person who has an enforcement function in relation to an offence created by regulations under section 13.

15 Guidance

A person who is an enforcement authority under section 12 must have regard to guidance given from time to time by the Welsh Ministers when exercising the functions of an enforcement authority.

16 Consultation

- (1) Before making any regulations under section 12, the Welsh Ministers must consult the following–
- (a) the Environment Agency;
 - (b) each local authority;

- (c) such persons appearing to them to be representative of the interests of persons liable to be subject to duties under the regulations as they consider appropriate;
 - (d) such other persons as they consider appropriate.
- (2) For the purposes of subsection (1), consultation undertaken before the passing of this Measure has effect as if undertaken after that passing.