



The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023

2023 asc 2

Enforcement

7 Enforcement action by local authorities

- (1) A local authority may—
 - (a) investigate complaints in respect of offences under section 5 alleged to have been committed in its area;
 - (b) bring prosecutions in respect of offences under section 5 committed in its area;
 - (c) take any other steps with a view to reducing the incidence of offences under section 5 in its area.
- (2) References in this Act to an authorised officer of a local authority are to any person authorised by a local authority for the purposes of this Act.

8 Power to make test purchases

An authorised officer of a local authority may make such purchases and arrangements, and secure the provision of such services, as the officer considers necessary for the purpose of the exercise of the local authority's functions under this Act.

9 Power of entry

- (1) An authorised officer of a local authority may enter premises at any reasonable time if the officer—
 - (a) has reasonable grounds for believing that an offence under section 5 has been committed in the area of the local authority, and
 - (b) considers it necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed.
- (2) This does not apply in relation to residential premises.

- (3) An authorised officer of a local authority may not enter premises by force under this section.
- (4) Before entering premises under this section an authorised officer must, if asked to do so, show documentary evidence of the authorisation referred to in section 7(2).
- (5) For the purposes of this section and sections 10 and 11, “residential premises” means premises, or any part of premises, used wholly or mainly as a dwelling.

10 Power of entry: residential premises

- (1) A justice of the peace may issue a warrant authorising an authorised officer of a local authority to enter residential premises, by force if necessary, if satisfied on sworn information in writing—
 - (a) that there are reasonable grounds for believing that an offence under section 5 has been committed in the area of the local authority, and
 - (b) that it is necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed.
- (2) The warrant continues in force until the end of the period of 28 days beginning with the date it was issued.

11 Power of entry: other circumstances requiring warrant

- (1) A justice of the peace may issue a warrant authorising an authorised officer of a local authority to enter premises, other than residential premises, by force if necessary, if satisfied on sworn information in writing that—
 - (a) there are reasonable grounds for believing that an offence under section 5 has been committed in the area of the local authority,
 - (b) it is necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed, and
 - (c) a requirement set out in subsection (2) or (3) is met.
- (2) The requirement is that—
 - (a) a request to enter the premises has been, or is likely to be, refused, and
 - (b) notice of intention to apply for a warrant under this section has been given to the occupier, or to a person who reasonably appears to the local authority to be concerned in the management of the premises.
- (3) The requirement is that requesting to enter the premises, or the giving of notice of intention to apply for a warrant under this section, is likely to defeat the purpose of the entry.
- (4) The warrant continues in force until the end of the period of 28 days beginning with the date on which it was issued.

12 Powers of entry: supplementary

- (1) An authorised officer of a local authority entering premises under or by virtue of section 9, 10 or 11 may take such other persons and such equipment as the officer considers appropriate.

- (2) The powers of entry exercisable under or by virtue of section 9, 10 or 11 apply in relation to a vehicle as if it were premises.
- (3) If the occupier of premises is present at the time the authorised officer seeks to execute a warrant under section 10 or 11 and enter the premises, the officer must—
 - (a) inform the occupier of the officer's name;
 - (b) produce documentary evidence to the occupier of the officer's authorisation;
 - (c) supply a copy of the warrant to the occupier.
- (4) If premises that an authorised officer is authorised to enter by a warrant under section 10 or 11 are unoccupied, or if the occupier is temporarily absent, then on leaving the premises the officer must leave them as effectively secured against unauthorised entry as when the officer found them.

13 Power of inspection

- (1) An authorised officer of a local authority entering premises under or by virtue of section 9, 10 or 11 may do any of the following if the officer considers it necessary for the purpose of ascertaining whether an offence under section 5 has been committed—
 - (a) carry out inspections and examinations on the premises;
 - (b) require the production of anything on the premises, inspect it, and take and retain samples of or extracts from it for as long as the officer considers necessary for that purpose;
 - (c) take possession of anything on the premises, and retain it for as long as the officer considers necessary for that purpose;
 - (d) require any person to give information about, or afford facilities and assistance with respect to, matters within the person's control.
- (2) If an authorised officer of a local authority considers it necessary for the purpose of ascertaining whether an offence under section 5 has been committed, the officer may arrange for anything produced under subsection (1)(b) or anything that the officer has taken possession of under subsection (1)(c) to be analysed.
- (3) If by virtue of subsection (1)(c) the authorised officer of a local authority takes anything away from the premises, the officer must leave on the premises a statement—
 - (a) giving particulars of what has been taken and stating that the officer has taken possession of it, and
 - (b) identifying the person to whom a request for the return of the property may be made.
- (4) The powers conferred by this section include the power—
 - (a) to copy documents found on the premises;
 - (b) to impose requirements as to how documents are provided (which may include requirements to provide legible copies of documents found on the premises that are stored electronically).
- (5) For this purpose, “documents” includes information recorded in any form; and references to documents found on the premises include—
 - (a) documents stored on computers or other electronic devices on the premises, and
 - (b) documents stored elsewhere that can be accessed by computers or other electronic devices on the premises.

- (6) A person is not required by this section to answer any question or produce any document that the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in Wales or in England.
- (7) This section applies to a vehicle as if it were premises.

14 Offence of obstruction etc. of officers

- (1) A person who intentionally obstructs an authorised officer of a local authority exercising functions under sections 9 to 13 commits an offence.
- (2) Any person who without reasonable cause fails to comply with a requirement under section 13(1)(b) or (d) or 13(4)(b) commits an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Where a person does not answer any question or produce any document that the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in Wales or in England (see section 13(6)), this does not amount to obstruction under this section.

15 Retained property: appeals

- (1) A person (“A”) with an interest in anything taken away under section 13(1)(c) (“retained property”) may apply by way of complaint to any magistrates’ court for an order requiring the retained property to be released, either to A or to another person.
- (2) If, on an application under this section, the court is satisfied that the continued retention of the retained property is not necessary for the purpose of ascertaining whether an offence under section 5 has been committed, it may make an order requiring the release of the retained property.
- (3) An order under this section may contain whatever provision the court thinks appropriate for delaying its coming into force pending the making and determination of an appeal (including an application under section 111 of the [Magistrates’ Courts Act 1980 \(c. 43\)](#)).
- (4) If the court adjourns the hearing of an application under this section, it may make an order in respect of the retained property that lasts until the final hearing of the application or until any further order is made, if it considers it appropriate to do so.
- (5) Nothing in this section affects any other power of the court to make an order in respect of the retained property, including any power to make an order under section 1 of the [Police \(Property\) Act 1997 \(c. 30\)](#) (power to make order with respect to property in possession of police).

16 Appropriated property: compensation

- (1) A person (“A”) with an interest in anything of which an authorised officer of a local authority has taken possession under section 13(1)(c) (“appropriated property”) may apply by way of complaint to any magistrates’ court for compensation.
- (2) Subsection (3) applies if, on an application under this section, the court is satisfied that—

- (a) A has suffered loss or damage in consequence of the authorised officer's taking possession of the appropriated property, or retaining it, in circumstances where doing so was not necessary for the purpose of ascertaining whether an offence under section 5 had been committed, and
 - (b) the loss or damage is not attributable to the neglect or default of A.
- (3) The court may order the local authority to pay compensation to A.

17 Civil sanctions

- (1) In this section, “the 2008 Act” means the [Regulatory Enforcement and Sanctions Act 2008 \(c. 13\)](#).
- (2) The Welsh Ministers may by regulations make any provision, in relation to the offence under section 5, that could be made under Part 3 of the 2008 Act (civil sanctions) if—
- (a) a local authority was a regulator for the purposes of Part 3 of that Act, and
 - (b) the offence was a relevant offence in relation to a local authority for the purposes of Part 3 of that Act.
- (3) Sections 63 to 70 of the 2008 Act (guidance; exercise of powers; payment into Consolidated Fund) apply to provision made under this section as they apply to provision made under Part 3 of that Act.
- (4) Section 60(1) and (2) of the 2008 Act (consultation) apply to regulations under subsection (1) as they apply to an order under Part 3 of that Act.
- (5) For the purposes of subsections (3) and (4), references to a regulator in sections 60 and 63 to 70 of the 2008 Act are to be read as references to a local authority.

18 Offences committed by partnerships and other unincorporated associations

- (1) Proceedings for an offence under this Act alleged to have been committed by a partnership are to be brought in the name of the partnership (and not in that of any of the partners).
- (2) Proceedings for an offence under this Act alleged to have been committed by an unincorporated association other than a partnership are to be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate.
- (4) Schedule 3 to the [Magistrates' Courts Act 1980 \(c. 43\)](#) applies in proceedings for an offence brought against a partnership or an unincorporated association other than a partnership as it applies in relation to a body corporate.
- (5) A fine imposed on a partnership on its conviction for an offence under this Act is to be paid out of the partnership's assets.
- (6) A fine imposed on an unincorporated association other than a partnership on its conviction for an offence under this Act is to be paid out of the funds of the association.

19 Criminal liability of senior officers etc.

- (1) This section applies where an offence under this Act is committed by—

- (a) a body corporate;
 - (b) a partnership;
 - (c) an unincorporated association other than a partnership.
- (2) If the offence is proved to have been committed by, or with the consent or connivance of, or to be attributable to neglect on the part of—
- (a) a senior officer of the body corporate or partnership or unincorporated association, or
 - (b) any person purporting to act in a capacity mentioned in paragraph (a),
- that senior officer or person (as well as the body corporate, partnership or association) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) In this section, “senior officer” means—
- (a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body corporate;
 - (b) in relation to a partnership, a partner in the partnership;
 - (c) in relation to an unincorporated association other than a partnership, any officer of the association or any member of its governing body.
- (4) In subsection (3), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.