



# Waste (Wales) Measure 2010

## 2010 nawm 8

A Measure of the National Assembly for Wales to make provision about the destination of proceeds from charges for single use carrier bags; to make provision about targets to be met by local authorities in relation to waste; to make provision about prohibiting or otherwise regulating the deposit of waste in a landfill; to provide for site waste management plans for works involving construction or demolition; and for connected purposes.

**This Measure, passed by the National Assembly for Wales on 2 November 2010 and approved by Her Majesty in Council on 15 December 2010, enacts the following provisions:–**

### *Single use carrier bags*

#### **1 Charges for single use carrier bags: destination of proceeds**

- (1) Schedule 6 to the Climate Change Act 2008 is amended in accordance with this section.
- (2) After paragraph 4 insert–

##### **4A “Destination of proceeds – Wales**

- (1) This paragraph applies to regulations made by the Welsh Ministers in relation to Wales.
- (2) The regulations may provide for the application of the net proceeds of the charge to specified purposes.
- (3) Regulations under sub-paragraph (2) may (among other things)–
  - (a) require sellers to apply the net proceeds of the charge to any one or more specified purposes;
  - (b) provide for any duty imposed under paragraph (a) to be discharged (subject to any provision made under paragraph (c)) by the net

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proceeds of the charge being accepted by any one or more of the following persons–

- (i) specified persons;
  - (ii) persons who fall within a specified category of person;
- (c) make provision about the arrangements under which the net proceeds of the charge are to be given by sellers to the persons mentioned in paragraph (b) or any other person;
- (d) require persons who accept any net proceeds of the charge under paragraph (b) to apply the proceeds to any one or more specified purposes;
- (e) provide for recovery by the Welsh Ministers of sums equal to the proceeds of the charge that have been accepted or applied otherwise than in accordance with provision made under sub-paragraph (2);
- (f) provide for the application of sums recovered under paragraph (e) to specified purposes (this includes making provision to the effect that such sums are not to be paid into the Welsh Consolidated Fund);
- (g) require the Welsh Ministers to give guidance about compliance with the regulations.
- (4) The purposes that may be specified under sub-paragraph (2) are limited to purposes relating to any of the following–
- (a) preventing or reducing waste;
  - (b) the collection, management, treatment or disposal of waste;
  - (c) protecting or improving the environment in relation to pollution or nuisances;
  - (d) educational or recreational activities for children or young people which relate to any of the matters specified in paragraphs (a) to (c).
- (5) But purposes concerning the production of renewable energy for consumption in transport or the use of that energy in transport may not be specified under sub-paragraph (2).
- (6) The regulations may make provision for regulations under this Schedule to apply to persons other than sellers, if the Welsh Ministers consider that such provision is appropriate for the enforcement of provision made under sub-paragraph (2) or for otherwise making such provision effective.
- (7) The specified factors under paragraph 3(2)(c) may also include–
- (a) a seller's arrangements for applying the net proceeds of the charge, or
  - (b) any other factor that the Welsh Ministers consider appropriate, whether or not that factor is of the same kind as the factors listed in that paragraph.
- (8) The regulations may provide for exceptions and exemptions.

#### **4B Interpretation of paragraph 4A**

- (1) This paragraph applies for the purposes of paragraph 4A.
- (2) “Children” means persons who have not attained the age of 18.

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- (3) “Pollution” means pollution of the air, water or land which may give rise to any environmental harm, including (but not limited to) pollution caused by light, noise, heat or vibrations or any other kind of release of energy.
- (4) For the purposes of the definition in sub-paragraph (3), “environmental harm” means any of the following—
- (a) harm to the health of humans and other living organisms;
  - (b) harm to the quality of the environment, including—
    - (i) harm to the quality of the environment taken as a whole,
    - (ii) harm to the quality of the air, water or land, and
    - (iii) other impairment of, or interference with, the ecological systems of which any living organisms form part;
  - (c) offence to the senses of human beings;
  - (d) damage to property;
  - (e) impairment of, or interference with, the amenity of the environment or any legitimate use of the environment.
- (5) For the purposes of sub-paragraphs (3) and (4), “air” includes (but is not limited to) air within buildings and air within other natural or man-made structures above or below ground.
- (6) “Nuisance” means an act or omission affecting any place, or a state of affairs in any place, which may impair, or interfere with, the amenity of the environment or any legitimate use of the environment.
- (7) “Net proceeds of the charge” has the same meaning as in paragraph 7(4).
- (8) “Young people” means persons who have attained the age of 18, but not the age of 25.”.
- (3) After paragraph 7(3) insert—
- “(3A) Regulations made by the Welsh Ministers may also require the publication or supply of records or information relating to the amount received by a person from a seller by way of net proceeds of the charge to be applied to purposes specified under paragraph 4A(2).”.
- (4) After paragraph 8(2) insert—
- “(2A) Regulations made by the Welsh Ministers may also confer powers on an administrator to question a person the administrator reasonably believes has received any net proceeds of the charge or officers or employees of such a person.”.

## 2 Regulations: procedure

In section 77 of the Climate Change Act 2008, after subsection (4)(a) insert—

- “(aa) they are the first regulations to be made by the Welsh Ministers under paragraph 4A of the Schedule.”.

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### *Waste targets*

## **3 Recycling, preparation for re-use and composting targets**

- (1) The recycling, preparation for re-use and composting targets are specified in subsections (2) and (3).
- (2) A local authority must secure the recovery, by means of any of the operations specified in subsection (5), of at least the target amount of its municipal waste from—
  - (a) each target financial year, and
  - (b) each subsequent financial year until the next target financial year.
- (3) In the following table—
  - (a) column 1 specifies the target amount for a target financial year (and the financial years falling within subsection (2)(b)), and
  - (b) column 2 specifies the target financial year to which the target amount in the corresponding entry in column 1 applies.

TABLE

<b>Target amount</b>	<b>Target financial year</b>
52%	2012/13
58%	2015/16
64%	2019/20
70%	2024/25

- (4) The Welsh Ministers may amend this table by order.
- (5) The operations referred to in subsection (2) are—
  - (a) recycling;
  - (b) preparation for re-use;
  - (c) composting (including any other form of transformation by biological processes).
- (6) The Welsh Ministers may make provision by order for establishing whether waste is recycled, prepared for re-use, or composted for the purposes of the targets under this section.
- (7) A local authority that does not meet a recycling, preparation for re-use and composting target is liable to a penalty to be paid to the Welsh Ministers.
- (8) For the purposes of this section, a local authority's municipal waste from a target financial year is the total amount by weight of each of the following—
  - (a) all waste collected in that year by a local authority under section 45 of the Environmental Protection Act 1990;
  - (b) 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;
  - (c) such other waste as may be specified by order of the Welsh Ministers.
- (9) In this section, “financial year” means a period of 12 months ending on 31 March.

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#### Commencement Information

II S. 3 in force at 4.3.2011 by S.I. 2011/476, art. 2

### 4 Regulations to set waste targets

- (1) The Welsh Ministers may by regulations—
- (a) specify waste targets to be met by a local authority in exercising its functions;
  - (b) specify indicators by reference to which a local authority's achievement of targets under paragraph (a) can be measured;
  - (c) impose liability on a local authority to pay a penalty to the Welsh Ministers if a target under paragraph (a) is not met.
- (2) For the purposes of subsection (1)(a), “waste targets” are targets relating to preventing, reducing, collecting, managing, treating or disposing of waste.

### 5 Monitoring and auditing compliance with targets

- (1) The Welsh Ministers may make provision by regulations—
- (a) about how compliance with any relevant target is to be assessed;
  - (b) about arrangements for monitoring and auditing compliance with any relevant target;
  - (c) conferring powers of entry and inspection in connection with such monitoring and auditing for persons authorised by the Welsh Ministers;
  - (d) requiring the maintenance of records by a local authority in connection with relevant targets;
  - (e) requiring the provision of information by a local authority to specified persons in a specified form or manner in connection with relevant targets;
  - (f) requiring the publication of information in connection with relevant targets;
  - (g) imposing liability on a local authority to pay a penalty if it fails to comply with a requirement in regulations under any of paragraphs (b) to (f).
- (2) In this section, “relevant targets” are—
- (a) the recycling, preparation for re-use and composting targets under section 3;
  - (b) any waste targets under section 4(1)(a).

### 6 Regulations about penalties

- (1) This section applies to penalties under section 3(7), section 4(1)(c) and section 5(1)(g).
- (2) The Welsh Ministers may by regulations—
- (a) specify the amounts of penalties or rules for calculating their amounts;
  - (b) make provision as to when payments in respect of penalties are due;
  - (c) make provision for interest where payments in respect of penalties are due but unpaid;
  - (d) make provision for recovering or setting off, and securing, unpaid amounts in respect of penalties and interest;
  - (e) make provision about waiver of penalties.