
DRAFT STATUTORY INSTRUMENTS

2020 No.

The Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020

PART 6

Enforcement and civil sanctions

Enforcement

18.—(1) A 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 20, 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—

“authorised purpose” means the purpose of determining whether an offence under Parts 2 to 4 has been or is being committed, or any requirement of a compliance notice, a stop notice or an enforcement undertaking under these Regulations has been or is being contravened;

“enforcement officer” means a person authorised under paragraph (1).

Civil sanctions

19. The Schedule (civil sanctions) has effect for the purpose of the enforcement of an offence under Parts 2 to 4 of these Regulations.

Powers of entry and examination etc.

20.—(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 suspect 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 make such examination and investigation as may be necessary;

(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; and

- (iii) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any documents which it is necessary for the enforcement officer to see for the purposes 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 substances 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) 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 Parts 2 to 4 of these Regulations 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 single-use plastic straws, single-use plastic stemmed cotton buds or plastic drink stirrers;
 - (b) an employee of a supplier referred to in sub-paragraph (a); or
 - (c) the owner or occupier of any premises in which the enforcement officer seeks to exercise the power concerned.
- (6) If a justice of the peace, on sworn information in writing, is satisfied—
- (a) that there are reasonable grounds to enter any premises in exercise of the power in paragraph (1)(a); and
 - (b) that any of the conditions in paragraph (2)(a) or (b) is met,
- the justice of the peace may by warrant authorise an enforcement officer to enter the premises, if need be by reasonable force.

Publication of information about enforcement action

21.—(1) Where a regulator imposes civil sanctions under these Regulations in relation to an offence under Parts 2 to 4, 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.