

SL(5)137 – The Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017

Background and Purpose

Section 33(1)(a) of the **Environmental Protection Act 1990** prohibits, subject to certain exemptions, the deposit of controlled waste or extractive waste in or on any land other than in accordance with an environmental permit. Contravention of section 33(1)(a) is an offence.

These **Regulations** amend the **Environmental Protection Act 1990** to insert a new section 33ZB. This enables Welsh waste collection authorities to issue a fixed penalty notice for small-scale fly-tipping offences. Such fixed penalty notices may be not less than £150 and not more than £400. If no amount is specified, the penalty will be £200. A discount may be applied for early payment.

Procedure

Affirmative

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications Arising from Exiting the European Union

These Regulations form part of “EU-derived domestic legislation” under clause 2 of the European Union (Withdrawal) Bill (“the Bill”) as introduced, therefore these Regulations will be retained as domestic law and will continue to have effect in Wales after exit day.

The Bill gives the Welsh Ministers power to modify these Regulations in order to deal with deficiencies arising from withdrawal, subject to certain limitations (for example, the Welsh Ministers will not be able to use this power to do something that is inconsistent with modifications to “retained direct EU legislation” made by UK Ministers under the Bill).

The Bill will not give the Welsh Ministers (or the National Assembly for Wales) power to modify any retained direct EU legislation. Power to modify all retained direct EU legislation is given to UK Ministers; this includes the power to modify retained direct EU legislation in devolved areas without the need for the consent of the National Assembly for Wales or the Welsh Ministers.

Therefore, if UK Ministers use their powers to modify retained direct EU legislation, the power of the Welsh Ministers to modify these Regulations will be limited so that the Welsh Ministers cannot do anything that is inconsistent with the modification made by UK Ministers.

Government Response

No government response is required.



Committee Consideration

The committee considered the instrument and was content. The Committee reports to the Assembly to highlight the points identified as a result of the UK exiting the European Union.

