
WELSH STATUTORY INSTRUMENTS

2017 No. 565

**The Environmental Impact Assessment
(Agriculture) (Wales) Regulations 2017**

PART 4

Enforcement

Offence of carrying out a project without a decision under these Regulations

21.—(1) It is an offence to commence or carry out a project on semi-natural and/or uncultivated land, or a restructuring project, in breach of regulation 4 or 8.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine.

(3) In any proceedings under this regulation which relate to a project on semi-natural and/or uncultivated land, any area of land which the prosecution alleges to be uncultivated or semi-natural land will be assumed to be uncultivated or semi-natural land, in which case the prosecution must prove beyond reasonable doubt that the land is uncultivated or semi-natural land.

Offence of carrying out work in contravention of a condition

22.—(1) It is an offence to carry out any activity in contravention of a condition of consent granted pursuant to these Regulations.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine.

Offence of procuring a decision by supplying false information

23.—(1) It is an offence for a person who, for the purpose of procuring a particular decision on an application made under these Regulations—

- (a) knowingly or recklessly makes a statement which is false or misleading in a material particular,
- (b) with intent to deceive, uses a document that is false or misleading in a material particular, or
- (c) with intent to deceive, withholds material information.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

Stop notices

24.—(1) If a person has commenced a project on semi-natural and/or uncultivated land or a restructuring project, in breach of regulation 4 or 8, the Welsh Ministers may serve a notice prohibiting all or part of the work with immediate effect (“a stop notice”).

(2) The Welsh Ministers may serve a stop notice on any person who appears to—

- (a) have an interest in the relevant land; or
- (b) be engaged in a project on semi-natural and/or uncultivated land or a restructuring project, in breach of regulation 4 or 8.

Penalties for contravention of a stop notice

25.—(1) It is an offence for a person to contravene, or cause or permit another person to contravene, a stop notice.

- (2) A person guilty of an offence under paragraph (1) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine.

Remediation notices

26.—(1) If a person has carried out a project on semi-natural and/or uncultivated land or a restructuring project, in breach of regulation 4 or 8, the Welsh Ministers may serve a notice on the person who appears to them to be responsible (“a remediation notice”).

- (2) A remediation notice may require the person—
 - (a) to reinstate, to the Welsh Ministers’ satisfaction, the relevant land to the condition it was in before the project was commenced; or
 - (b) to take such other steps that the Welsh Ministers consider appropriate to return the land to good environmental condition or to a standard the Welsh Ministers consider reasonable in the circumstances.
- (3) A remediation notice must state the period within which the requirements of the notice are to be completed.
- (4) The Welsh Ministers may, at any time after issuing a remediation notice—
 - (a) amend its terms;
 - (b) extend the period under paragraph (3); or
 - (c) terminate it.

Penalty for contravening a remediation notice

27.—(1) A person who, without reasonable excuse, fails to comply with a requirement of a remediation notice is guilty of an offence.

- (2) A person guilty of an offence under paragraph (1) is liable on summary conviction—
 - (a) to a fine; and
 - (b) if the failure to comply continues beyond the date of conviction, a further fine not exceeding £100 for every day the failure continues.

Time limits for bringing proceedings

28.—(1) Proceedings for an offence under these Regulations may be commenced within the period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor’s knowledge.

- (2) But no such proceedings may be commenced by virtue of paragraph (1) more than 2 years after the commission of the offence.
- (3) For the purposes of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in the prosecutor's opinion to warrant the proceedings came to the prosecutor's knowledge is conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed, is deemed to be so signed unless the contrary is proved.

Powers of entry and default powers

29.—(1) A person authorised by the Welsh Ministers may, at any time, enter and inspect any land for the purpose of—

- (a) ascertaining whether regulation 4 or 8 has been breached;
- (b) ascertaining whether an offence under these Regulations has been committed in connection with that land;
- (c) serving a stop or remediation notice in respect of that land; or
- (d) exercising a function listed in Schedule 4.

(2) A person authorised by the Welsh Ministers who has reasonable grounds to suspect that a person has committed an offence under regulation 23 may—

- (a) enter any premises which are, or which are believed to be, occupied by, or in the possession of, the person believed to be responsible for committing an offence; and
- (b) take copies of any records relevant to the commission of the suspected offence.

(3) But paragraph (2) does not apply to any premises used solely as a private dwelling.

(4) If any measures required by a remediation notice or by notice served under paragraph 5 of Schedule 4 have not been completed within the period specified in the notice—

- (a) a person authorised by the Welsh Ministers may at a reasonable time, enter the land to which the notice relates and complete the measures; and
- (b) recover all expenses reasonably incurred in doing so from the person named in the notice.

(5) For the purposes of ascertaining whether an offence has been committed on or in connection with the land, a person acting in accordance with paragraph (1) may remove—

- (a) samples of soil;
- (b) plant specimens; or
- (c) samples taken from plant specimens.

(6) A person authorised to enter land or premises under this regulation must produce evidence of their authority to enter the land or premises, if requested to do so.

(7) A person authorised to enter land or premises under this regulation may take with them such other persons or equipment as they consider necessary.

(8) A person in occupation or possession of land or premises entered by a person authorised under this regulation must provide such assistance as that authorised person reasonably requests so as to enable them to exercise any power conferred on them by this regulation.

(9) It is an offence for a person to—

- (a) intentionally obstruct or impede a person acting in exercise of a power conferred under this regulation; or
- (b) fail to comply, without reasonable excuse, with a request made under paragraph (8).

(10) A person guilty of an offence under paragraph (9) is liable on summary conviction to a fine.