

SL(6)424 – Separate Collection of Waste Materials for Recycling – A Code of Practice for Wales

Background and Purpose

The Waste Separation Requirements (Wales) Regulations 2023 (“the 2023 Regulations”) set out the separation requirements in Wales for the purposes of section 45AA of the Environmental Protection Act 1990 (“EPA 1990”). The 2023 Regulations apply to the presentation, collection and handling of waste in respect of non-domestic premises.

Section 45AB(1) of the EPA 1990 provides that the Welsh Ministers may issue codes of practice for the purpose of giving practical guidance about how to comply with requirements imposed by or under section 45AA.

Separate Collection of Waste Materials for Recycling – A Code of Practice for Wales (“the Code”) is issued by the Welsh Ministers in exercise of this power and provides guidance on how to comply with the separation requirements contained in the 2023 Regulations.

Procedure

No procedure.

The Welsh Ministers have laid the Code before the Senedd as required by section 45AB(4)(b) of the EPA 1990.

Scrutiny under Standing Order 21.7

The following points are identified for reporting under Standing Order 21.7 in respect of the Code.

1. The Code may not provide sufficient practical guidance to occupiers of non-domestic premises to assist them in identifying waste excluded from the separation requirements. In particular:
 - Paragraph 4.17 of the Code sets out some information about the types of waste not within scope of the separation requirements, but there is other information about these types of waste in paragraphs 6.9 and 6.10, paragraphs 7.26 and 7.30 and in the Glossary. It may be of more practical utility to the reader if this information had been consolidated into a single, comprehensive section of the Code, rather than being presented piecemeal.
 - A reader of the Code attempting to identify whether waste is excluded from the separation requirements because it is hazardous, is signposted to regulation 6 of the Hazardous Waste (Wales) Regulations 2005 (“the 2005 Regulations”). Regulation 6 provides that waste is hazardous if it is listed as a hazardous waste in



"the List of Wastes". Regulation 4 of the 2005 Regulations defines *"the List of Wastes"* as *"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"*. It may be challenging for the reader to locate the relevant Decisions/Directives, and thus find the List of Wastes, in order to identify whether a particular item of waste should be excluded from the separated waste streams. Paragraph 6.8 links to guidance on waste classification, but the gov.uk webpage suggests that, to fully utilise that guidance, the reader needs to *"be competent in hazardous waste and have some knowledge of chemistry"*.

- Paragraph 6.9 of the Code defines the Animal By-Products (Enforcement) (Wales) Regulations 2014 as *"the 2014 Regulations"*. Paragraph 7.30 refers to *"the requirements of the Animal By-Products Regulations"*, rather than using the defined term. It may be unclear to the reader which legislation is being referred to here, as paragraph 7.26 refers to Regulation (EC) 1069/2009, which also relates to animal by-products.
 - There is an inconsistency between the description of animal by-products in paragraph 6.10 and the Glossary entry for "Animal By-Products (ABPs)", which could cause confusion to readers of the Code. Paragraph 6.10 provides that the 2014 Regulations include *"meat, fish, milk and eggs **when they are not** intended for human consumption"*, whereas the Glossary entry states that ABPs include *"meat, fish, milk and eggs **often where not** intended for human consumption"* (emphasis added).
2. There is an inaccuracy in paragraph 7.31 of the Code, which states that the Prohibition on Disposal of Food Waste to Sewer (Civil Sanction) (Wales) Order 2023 provides that an occupier of non-domestic premises in Wales must not discharge food waste to the public sewer. However the prohibition and associated criminal offence are set out in section 34D of the EPA 1990. The 2023 Order establishes the civil sanctions regime for an offence under section 34D(3) of the EPA 1990.
3. We note the following inconsistencies between the English and Welsh versions of the Code.
- The English version makes many references to duties and requirements "applying" to specified persons. The Welsh version says that the duties and requirements are "perthnasol", which to us means they are "relevant". It would appear to us that the use of "applying" in the English is correct, and that the use of "cymwys" in the Welsh would be more appropriate.
 - In paragraph 5.10, the English version refers to the scenario of "Bus, coach, train stations", which we understand to mean bus stations, coach stations and train



stations. The Welsh version refers to the scenario of “Bws, bws moethus, gorsafoedd trên”. We believe the Welsh should read “Gorsafoedd bysiau, bysiau moethus a threnau”.

- In paragraph 8.2, the English version refers to “articles” while the Welsh version refers to “nwyddau”. We believe that “eitemau” would be a clearer equivalent to “articles” (“eitemau” is used in paragraph 8.11).
- In paragraph 8.21, there is an additional sentence at the beginning of the Welsh version that does not appear in the English version. The Welsh version appears to be the correct version.
- In the Welsh version of the Glossary, part of the definition of “Llygyddion Organig Parhaus (POPs)” has found its way into the definition of “Gwastraff masnachol”. Also, there is no definition of “Is-ffracsiwn” in the Welsh version.

Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

14 December 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee