



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

2023 asc 2

Offence

5 Offence of supplying prohibited single-use plastic product

- (1) A person of a description referred to in subsection (2) (“P”) commits an offence if that person—
 - (a) supplies (as to which see subsection (3)) a prohibited single-use plastic product to a consumer who is in Wales, and this includes arranging for the delivery of the product to a consumer at an address in Wales;
 - (b) offers on premises in Wales (as to which see subsection (4)) to supply a prohibited single-use plastic product to a consumer.
- (2) The descriptions of person that may commit an offence under this section are—
 - (a) a body corporate (including a body exercising any function of a public nature);
 - (b) a partnership;
 - (c) an unincorporated association;
 - (d) a person acting as a sole trader.
- (3) P supplies a prohibited single-use plastic product if P, or any person accountable to P—
 - (a) sells the product, or
 - (b) provides the product free of charge.
- (4) P offers to supply a prohibited single-use plastic product if P, or any person accountable to P—
 - (a) displays the product on the premises, or
 - (b) otherwise keeps the product on the premises such that it is accessible by, or available to, a consumer at the premises.
- (5) A person is accountable to P if—
 - (a) that person—
 - (i) is an employee of P,

- (ii) has a contract for services with P,
 - (iii) is an agent of P, or
 - (iv) is otherwise subject to the management, control or oversight of P, and
 - (b) that person—
 - (i) is acting in the course of P’s business, trade or profession,
 - (ii) is acting in relation to the exercise by P of P’s functions,
 - (iii) is acting in relation to P’s objects or purposes, or
 - (iv) is otherwise acting under the management, control or oversight of P.
- (6) Where P is shown to have arranged for a product to be delivered to a consumer at an address in Wales the product is taken to have been supplied by P to that consumer even if (for whatever reason)—
 - (a) the product was delivered to a different address, or
 - (b) the product was not delivered to any known address.
- (7) In proceedings for an offence under subsection (1), it is a defence for P to show that P exercised all due diligence and took all reasonable precautions to avoid committing the offence.
- (8) P is taken to have shown that P exercised all due diligence and took all reasonable precautions to avoid committing the offence if—
 - (a) sufficient evidence of this is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (9) In proceedings for an offence under subsection (1), an allegation that a product was a single-use plastic product of a kind listed in column 1 of the Table in paragraph 1 of the Schedule will be accepted as proved in the absence of evidence to the contrary.
- (10) Where two or more prohibited single-use plastic products are supplied, or offered for supply, together, for the purposes of subsection (1) this is to be treated as a single act of supply, or offering to supply, of a prohibited single-use plastic product.
- (11) In this section, “consumer” means an individual acting for purposes that are wholly or mainly outside that individual’s trade, business or profession (whether or not the individual purchased the product).

6 Offence: mode of trial and penalty

A person guilty of an offence under section 5 is liable on summary conviction to a fine.