Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Landfill Allowances Scheme (Wales) Regulations 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2004 No. 1490 (W.155)

ENVIRONMENTAL PROTECTION, WALES

The Landfill Allowances Scheme (Wales) Regulations 2004

Made - - - -	*8 June 2004*
Coming into force - -	*25 June 2004*

The National Assembly for Wales, acting in exercise of the powers conferred upon it by sections 10, 11, 12, 13, 15, 16, 26 and 36 of the Waste and Emissions Trading Act 2003 [F1] makes the following Regulations:

F1 2003 c. 33. *See* sections 12(4) and 13(7) for definitions of "prescribed".

PART 1

General

Citation, commencement and application

1. These Regulations:

(a) may be cited as the Landfill Allowances Scheme (Wales) Regulations 2004;

(b) come into force on 25 June 2004;

(c) apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the Act" ("*y Ddeddf*") means the Waste and Emissions Trading Act 2003;

[F2]...

[[F3]"biodegradable collected municipal waste" ("*gwastraff trefol pydradwy a gasglwyd*") means biodegradable local authority collected municipal waste;**]**

[F4]...

[[F3]"collected municipal waste" ("*gwastraff trefol a gasglwyd*") means local authority collected municipal waste;**]**

"electronic communication" ("*cyfathrebiad electronig*") has the same meaning as in section 15(1) of the Electronic Communications Act 2000 [F5];

[F6]...

[[F7]"the List of Wastes" ("y Rhestr Wastraffoedd") means the list of wastes established by Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste, as amended from time to time;**]**

"reconciliation period" ("*cyfnod cysoni*") means the period of 3 months following the end of each scheme year;

"relevant authority" ("*awdurdod perthnasol*") means—

(a) the monitoring authority, and

(b) **[**[F8]the Welsh Ministers**]**;

[F9]...

"waste facility" ("*cyfleuster gwastraff*") means a facility for the disposal or recovery of waste other than a landfill; for the purposes of this definition, "disposal" and "recovery" have the same meaning as in **[**[F10]Article 3(19) and (15) of Directive 2008/98/EC of the European Parliament and of the Council on waste**][**[F11]as last amended by **[**[F12]Directive (EU) 2018/851**]]**.

(2) In these Regulations —

(a) references to an amount of waste are references to an amount of waste by tonnage; and

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

F2 Words in reg. 2(1) omitted (15.1.2012 immediately after 12:01 am) by virtue of The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **5(a)**

F3 Words in reg. 2(1) inserted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **5(c)**

F4 Words in reg. 2(1) omitted (15.1.2012 immediately after 12:01 am) by virtue of The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **5(b)**

F5 2000 c. 7.

F6 Words in reg. 2(1) omitted (16.7.2005) by virtue of The List of Wastes (Wales) Regulations 2005 (S.I. 2005/1820), reg. 1(1), **Sch. 2 para. 6**

F7 Words in reg. 2(1) inserted (20.7.2015) by The Hazardous Waste (Miscellaneous Amendments) (Wales) Regulations 2015 (S.I. 2015/1417), regs. 1(2), **2(2)**

F8 Words in reg. 2 substituted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **6**

F9 Words in reg. 2(1) omitted (15.1.2012 immediately after 12:01 am) by virtue of The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **5(d)**

F10 Words in reg. 2(1) substituted (29.3.2011) by The Waste (Miscellaneous Provisions) (Wales) Regulations 2011 (S.I. 2011/971), regs. 1(2)(a), **3**

F11 Words in reg. 2(1) substituted (22.3.2019) by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/414), regs. 1(2)(a), **3(2)**

F12 Words in reg. 2(1) substituted (19.11.2020) by The Waste (Wales) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/1179), regs. 1(2), **3(2)**

Notices, notifications and submissions of forms

3.—(1) Subject to paragraph (2), where, under these Regulations, a person is required to—

(a) submit a form, notice or return to another person, or

(b) notify another person of any matter,

the form, notice, return or notification must be in writing.

(2) If—

(a) that other person has an address for the purposes of electronic communications the form, notice, return or notification may be made by way of such communications, or

(b) regulation 4(3)(b) applies, the form may be completed and submitted to the authority on the website.

Electronic registers and forms

4.—(1) Any register established or maintained under these Regulations may be in electronic form.

(2) Where any register maintained by a relevant authority is in electronic form, that authority may make it available for inspection by the public on a website maintained by that authority for that purpose.

(3) Any form provided by the monitoring authority for the purposes of these Regulations may be provided—

(a) in an electronic form, and

(b) for completion and submission to the authority on a website maintained by the authority for that purpose.

PART 2

Monitoring

Monitoring authority

5. The **[**F13Natural Resources Body for Wales**]** is the monitoring authority for Wales.

F13 Words in reg. 5 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 5 para. 25** (with Sch. 7)

Obligation for waste disposal authorities to keep records and make returns

6.—(1) A waste disposal authority must keep records containing the following information for each scheme year—

(a) the amount of collected municipal waste;

(b) the amount of **[**F14collected municipal waste**]** sent to landfills by the authority; and

(c) the amount of **[**F15collected municipal waste**]** sent to other waste facilities by the authority.

(2) In relation to municipal waste mentioned in sub-paragraphs (1)(b) and (c) the record must contain details of—

(a) the total amount sent to each landfill or waste facility; and

(b) the description of the waste, and the appropriate code for the waste, in the **[**[F16]List of Wastes**]**;

(3) The records under paragraph (1) must be kept for a period of three years beginning on the day after the date that the reconciliation period for the scheme year ends.

(4) A waste disposal authority must submit to the monitoring authority a return containing the information in paragraph (1) for each 3 month period ending on 31 March, 30 June, 30 September and 31 December within one month of the end of that period.

(5) The monitoring authority, or a person authorised in writing by the monitoring authority, may by notice require a waste disposal authority to—

(a) produce for inspection, or for removal for inspection elsewhere, any of the records that it is required to maintain under paragraph (1);

(b) supply the monitoring authority with information about, or evidence as to, matters connected with the sending of **[**[F17]biodegradable collected municipal waste**]** to landfills;

and to do so in such form, at such reasonable place and within such reasonable time as is specified in the notice.

(6) The monitoring authority, or a person authorised in writing by the monitoring authority, may make copies of any records produced or supplied under paragraph (5).

F14 Words in reg. 6(1)(b) substituted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **7(a)**

F15 Words in reg. 6(1)(c) substituted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **7(a)**

F16 Words in reg. 6(2)(b) substituted (20.7.2015) by The Hazardous Waste (Miscellaneous Amendments) (Wales) Regulations 2015 (S.I. 2015/1417), regs. 1(2), **2(3)**

F17 Words in Regulations substituted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **8**

Obligation for operators of landfills to keep records and make returns

7.—(1) An operator of a landfill must keep records containing the following information for each scheme year—

(a) the amount of each load of municipal waste accepted at the landfill;

(b) the description of the waste, and the appropriate code for the waste, in the **[**[F18]List of Wastes**]**;

(c) the County or County Borough in which the municipal waste originated; and

(d) any treatment applied to the waste before it was landfilled.

(2) The records under paragraph (1) must be kept for a period of three years beginning on the day after the day that the reconciliation period for the scheme year ends.

(3) An operator of a landfill must submit to the monitoring authority a return containing the information in paragraph (1) for each 3 month period ending on 31 March, 30 June, 30 September and 31 December within one month of the end of that period.

(4) The monitoring authority, or a person authorised in writing by the monitoring authority, may, by notice, require an operator of a landfill to produce for inspection, or for removal for inspection elsewhere, any records that the operator is required to maintain under paragraph (1), in such form, at such reasonable place and within such reasonable time as is specified in the notice.

(5) The monitoring authority, or a person authorised in writing by the monitoring authority, may make copies of any records produced under paragraph (4).

(6) A person authorised in writing by the monitoring authority may enter at any reasonable time and, if need be, by reasonable force, premises other than premises used as a dwelling, occupied by a person concerned in the operation of a landfill for the purposes of—

(a) searching for records relating to the operation of a landfill;

(b) inspecting records relating to the operation of a landfill or removing them for inspection elsewhere;

(c) copying records relating to the operation of a landfill.

(7) A person entering any premises under paragraph (6), may take with him or her—

(a) any other person duly authorised by the monitoring authority;

(b) if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;

(c) any equipment or materials required for any purpose for which the power of entry is being exercised.

(8) The power of the monitoring authority, or a person authorised by the monitoring authority, under paragraphs (4) to (6) includes power to require any person to afford to them, such reasonable facilities and assistance within the person's control as are necessary to enable the monitoring authority and authorised person to exercise their powers

(9) In this regulation "operator of a landfill" means the person who has control over the landfill.

(10) In this regulation, "treatment" has the same meaning as in Article 2(h) of Council Directive 1999/31/EC on the landfill of waste F19**[**F20as last amended by **[**F21Directive (EU) 2018/850**]]**.

F18 Words in reg. 7(1)(b) substituted (20.7.2015) by The Hazardous Waste (Miscellaneous Amendments) (Wales) Regulations 2015 (S.I. 2015/1417), regs. 1(2), **2(4)**

F19 OJ L 182, 16.7.1999, p.1.

F20 Words in reg. 7(10) inserted (22.3.2019) by The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/414), regs. 1(2)(a), **3(3)**

F21 Words in reg. 7(10) substituted (19.11.2020) by The Waste (Wales) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/1179), regs. 1(2), **3(3)**

[F22Determining the amount of biodegradable collected municipal waste in an amount of collected municipal waste

8. Sixty-one percent of an amount of collected municipal waste is deemed to be biodegradable collected municipal waste.**]**

F22 Reg. 8 substituted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **9**

Reconciliation of landfill allowances

9. No later than two months after the end of the reconciliation period, the monitoring authority must determine in relation to each waste disposal authority the amount of **[**F17biodegradable collected municipal waste**]** sent to landfills.

F17 Words in Regulations substituted (15.1.2012 immediately after 12:01 am) by The Landfill Allowances Scheme (Wales) (Amendment) Regulations 2012 (S.I. 2012/65), regs. 1(3), 2(2), **8**