
WELSH STATUTORY INSTRUMENTS

2010 No. 2880

The Single Use Carrier Bags Charge (Wales) Regulations 2010

PART 6

Enforcement and Non-compliance

Enforcement powers

- 14.—(1) An administrator has the powers of enforcement in this regulation.
- (2) The powers are—
- (a) to make test purchases of goods for the purposes of ascertaining whether these Regulations are being complied with;
 - (b) to inspect any goods and to enter any premises at any reasonable time (other than domestic premises) for the purposes of ascertaining whether these Regulations are being complied with;
 - (c) if an administrator reasonably believes that there has been a failure to comply with a requirement of these Regulations—
 - (i) to question a seller or officers or employees of a seller;
 - (ii) to require the production of documents or the provision of information.
- (3) In this regulation “domestic premises” (“*mangre ddomestig*”) means premises used wholly or mainly as a private dwelling.
- (4) An administrator seeking to exercise a power under paragraph (2)(b) or (c) must produce evidence of identity and authority if requested by a person who is, or appears to be—
- (a) the seller, or an officer or employee of the seller;
 - (b) an owner or occupier of any premises in which the administrator seeks to exercise the power concerned.
- (5) Nothing in paragraph (2) compels the production of any document of which—
- (a) in England and Wales or Northern Ireland, that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the County Court or High Court; or
 - (b) in Scotland, that person would on grounds of confidentiality of communications be entitled to withhold production on an order for the production of documents in an action in the Court of Session.

Non-monetary discretionary requirements: enforcement

15. Schedule 4 makes provision for the imposition of monetary penalties in cases where a seller fails to comply with a non-monetary discretionary requirement⁽¹⁾ and that Schedule has effect accordingly.

Enforcement costs recovery

16.—(1) An administrator may serve a notice (“an enforcement costs recovery notice”) on a seller on whom a discretionary requirement is imposed requiring that seller to pay the costs incurred by the administrator in relation to the imposition of the discretionary requirement up to the time of its imposition (“enforcement costs”).

(2) Enforcement costs include, in particular—

- (a) investigation costs;
- (b) administration costs;
- (c) costs of obtaining expert advice (including legal advice).

(3) An enforcement costs recovery notice must specify the amount required to be paid and must include information as to—

- (a) how payment may be made;
- (b) the date by which payment must be made;
- (c) the right of appeal; and
- (d) the consequences of failure to make payment by the date it is due.

(4) The date referred to in paragraph (3)(b) must be at least 28 days later than the date on which the enforcement costs recovery notice is served on the seller.

(5) Enforcement costs must be paid by the seller by the date specified in the enforcement costs recovery notice.

(6) But paragraph (5) is subject to the remaining provisions of this regulation and to regulation 21(4) (suspension of requirements and notices pending appeal).

(7) If a decision of an administrator under this regulation is the subject of an appeal, then to the extent that that decision is upheld, the seller must pay the enforcement costs within 28 days of the day on which the appeal is determined.

(8) An administrator must provide a detailed breakdown of the costs specified in an enforcement costs recovery notice if requested to do so by the seller on whom the notice is served.

(9) A seller is not liable to pay any costs shown by that seller to have been unnecessarily incurred.

(10) A seller may appeal—

- (a) against a decision of an administrator to impose a requirement to pay costs;
- (b) against a decision of an administrator as to the amount of those costs.

Recovery of payments

17. An administrator may recover any fixed monetary penalty, variable monetary penalty, non-compliance penalty, enforcement costs or late payment penalty—

- (a) as a civil debt;
- (b) on the order of a court, as if payable under a court order.

(1) For the meaning of “non-monetary discretionary requirement” see paragraph 12(3)(b) of Schedule 6 to the Climate Change Act 2008.

Publicity for imposition of civil sanctions

18.—(1) An administrator may give a publicity notice to a seller on whom a civil sanction has been imposed(2).

(2) The following is the information specified for the purposes of paragraph 19(2)(b) of Schedule 6 to the Climate Change Act 2008—

- (a) the type of civil sanction concerned;
- (b) the grounds on which the sanction was imposed;
- (c) if the sanction was a fixed or variable monetary penalty, the amount of that penalty;
- (d) if the sanction was a non-monetary discretionary requirement, the nature of the requirement in question.

(3) A publicity notice must—

- (a) specify the manner of publication required;
- (b) specify the time for compliance with the notice;
- (c) require the seller to provide evidence of compliance with the notice within a time specified in the notice.

(4) If a seller fails to comply with a publicity notice within the time specified under paragraph (3)(b), the administrator may—

- (a) publicise the information required to be publicised by the notice; and
- (b) recover the costs of doing so from the seller in question.

(5) Where an administrator publicises information under paragraph (4)(a) it must do so in a way it considers most likely to bring the information to the attention of members of the public in its area.

(2) For the meaning of “publicity notice” *see* paragraph 19(2) of Schedule 6 to the Climate Change Act 2008.