WELSH STATUTORY INSTRUMENTS

2011 No. 1014 (W.152)

ENVIRONMENTAL PROTECTION, WALES

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

Made - - - -	*29 March 2011*
Coming into force - -	*30 March 2011*

The Welsh Ministers make the following regulations in exercise of the powers conferred upon them by sections 5(1), 6(2), and 19(1) and (2) of the Waste (Wales) Measure 2010(**1**).

The Welsh Ministers have consulted those persons which they are required, by section 8(1) of that Measure, to consult.

A draft of these Regulations has been laid before, and approved by a resolution of the National Assembly for Wales in accordance with section 20(3) of the Waste (Wales) Measure 2010.

PART 1

General

Title, application and commencement

1. The title of these Regulations is the Recycling, Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011; they apply in relation to Wales and come into force on 30 March 2011.

Interpretation

2.—(1) In these Regulations—

"the Measure" ("*y Mesur*") means the Waste (Wales) Measure 2010;

"the targets" ("*y targedau*") means the recycling, preparation for re-use and composting targets specified in section 3(3) of the Measure;

(**1**) 2010 nawm 8.

"the Waste Framework Directive" ("*y Gyfarwyddeb Fframwaith Gwastraff*") means Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives(**2**);

"the WasteDataFlow system" ("*y system WasteDataFlow*") means the web-based system for the reporting of municipal waste maintained and operated in Wales by the Environment Agency; and

"waste facility" ("*cyfleuster gwastraff*") means a facility for the disposal or recovery of waste. For the purposes of this definition, "disposal" and "recovery" have the same meaning as in Article 3(15) and (19) of the Waste Framework Directive.

(2) In these Regulations—

(a) references to an amount of a local authority's municipal waste are references to an amount of waste by tonnage; and

(b) references to waste being sent by a local authority to a waste facility are to include references to waste being sent to such a facility in pursuance of arrangements made by the local authority.

PART 2

Monitoring

Monitoring authority

3.—(1) The Environment Agency is the monitoring authority for the purposes of the targets.

(2) The monitoring authority must—

(a) monitor the performance of local authorities with respect to the targets:

(b) monitor the performance of local authorities in complying with their obligations under these Regulations;

(c) in accordance with regulation 7, validate the information that is entered by local authorities on the WasteDataFlow system; and

(d) without delay notify the Welsh Ministers, in writing, of any case where it appears to the monitoring authority that a local authority(**3**) is or may be liable to a penalty under section 3(7) of the Measure or under these Regulations.

Obligation for local authorities to collect information and maintain records

4.—(1) A local authority must make arrangements for the collection of information that will allow the authority to comply with its requirements to maintain records under this regulation.

(2) A local authority must maintain records containing the following information for each target financial year and each subsequent financial year until the next target financial year(**4**)—

(a) the total amount of its municipal waste(**5**);

(**2**) OJ No L 312, 22.11.2008, p.3.

(**3**) A local authority is defined in section 17(1) of the Waste (Wales) Measure 2010 as a county or county borough council in Wales.

(**4**) The target financial years are set out in section 3(3) of the Measure. Financial year is defined in section 3(9) of the Measure as meaning a period of 12 months ending on 31 March.

(**5**) A local authority's municipal waste is defined in section 3(8) of the Measure as the total amount by weight of each of the following: all the waste collected in that year by a local authority under section 45 of the Environmental Protection Act 1990 (c. 43); all waste deposited in that year at places provided by a local authority under subsections (1)(b) and (3) of section 51 of that Act; and such other waste as may be specified by order of the Welsh Ministers.

(b) the total amount of municipal waste sent to each and every waste facility by the local authority;

(c) the amount of material rejected at each successive stage of sorting of the municipal waste, at any and all waste facilities; and

(d) the amount of material rejected under paragraph (c) that is disposed of by the local authority, or by a waste facility.

(3) The record must contain details of—

(a) the description of the waste in terms of its material type;

(b) how each material type was collected; and

(c) if an agent of the local authority collected the waste, the name of that agent.

(4) The records must be kept for a period of three years beginning on the day they are first submitted using the WasteDataFlow system in accordance with regulation 5(2).

(5) A local authority may maintain the records required by paragraph (2) in electronic form if the text is capable of being produced by the local authority in a visible and legible documentary form.

(6) A local authority that fails to maintain the records required by paragraph (2) is liable to a penalty.

(7) In this regulation, "sorting" means the act of separating individual recyclable materials from an amount of mixed waste or mixed materials.

(8) In this regulation, municipal waste is "disposed of" when it undergoes a disposal operation of a type that is identified in Annex I of the Waste Framework Directive.

Obligation for local authorities to provide information

5.—(1) During each target financial year and each subsequent financial year until the next target financial year, a local authority must submit to the monitoring authority returns containing all the information listed in regulations 4(2) and (3) ("the information").

(2) Each return must—

(a) contain the information for the relevant 3 month period;

(b) be made within one calendar month of the end of the relevant 3 month period; and

(c) be submitted using the WasteDataFlow system.

(3) The relevant 3 months periods are—

(a) 1 April to 30 June;

(b) 1 July to 30 September;

(c) 1 October to 31 December;

(d) 1 January to 31 March.

(4) A local authority that fails to submit a return in accordance with this regulation is liable to a penalty.

Power to require information

6.—(1) The Welsh Ministers, or the monitoring authority, may by notice served on a local authority, require that authority to—

(a) produce for inspection, or for the removal for inspection elsewhere, any of the records that are required to be maintained under regulation 4;