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WELSH STATUTORY INSTRUMENTS

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**2018 No. 760**

**The Environmental Protection  
(Microbeads) (Wales) Regulations 2018**

**PART 3**

**Enforcement and Civil Sanctions**

**Enforcement**

6.—(1) The regulator may authorise any person to exercise, for an authorised purpose and in accordance with the terms of the authorisation, any of the powers specified in regulation 8 and 9, if that person appears to the regulator suitable to exercise them.

(2) An authorisation under paragraph (1) must be in writing.

(3) In this Part, “enforcement officer” means a person authorised under paragraph (1).

**Civil sanctions**

7. The Schedule (civil sanctions) has effect for the purpose of the enforcement of an offence under regulation 3(1), 3(2) or 10(1).

**Enforcement Officer Powers**

8.—(1) The powers which an enforcement officer may be authorised to exercise are—

- (a) to make such examination and investigation as may in any circumstances be necessary;
- (b) to require any person whom an enforcement officer has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (a) above to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the enforcement officer thinks fit to ask and to sign a declaration of the truth of their answers; and
- (c) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary for the enforcement officer to see for the purposes of an examination or investigation under paragraph (a) above and to inspect and take copies of, or of any entry in, the records.

(2) Nothing in this section shall be taken to compel the production by any person of a document of which that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.

**Powers of entry and examination etc.**

9.—(1) The powers which an enforcement officer may be authorised to exercise are—

- (a) to enter at any reasonable time any premises (other than premises used wholly or mainly as a dwelling) which the enforcement officer has reason to believe it is necessary to enter for an authorised purpose;
  - (b) when entering any premises under sub-paragraph (a)—
    - (i) to be accompanied by another enforcement officer; and
    - (ii) to bring any equipment or materials required for the authorised purpose in question;
  - (c) on entering any premises under sub-paragraph (a)—
    - (i) to exercise the powers in regulation 8(2); and
    - (ii) to take such measurements and photographs and make such recordings as the enforcement officer considers necessary for the purpose of any such examination or investigation.
  - (d) as regards any premises which an enforcement officer has power to enter under sub-paragraph (a), to direct that those premises or any part of them, or anything in them, be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of examination or investigation under sub-paragraph (c);
  - (e) to take any samples, or cause samples to be taken, of any articles or substances found in or on any premises which an enforcement officer has power to enter under sub-paragraph (a), and to cause any such articles or substance to be analysed or tested;
  - (f) in the case of any such sample, to take possession of it and to retain it for so long as is necessary for all or any of the following purposes—
    - (i) to examine it, and subject it to any process or test, or cause it to be examined;
    - (ii) to ensure that it is not tampered with before the examination is completed;
    - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations.
- (2) Except in an emergency, where an enforcement officer proposes to enter any premises and—
- (a) entry has been refused or the enforcement officer apprehends on reasonable grounds that entry is likely to be refused, and
  - (b) the enforcement officer apprehends on reasonable grounds that the use of reasonable force may be necessary to effect entry,
- any entry onto those premises by virtue of paragraph (1)(a) may only be effected under the authority of a warrant.
- (3) Nothing in paragraph (1)(c)(iii) compels the production by a person of any documents of which that person would on grounds of legal professional privilege be entitled to withhold production on an order for disclosure in an action in the County Court or High Court.
- (4) An enforcement officer may only exercise the powers in paragraph (1) in the reasonable belief that an offence under regulation 3 has been or is being committed.
- (5) An enforcement officer seeking to exercise a power under paragraph (1) must produce evidence of identity and authority if requested by a person who is, or appears to be—
- (a) a supplier of a rinse-off personal care product or an employee of such a supplier;
  - (b) a manufacturer of a rinse-off personal care product or an employee of such a manufacturer; or
  - (c) the owner or occupier of any premises in which the enforcement officer seeks to exercise the power concerned.

## **Offences**

**10.**—(1) A person commits an offence if in response to powers exercised under regulations 8 and 9 that person—

- (a) fails to supply an enforcement officer with any information, documents or records requested;
  - (b) gives false or misleading information to an enforcement officer; or
  - (c) intentionally obstructs an enforcement officer.
- (2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine.

## **Publication of enforcement action**

**11.**—(1) Where the regulator imposes a civil sanction under these Regulations in relation to an offence under regulation 3 or 10, the regulator must from time to time publish—

- (a) the cases in which the civil sanction has been imposed;
  - (b) where the civil sanction is a variable monetary penalty or compliance notice, the cases in which a third party undertaking has been accepted; and
  - (c) the cases in which an enforcement undertaking has been entered into.
- (2) In paragraph (1)(a), the reference to cases in which the civil sanction has been imposed does not include cases where the sanction has been imposed but overturned on appeal.
- (3) This regulation does not apply in cases where the regulator considers that publication would be inappropriate.