
STATUTORY INSTRUMENTS

2020 No. 971

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

PART 1

Introduction

Citation, commencement and application

1.—(1) These Regulations may be cited as the Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020.

(2) These Regulations, except for regulation 4(3) and (4), come into force on the twenty-first day after the day on which they are made.

(3) Regulation 4(3) and (4) comes into force on 3rd July 2021.

(4) These Regulations extend to England and Wales and apply in relation to England only.

Interpretation

2. In these Regulations—

“catering establishment” has the meaning given by regulation 6(3);

“compliance notice” has the meaning given by paragraph 1(1)(b) of the Schedule;

“end user” means any person to whom a product is supplied, other than—

(a) for the purpose of supplying it, in the course of a business, to another person;

(b) for the purposes of a manufacturing process; or

(c) in the case of a single-use plastic straw, for the purposes of a catering establishment or an establishment of a kind referred to in regulation 9(1);

“enforcement undertaking” has the meaning given by paragraph 17 of the Schedule;

“health professional” means—

(a) a registered medical practitioner;

(b) a registered nurse or midwife;

(c) a registered dentist within the meaning of section 53 of the Dentists Act 1984⁽¹⁾;

(d) a registered pharmacist or a registered pharmacy technician within the meaning of article 3 of the Pharmacy Order 2010⁽²⁾;

(e) a registered dietician, occupational therapist or physiotherapist⁽³⁾;

(1) 1984 c. 24.

(2) S.I. 2010/231, to which there are amendments not relevant to these Regulations.

(3) “Registered”, in relation to a dietician, occupational therapist or physiotherapist, means registered in the register maintained under Article 5 of the Health and Social Work Professions Order 2001 (S.I. 2002/254); see Article 5(5) of that Order.

“local authority” means—

- (a) in relation to the City of London, the Common Council for the City of London;
- (b) in relation to an area in the rest of London, the London borough council for that area;
- (c) in relation to the Isles of Scilly, the Council of the Isles of Scilly;
- (d) in relation to an area in the rest of England, the county council for that area or, where there is no county council for that area, the district council for that area;

“medical purposes” means the purposes of preventative medicine, medical diagnosis, medical research and the provision of medical care and treatment;

“plastic” means a material consisting of polymer as defined in Article 3(5) of Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)(4), to which additives or other substances may have been added, and which can function as a main structural component of final products, with the exception of natural polymers that have not been chemically modified;

“plastic drink stirrer” means an implement made partly or wholly of plastic designed and intended for stirring drinks;

“regulator” means a local authority;

“relevant device” means, subject to regulation 3, a device within the meaning given in regulation 68(4) of the Medical Devices Regulations 2002(5), to which Part 8 of those Regulations applies;

“single-use plastic stemmed cotton bud” means an item that consists of a rod made wholly or partly of plastic with cotton wrapped around one or both ends and that is not designed or intended to be re-used;

“single-use plastic straw” means a straw that is made wholly or partly from plastic and that is not designed or intended to be re-used;

“stop notice” has the meaning given by paragraph 9(2) of the Schedule;

“supply” means supply, whether by way of sale or not;

“third party undertaking” has the meaning given by paragraph 3(1) of the Schedule;

“variable monetary penalty” has the meaning given by paragraph 1(1)(a) of the Schedule.

Relevant devices: transitional provision

3.—(1) Before regulation 68 of the Medical Devices Regulations 2002 (“the 2002 Regulations”) comes into force(6), “relevant device” means a medical device within the meaning given in regulation 2 of the 2002 Regulations to which Part 2 or Part 3 of those Regulations applies, and the definition of “relevant device” in regulation 2 does not apply.

(2) On and after the coming into force of regulation 68 of the 2002 Regulations and before 26th May 2025, “relevant device” means—

- (a) a relevant device as defined in regulation 2; or
- (b) a medical device within the meaning given in regulation 2 of the 2002 Regulations to which Part 2 or Part 3 of those Regulations applies.

(4) OJ No L 396, 30.12.2006, p. 1, as last amended by Commission Regulation (EU) 2019/1691 (OJ No L 259, 10.10.2019, p. 9).

(5) S.I. 2002/618; relevant amending instruments are S.I. 2008/936, 2019/791.

(6) Regulation 68 of the 2002 Regulations is inserted by regulation 10 of S.I. 2019/791. By virtue of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1), regulation 10 of S.I. 2019/791 comes into force on IP completion day, subject to any different provision which may be made by regulations under that Act.

PART 2

Single-use plastic straws

Offence: supply of single-use plastic straws to an end user

4.—(1) A person who, in the course of a business, supplies or offers to supply to an end user a single-use plastic straw, other than an attached plastic straw, is guilty of an offence.

(2) Paragraph (1) is subject to the exemptions in regulations 5 to 9, and to regulation 15.

(3) A person who, in the course of a business, supplies or offers to supply to an end user a drink product with an attached plastic straw is guilty of an offence.

(4) Paragraph (3) is subject to the exemption in regulation 7.

(5) A person guilty of an offence under paragraph (1) or (3) is liable on summary conviction to a fine.

(6) In this regulation, “attached plastic straw” means a single-use plastic straw which is attached to the packaging of a drink product and is intended to be used to consume that drink.

Exemption: retail pharmacy businesses

5.—(1) Regulation 4(1) does not apply to the supply of a single-use plastic straw by a retail pharmacy business in the cases in paragraph (2), provided that the conditions in paragraph (3) are complied with.

(2) The cases referred to in paragraph (1) are where the single-use plastic straw is supplied to an end user—

- (a) at a registered pharmacy; or
- (b) by means of online or other distance selling arrangements.

(3) The conditions are that single-use plastic straws to which regulation 4(1) applies—

- (a) must not be advertised to customers by the retail pharmacy business; and
- (b) if supplied at a registered pharmacy—
 - (i) must not be kept in a place where they are visible to customers, or where customers can access them; and
 - (ii) must not be offered or provided to a customer unless the customer has requested them.

(4) The condition in paragraph (3)(a) does not prohibit the display of single-use plastic straws for sale on a website or application through which the retail pharmacy business sells products online.

(5) In this regulation, “registered pharmacy” and “retail pharmacy business” have the meanings given in regulation 8(1) of the Human Medicines Regulations 2012(7).

Exemption: catering establishments

6.—(1) Regulation 4(1) does not apply to the supply by a catering establishment of a single-use plastic straw together with food or drink which is supplied for immediate consumption, provided that the conditions in paragraph (2) are complied with.

(2) The conditions are that single-use plastic straws to which regulation 4(1) applies—

- (a) must not be kept in a place where they are visible to customers, or where customers can access them; and

(7) [S.I. 2012/1916](#), to which there are amendments not relevant to these Regulations.

(b) must not be offered or provided to a customer unless the customer has requested them.

(3) In this regulation, “catering establishment” means a restaurant, canteen, club, public house or similar establishment (including a vehicle or a fixed or mobile stall) which supplies food or drink that is ready for consumption without further preparation.

Exemption: relevant devices and medical purposes

7. Regulation 4(1) and (3) does not apply to the supply of a product—

- (a) that is a relevant device;
- (b) for use for medical purposes by or under the direction of a health professional; or
- (c) by a health professional for medical purposes.

Exemption: packaging

8.—(1) Regulation 4(1) does not apply to the supply of a single-use plastic straw that is packaging.

(2) In this regulation, “packaging” has the same meaning as in regulation 3 of the Packaging (Essential Requirements) Regulations 2015⁽⁸⁾.

Exemption: other establishments

9.—(1) Regulation 4(1) does not apply to the supply of a single-use plastic straw in—

- (a) a care home;
- (b) premises used for early years provision;
- (c) a school; or
- (d) a prison or other place of detention.

(2) In this regulation—

- “care home” has the same meaning as in section 3 of the Care Standards Act 2000⁽⁹⁾;
- “early years provision” has the same meaning as in section 96(2) of the Childcare Act 2006⁽¹⁰⁾;
- “prison” has the same meaning as in section 92(1) of the Criminal Justice Act 1991⁽¹¹⁾;
- “school” has the same meaning as in section 4 of the Education Act 1996⁽¹²⁾.

PART 3

Single-use plastic stemmed cotton buds

Offence: supply of single-use plastic stemmed cotton buds to an end user

10.—(1) A person who, in the course of a business, supplies or offers to supply a single-use plastic stemmed cotton bud to an end user is guilty of an offence.

(2) Paragraph (1) is subject to the exemptions in regulations 11 to 13, and to regulation 15.

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

⁽⁸⁾ S.I. 2015/1640, to which there are amendments not relevant to these Regulations.

⁽⁹⁾ 2000 c. 14. Section 3 was amended by paragraph 4 of Schedule 5 to the Health and Social Care Act 2008 (c. 14).

⁽¹⁰⁾ 2006 c. 21.

⁽¹¹⁾ 1991 c. 53.

⁽¹²⁾ 1996 c. 56. Section 4 was amended by section 51 of, and paragraph 10 of Schedule 7 and Schedule 8 to, the Education Act 1997 (c. 44), Part 3 of Schedule 22 to the Education Act 2002 (c. 32), section 95 of the Childcare Act 2006 (c. 21), paragraph 9(2) of Schedule 13 to the Education Act 2011 (c. 21) and S.I. 2010/1080, 2019/1027.

Exemption: relevant devices and medical purposes

11. Regulation 10(1) does not apply to the supply of a single-use plastic stemmed cotton bud—
- (a) that is a relevant device;
 - (b) for use for medical purposes by or under the direction of a health professional; or
 - (c) by a health professional for medical purposes.

Exemption: forensic purposes

12.—(1) Regulation 10(1) does not apply to the supply of a single-use plastic stemmed cotton bud to a forensic service provider.

(2) In this regulation, “forensic service provider” has the same meaning as in regulation 2 of the Accreditation of Forensic Service Providers Regulations 2018(13).

Exemption: scientific purposes

13.—(1) Regulation 10(1) does not apply to the supply of a single-use plastic stemmed cotton bud for scientific purposes.

- (2) In this regulation, “scientific purposes” means diagnostic, educational or research purposes.

PART 4

Plastic drink stirrers

Offence: supply of plastic drink stirrers

14.—(1) A person who, in the course of a business, supplies or offers to supply a plastic drink stirrer is guilty of an offence.

- (2) Paragraph (1) is subject to regulation 15.
- (3) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine.

PART 5

Offences: general

Transitional provision: supply of existing stock

15.—(1) The supply of a product, or an offer to supply a product, is not an offence under regulation 4(1), 10(1) or 14(1) if—

- (a) the supply or offer to supply is made within the period of six months beginning with the coming into force date; and
- (b) the person supplying or offering to supply the product obtained the product before the coming into force date.

(2) In paragraph (1), “the coming into force date” means the date on which these Regulations (except for regulation 4(3) and (4)) come into force.

(13) [S.I. 2018/1276](#), to which there are amendments not relevant to these Regulations.

Defence of due diligence for suppliers

16.—(1) Subject to paragraphs (2) and (4), in proceedings for an offence under Parts 2 to 4 of these Regulations it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) P may not rely on a defence under paragraph (1) which involves a third party allegation unless P has—

- (a) served a notice in accordance with paragraph (3); or
- (b) obtained the leave of the court.

(3) The notice must—

- (a) give any information in P’s possession which identifies or assists in identifying the person who—
 - (i) committed the act or default; or
 - (ii) supplied the information on which P relied; and
- (b) be served on the person bringing the proceedings not less than 7 clear days before the hearing of the proceedings.

(4) P may not rely on a defence under paragraph (1) which involves an allegation that the commission of the offence was due to reliance on information supplied by another person unless it was reasonable for P to have relied on the information, having regard in particular to—

- (a) the steps that P took, and those which might reasonably have been taken, for the purposes of verifying the information; and
- (b) whether P had any reason to disbelieve the information.

(5) In this regulation, “third party allegation” means an allegation that the commission of the offence was due to—

- (a) the act or default of another person; or
- (b) reliance on information supplied by another person.

Time limit for the prosecution of offences

17.—(1) An information relating to an offence under Parts 2 to 4 of these Regulations may be tried if it is laid within twelve months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(2) No proceedings are to be brought more than three years after the commission of the offence.

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.

PART 7

Guidance

Guidance

22.—(1) Each regulator must publish guidance about its use of civil sanctions under these Regulations in relation to an offence under Parts 2 to 4.

(2) In the case of guidance relating to a variable monetary penalty, compliance notice or stop notice, the guidance must contain the relevant information set out in paragraph (3).

(3) The relevant information referred to in paragraph (2) is information as to—

- (a) the circumstances in which the penalty or notice is likely to be imposed;
- (b) the circumstances in which it may not be imposed;
- (c) rights to make representations and objections and rights of appeal; and

- (d) in the case of a variable monetary penalty, the matters likely to be taken into account by the regulator in determining the amount of the penalty (including any discounts for voluntary reporting by any person of that person's non-compliance).
- (4) The regulator must revise the guidance where appropriate.
- (5) The regulator must consult such persons as it considers appropriate before publishing any guidance or revised guidance under this regulation.
- (6) The regulator must have regard to the guidance or revised guidance in exercising its functions.

Additional guidance

23.—(1) Guidance under section 64 of the Regulatory Enforcement and Sanctions Act 2008(14) relating to the use of non-compliance penalties and enforcement cost recovery notices must (in addition to the matters specified in section 64(2)) specify—

- (a) the circumstances in which they may not be imposed;
 - (b) matters to be taken into account in determining the amount involved; and
 - (c) rights of appeal.
- (2) In this regulation—
- “enforcement cost recovery notice” has the meaning given by paragraph 27(1) of the Schedule;
- “non-compliance penalty” has the meaning given by paragraph 24(1) of the Schedule.

PART 8

Review

Review

- 24.**—(1) The Secretary of State must—
- (a) as soon as reasonably practicable after the end of the period of three years from the date on which these Regulations come into force carry out a review of the operation of the provisions in Part 6 (enforcement and civil sanctions) and the Schedule;
 - (b) from time to time carry out a review of the regulatory provision contained in these Regulations (including Part 6 and the Schedule); and
 - (c) publish a report setting out the conclusions of any review.
- (2) In the case of a review under paragraph (1)(a)—
- (a) section 67 of the Regulatory Enforcement and Sanctions Act 2008 requires that the review must in particular consider whether the provision has implemented its objectives efficiently and effectively;
 - (b) the Secretary of State, in conducting the review, must consult such persons as the Secretary of State considers appropriate; and
 - (c) the Secretary of State must lay a copy of the report under paragraph (1)(c) before Parliament.
- (3) In the case of a review under paragraph (1)(b)—
- (a) the first report must be published before the expiry of the period ending five years from the date on which these Regulations come into force;

- (b) subsequent reports must be published at intervals not exceeding five years; and
 - (c) section 30(4) of the Small Business, Enterprise and Employment Act 2015(15) requires that a report published under this regulation must, in particular—
 - (i) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(b);
 - (ii) assess the extent to which those objectives are achieved;
 - (iii) assess whether those objectives remain appropriate; and
 - (iv) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (4) In this regulation “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Rebecca Pow
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10th September 2020