

2011 No. 2555 (W.279)

**ENVIRONMENTAL
PROTECTION, WALES**

**The Landfill Allowances Scheme
(Wales) (Amendment) Regulations
2011**

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Waste and Emissions Trading Act 2003 (“WET Act”) establishes a system of targets for reducing the amount of biodegradable municipal waste that is sent to landfill in each region in the UK and in the UK as a whole. This gives effect to the UK’s obligations under article 5(2) of Council Directive 1999/31/EC on the landfill of waste (OJ No L 182, 17.7.1999, p. 1).

Biodegradable municipal waste is collected and disposed of by local authorities and the private sector. The targets apply to both.

As part of ensuring that the targets are met, the WET Act requires the Welsh Ministers to allocate allowances to local authorities in their capacity as waste disposal authorities. Local authorities are allowed to landfill one tonne of biodegradable municipal waste for every allowance they hold. The detailed rules about how the system of allowances works are set out in The Landfill Allowances Scheme (Wales) Regulations 2004 (S.I. 2004/1490 (W. 155)). That Scheme does not apply to waste disposed of by the private sector.

The term “biodegradable municipal waste” is used in the WET Act to refer to the waste covered by the Landfill Allowances Scheme and to refer to the wider category of waste covered by the targets. The WET Act is being amended to distinguish between the two. These amendments are being made by The Waste and Emissions Trading Act 2003 (Amendment) Regulations 2011 (S.I. 2011/2499) which come into force at the same time that these Regulations come into force. The distinction is made by introducing the term “biodegradable local authority collected municipal

waste” to refer to the waste covered by the Landfill Allowances Scheme. An associated amendment is made to introduce the term “local authority collected municipal waste” to distinguish municipal waste collected by local authorities from municipal waste that is not collected by local authorities.

These Regulations amend the Landfill Allowances Scheme (Wales) Regulations 2004 so that the new terms also apply in the 2004 Regulations. These are technical amendments that will have a neutral effect on local authorities and the business and voluntary sectors.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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Made 25 October 2011

Laid before the National Assembly for Wales

27 October 2011

Coming into force 21 November 2011

The Welsh Ministers make these Regulations in exercise of the powers conferred on the National Assembly for Wales by sections 11(1), (2)(b), (d), (f) and (3), 12(1) and (4), 24(1)(c) and 26(3) of the Waste and Emissions Trading Act 2003⁽¹⁾ and now exercisable by them⁽²⁾.

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Landfill Allowances Scheme (Wales) (Amendment) Regulations 2011.

(2) These Regulations come into force on 21 November 2011 and apply in relation to Wales.

(3) In these Regulations “the 2004 Regulations” means the Landfill Allowances Scheme (Wales) Regulations 2004⁽³⁾.

(1) 2003 c. 33. There are amendments to section 24 of the Act which are not relevant to these Regulations.

(2) These functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(3) S.I. 2004/1490 (W. 155); amended by S.I. 2005/1820 (W. 148) Schedule 2 paragraphs 5 to 8 and S.I. 2011/971 (W. 141) regulation 3.

Amendment of the 2004 Regulations

2. The 2004 Regulations are amended as follows:

Amendment of regulation 2(1) (interpretation)

3. In regulation 2(1)(1)—

- (a) omit the definition of “the Assembly” (“*y Cynulliad*”);
- (b) omit the definition of “collected municipal waste” (“*gwastraff trefol prydadwy a gasglwyd*”);
- (c) in the appropriate places insert—
““biodegradable collected municipal waste” (“*gwastraff trefol pydradwy a gasglwyd*”) means biodegradable local authority collected municipal waste(2);
“collected municipal waste” (“*gwastraff trefol a gasglwyd*”) means local authority collected municipal waste(3);”;
- (d) omit the definitions of “waste collection authority” (“*awdurdod casglu gwastraff*”) and “waste disposal authority” (“*awdurdod gwaredu gwastraff*”).

Substituting “the Welsh Ministers” for “the Assembly”

4. In each place in which it occurs in regulations 2, 11, 15 and 16 for “the Assembly” (“*y Cynulliad*”) substitute “the Welsh Ministers” (“*Gweinidogion Cymru*”).

Substitution of the term “collected municipal waste”

5. In the following places for “municipal waste” (“*gwastraff trefol prydadwy*”) substitute “collected municipal waste” (“*gwastraff trefol prydadwy a gasglwyd*”)—

- (a) regulation 6(1)(b)(4) and (c);
- (b) in the second place where it occurs in regulation 14(2)(i);
- (c) regulation 14(2)(ii).

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- (1) There are amendments to regulation 2(1) which are not relevant to these Regulations.
 - (2) For the meaning of “biodegradable local authority collected municipal waste” *see* section 21(2)(b) of the Act.
 - (3) For the meaning of “local authority collected municipal waste” *see* section 21(4) of the Act.
 - (4) There is an amendment to regulation 6(1)(b) which is not relevant to these Regulations.

Substitution of the term “biodegradable collected municipal waste”

6. In every place in which it occurs for “biodegradable municipal waste” (“*gwastraff trefol pydradwy*”) substitute “biodegradable collected municipal waste” (“*gwastraff trefol pydradwy a gasglwyd*”).

Substitution of regulation 8 (determining the amount of biodegradable municipal waste in an amount of waste)

7. For regulation 8 substitute—

“8. Determining the amount of biodegradable collected municipal waste in an amount of collected municipal waste

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

John Griffiths

Minister for Environment and Sustainable Development, one of the Welsh Ministers

25 October 2011