STATUTORY INSTRUMENTS

2015 No. 1640

The Packaging (Essential Requirements) Regulations 2015

PART 4

Enforcement

Enforcement authority

7.—(1) The following authorities have a duty to enforce these Regulations within their area—

(a) **[**[F1]in Great Britain, weights and measures authorities; and**]**

(b) in Northern Ireland, the Department of Enterprise, Trade and Investment.

(2) Schedule 4 has effect for the purposes of providing for the enforcement of these Regulations(**1**).

Textual Amendments

F1 Reg. 7(1)(a) omitted (N.I.) (31.12.2020) by virtue of The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(5)**

Offences

8. Any person who, without a defence under regulation 10—

(a) contravenes or fails to comply with regulation 4 or 5; or

(b) fails to supply or retain technical documentation or other information as required by regulation 6(1) and (2);

is guilty of an offence.

Penalties

9.—(1) A person guilty of an offence under regulation 8(a) is liable—

(a) on summary conviction—

(i) **[**[F2]in England and Wales, to a fine;**]**

(ii) in **[**[F3]Scotland or**]** Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(b) on conviction on indictment in **[**[F4]Scotland or**]** Northern Ireland, to a fine not exceeding the statutory maximum.

(**1**) For the investigatory powers available to the enforcement authority for the purpose of the duty imposed by regulation 7(1), see Schedule 5 to the Consumer Rights Act 2015 (c.15).

(2) A person guilty of an offence under regulation 8(b) is liable on summary conviction—

(a) **[**[F5]in England and Wales, to a fine;**]**

(b) in **[**[F6]Scotland or**]** Northern Ireland, to a fine not exceeding level 5 on the standard scale.

Textual Amendments

F2 Reg. 9(1)(a)(i) omitted (N.I.) (31.12.2020) by virtue of The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(6)(a)(i)**

F3 Words in reg. 9(1)(a)(ii) omitted (N.I.) (31.12.2020) by virtue of The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(6)(a)(ii)**

F4 Words in reg. 9(1)(b) omitted (N.I.) (31.12.2020) by virtue of The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(6)(b)**

F5 Reg. 9(2)(a) omitted (N.I.) (31.12.2020) by virtue of The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(6)(c)(i)**

F6 Words in reg. 9(2)(b) omitted (N.I.) (31.12.2020) by virtue of The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(6)(c)(ii)**

Defence of due diligence

10.—(1) In proceedings for an offence under regulation 8, it is a defence for a person to show that that person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) A person is not, without the leave of the court, entitled to rely on the defence if it involves an allegation that the commission of the offence was due—

(a) to the act or default of another; or

(b) to reliance on information given by another;

unless, not later than seven clear days before the hearing of the proceedings **[**[F7](in England, Wales and Northern Ireland), or the trial diet (in Scotland)**]**, the person has served a notice on the person bringing the proceedings.

(3) The notice must give the information in the possession of the person ("A") serving the notice which identifies or assists in identifying the person ("B") who—

(a) committed the act or default; or

(b) supplied the information which was relied on.

(4) A may not rely on the defence by reason of reliance on information supplied by B, unless A shows that it was reasonable in all the circumstances to have relied on the information, having regard in particular—

(a) to the steps that A took and those which might reasonably have been taken for the purpose of verifying the information; and

(b) to whether A had any reason to disbelieve the information.

Textual Amendments

F7 Words in reg. 10(2) omitted (N.I.) (31.12.2020) by virtue of The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(7)**

Liability of persons other than the principal offender

11.—(1) Where the commission by a person of an offence under regulation 8 is due to anything that another person did or failed to do in the course of a business, that other person is guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against the first person.

(2) Where a body corporate or a Scottish partnership commits an offence and it is proved that the offence was committed—

(a) with the consent or connivance of a relevant person; or

(b) as a result of the negligence of a relevant person,

that person, as well as the body corporate, is guilty of the offence.

(3) A "relevant person" means—

(a) a director, manager, secretary or other similar officer of a body corporate;

(b) in relation to a body corporate managed by its members, a member of that body performing managerial functions;

(c) in relation to a Scottish partnership, a partner;

(d) a person purporting to act as a person described in sub-paragraph (a), (b) or (c).

Changes to legislation:
There are currently no known outstanding effects for the The Packaging (Essential Requirements) Regulations 2015, PART 4.