



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2023 Rhif 1290 (Cy. 228)

2023 No. 1290 (W. 228)

**DIOGELU'R AMGYLCHEDD,
CYMRU**

**ENVIRONMENTAL
PROTECTION, WALES**

Rheoliadau Gofynion Gwahanu
Gwastraff (Cymru) 2023

The Waste Separation
Requirements (Wales) Regulations
2023

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn nodi'r gofynion gwahanu yng Nghymru at ddibenion adran 45AA o Ddeddf Diogelu'r Amgylchedd 1990 (p. 43) gyda'r nod o sicrhau bod gwastraff yn cael ei reoli mewn modd sy'n hyrwyddo ailgylchu o safon uchel. Mae'r gofynion gwahanu yn gymwys mewn cysylltiad â phob mangre ac eithrio eiddo domestig a charafannau.

Caiff gofynion gwahanu eu pennu mewn perthynas â chyflwyno gwastraff i'w gasglu (rheoliad 3), casglu'r gwastraff hwnnw (rheoliad 4) a thrin gwastraff sydd wedi ei gasglu ar wahân (rheoliad 5).

Diffinnir "ffrydiau gwastraff ailgylchadwy" yn rheoliad 2 i olygu (a) gwydr (b) cartonau a'u tebyg, metel a phlastig (c) papur a cherdyn (d) gwastraff bwyd (e) offer trydanol ac electronig gwastraff bach nas gwerthwyd ac (f) tecstilau nas gwerthwyd. Mae'r is-ffracsiynau gwastraff o fewn pob un o'r ffrydiau gwastraff ailgylchadwy sy'n ddarostyngedig i'r gofynion gwahanu wedi eu nodi yn Atodlen 1.

Mae rheoliad 3 yn ei gwneud yn ofyniad sylfaenol i bob ffrwd wastraff ailgylchadwy gael ei chyflwyno ar wahân er mwyn ei chasglu. Rhaid i'r rheini sy'n casglu gwastraff o'r fath, neu sy'n trefnu iddo gael ei gasglu, gasglu'r ffrydiau gwastraff ailgylchadwy ar wahân (rheoliad 4). Ni chaniateir i'r rheini sydd wedyn yn trin y gwastraff hwnnw ei gymysgu ag unrhyw ffrwd wastraff ailgylchadwy arall na'i gymysgu â mathau eraill o wastraff neu ddeunyddiau neu eitemau eraill (rheoliad 5). Mae rheoliad 2 yn darparu, pan fo

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the separation requirements in Wales for the purposes of section 45AA of the Environmental Protection Act 1990 (c. 43) with the aim of ensuring that waste is managed in a manner that promotes high quality recycling. The separation requirements apply in respect of all premises other than domestic properties and caravans.

Separation requirements are specified in relation to the presentation of waste for collection (regulation 3), the collection of that waste (regulation 4) and the handling of waste that has been separately collected (regulation 5).

"Recyclable waste streams" is defined in regulation 2 as meaning (a) glass (b) cartons and similar, metal and plastic (c) paper and card (d) food waste (e) unsold small waste electrical and electronic equipment and (f) unsold textiles. The waste sub-fractions within each of the recyclable waste streams that are subject to the separation requirements are set out in Schedule 1.

Regulation 3 requires, as a minimum, each recyclable waste stream to be presented separately for collection. Those collecting, or arranging for the collection of, such waste must collect the recyclable waste streams separately (regulation 4). Those who subsequently handle that waste must not mix it with any other recyclable waste stream or with other types of waste or other substances or articles (regulation 5). Regulation 2 provides that, where an occupier of premises takes controlled waste (defined in regulation

meddiannydd mangre yn mynd â gwastraff a reolir (a ddiffinnir yn rheoliad 2) i fan casglu canoledig (er enghraifft, canolfan ailgylchu gwastraff neu fanc casglu) fod hyn yn gyfystyr â “cyflwyno i’w gasglu” o dan y Rheoliadau.

Nid yw’n ofynnol i ysbytai gyflwyno gwastraff ar wahân er mwyn ei gasglu tan 6 Ebrill 2026. Diffinnir “ysbyty” yn rheoliad 2.

Mae’r Rheoliadau hyn yn diwygio adrannau 46 (daliedyddion ar gyfer gwastraff aelwydydd) a 47 (daliedyddion ar gyfer gwastraff masnachol neu ddiwydiannol) o Ddeddf Diogelu’r Amgylchedd 1990 i egluro’r berthynas rhwng gofyniad a osodir gan awdurdod casglu gwastraff yng Nghymru drwy hysbysiad o dan yr adrannau hynny a’r gofynion a nodir yn adran 45AA a’r Rheoliadau hyn.

Mae’r Rheoliadau hyn yn diwygio Rheoliadau Gwastraff (Cymru a Lloegr) 2011 (O.S. 2011/988) er mwyn cyfyngu ar gymhwyso, o ran Cymru, reoliadau 13 (dyletswyddau mewn perthynas â chasglu gwastraff) a 14 (dyletswydd mewn perthynas â gwastraff sydd wedi ei gasglu) o’r Rheoliadau hynny i eiddo domestig a charafannau, fel y’u diffinnir yn adran 75(5)(a) a (b) o Ddeddf Diogelu’r Amgylchedd 1990.

Mae’r troseddau mewn cysylltiad â thorri’r gofynion gwahanu wedi eu cynnwys yn adran 45AA(8) o Ddeddf Diogelu’r Amgylchedd 1990.

Mae cyfundrefn sancsiynau sifil yn cael ei chyflwyno i alluogi’r rheoleiddiwr i osod cosbau ariannol penodedig, cosbau ariannol amrywiadwy a chosbau am beidio â chydymffurfio (rheoliad 6 a pharagraffau 1, 11 a 19 o Atodlen 2). Y rheoleiddiwr, at ddibenion y Rheoliadau hyn, yw Adnoddau Naturiol Cymru.

Mae’r Rheoliadau hyn yn gwneud darpariaeth ar gyfer y weithdrefn sy’n ymwneud â’r sancsiynau sifil, gan gynnwys apelau. Mae apelau o dan y Rheoliadau hyn i’w cyflwyno i’r Tribiwnlys Haen Gyntaf.

Mae Atodlen 2 (paragraffau 25 i 27) yn darparu bod rhaid i Gorff Adnoddau Naturiol Cymru gyhoeddi canllawiau sy’n ymwneud â defnyddio sancsiynau sifil. Rhaid hefyd gyhoeddi canllawiau sy’n ymwneud â defnyddio cosbau am beidio â chydymffurfio a hysbysiadau adennill cost gorfodaeth (paragraff 26). Cyn i unrhyw ganllawiau gael eu cyhoeddi, mae’n ofynnol i’r rheoleiddiwr ymgynghori (paragraff 27). Mae’r Rheoliadau hefyd yn darparu ar gyfer cyhoeddi gwybodaeth ynghylch camau gorfodi a gymerir gan y rheoleiddiwr (paragraff 28 o Atodlen 2). Mae’r rheoleiddiwr yn gallu adennill costau penodol gorfodaeth (paragraff 22 o Atodlen 2) yn achos cosbau ariannol amrywiadwy.

2) to a centralised collection point (for example, a waste recycling centre or a bring bank) this constitutes “presenting for collection” under the Regulations.

Hospitals are not required to present waste separately for collection until 6 April 2026. “Hospital” is defined in regulation 2.

These Regulations amend sections 46 (receptacles for household waste) and 47 (receptacles for commercial or industrial waste) of the Environmental Protection Act 1990 to clarify the relationship between a requirement imposed by a waste collection authority in Wales by notice under those sections and the requirements set out in section 45AA and these Regulations.

These Regulations amend the Waste (England and Wales) Regulations 2011 (S.I. 2011/988) to restrict the application, in relation to Wales, of regulations 13 (duties in relation to collection of waste) and 14 (duty in relation to collected waste) of those Regulations to domestic properties and caravans, as defined in section 75(5)(a) and (b) of the Environmental Protection Act 1990.

The offences in respect of breaches of the separation requirements are contained in section 45AA(8) of the Environmental Protection Act 1990.

A civil sanctions regime is introduced to enable the regulator to impose fixed monetary penalties, variable monetary penalties and non-compliance penalties (regulation 6 and paragraphs 1, 11 and 19 of Schedule 2). The regulator, for the purposes of these Regulations, is Natural Resources Wales.

These Regulations make provision for the procedure relating to the civil sanctions, including appeals. Appeals under these Regulations are to the First-tier Tribunal.

Schedule 2 (paragraphs 25 to 27) provides that guidance relating to the use of civil sanctions must be published by the Natural Resources Body for Wales. Guidance must also be published relating to the use of non-compliance penalties and enforcement cost recovery notices (paragraph 26). Before any guidance is published, the regulator is required to consult (paragraph 27). The Regulations also provide for the publication of information on enforcement action taken by the regulator (paragraph 28 of Schedule 2). The regulator is able to recover certain costs of enforcement (paragraph 22 of Schedule 2) in the case of variable monetary penalties.

Mae'r rheoleiddiwr yn gallu adennill unrhyw gosb ariannol benodedig, unrhyw gosb ariannol amrywiadwy neu unrhyw gosb am beidio â chydymffurfio a osodir gan y rheoleiddiwr o dan y Rheoliadau ynghyd ag unrhyw gosb ariannol am dalu'n hwyr (paragraff 29 o Atodlen 2).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ ac ar wefan Llywodraeth Cymru ar www.llyw.cymru.

The regulator is able to recover any fixed monetary penalty, variable monetary penalty or non-compliance penalty imposed by the regulator under the Regulations together with any financial penalty for late payment (paragraph 29 of Schedule 2).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government at Cathays Park, Cardiff CF10 3NQ and on the Welsh Government website at www.gov.wales.

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Gwastraff (Cymru) 2023**

**The Waste Separation
Requirements (Wales) Regulations
2023**

Gwnaed 29 Tachwedd 2023
Yn dod i rym 6 Ebrill 2024

Made 29 November 2023
Coming into force 6 April 2024

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn(1) drwy arfer y pwerau a roddir gan adran 45AA(6), (7), (10) ac (11) o Ddeddf Diogelu'r Amgylchedd 1990(2), adran 2 o Ddeddf Atal a Rheoli Llygredd 1999(3) ("Deddf 1999") ac adrannau 36(2), 39, 42, 45 a 52 i 55 o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008(4) ("Deddf 2008").

The Welsh Ministers make these Regulations(1) in exercise of the powers conferred by section 45AA(6), (7), (10) and (11) of the Environmental Protection Act 1990(2), section 2 of the Pollution Prevention and Control Act 1999(3) ("the 1999 Act") and sections 36(2), 39, 42, 45 and 52 to 55 of the Regulatory Enforcement and Sanctions Act 2008(4) ("the 2008 Act").

Mae Gweinidogion Cymru wedi ymgynghori yn unol ag adran 2(4) o Ddeddf 1999 ac adrannau 59(3) a 60 o Ddeddf 2008(5).

The Welsh Ministers have consulted in accordance with section 2(4) of the 1999 Act and sections 59(3) and 60 of the 2008 Act(5).

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- (1) Caniateir arfer y pŵer i wneud gorchymnion o dan Ran 3 o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008 (p. 13) er mwyn gwneud rheoliadau yn rhinwedd adran 39 o Ddeddf Deddfwriaeth (Cymru) 2019 (dccc 4).
- (2) 1990 p. 43. Mewnosodwyd adran 45AA gan adran 65 o Ddeddf yr Amgylchedd (Cymru) 2016 (dccc 3).
- (3) 1999 p. 24. Diwygiwyd adran 2 gan O.S. 2013/755 (Cy. 90); mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru, ac eithrio mewn perthynas â chwilio am olew a nwy alltraeth ac elwa arnynt, yn rhinwedd erthygl 3(1) o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 2005 (O.S. 2005/1958). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weiniogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).
- (4) 2008 p. 13. Diwygiwyd adran 36(2) gan adran 21(2)(f) o Ddeddf Menter 2016 (p. 12); diwygiwyd adrannau 39 a 42 gan baragraff 12 o Atodlen 5 i O.S. 2015/664. Diffinnir "prescribed" yn adran 71(1) o Ddeddf 2008.
- (5) Mae adran 71(1) o Ddeddf 2008 yn darparu mai ystyr "relevant authority", mewn perthynas â darpariaeth a wneir o dan Ran 3 neu yn rhinwedd y Rhan honno gan Weiniogion Cymru, yw Gweinidogion Cymru.

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- (1) The power to make orders under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (c. 13) may be exercised to make regulations by virtue of section 39 of the Legislation (Wales) Act 2019 (anaw 4).
- (2) 1990 c. 43. Section 45AA was inserted by section 65 of the Environment (Wales) Act 2016 (anaw 3).
- (3) 1999 c. 24. Section 2, amended by S.I. 2013/755 (W. 90); there are other amending instruments but none is relevant. Functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales, except in relation to offshore oil and gas exploration and exploitation, by virtue of article 3(1) of the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958). Functions of the National Assembly for Wales were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (4) 2008 c. 13. Section 36(2) was amended by section 21(2)(f) of the Enterprise Act 2016 (c. 12); sections 39 and 42 were amended by paragraph 12 of Schedule 5 to S.I. 2015/664. "Prescribed" is defined in section 71(1) of the 2008 Act.
- (5) Section 71(1) of the 2008 Act provides that "relevant authority" means, in relation to provision made under or by virtue of Part 3 by the Welsh Ministers, the Welsh Ministers.

Yn unol ag adran 66 o Ddeddf 2008 mae Gweinidogion Cymru wedi eu bodloni y bydd Cyfoeth Naturiol Cymru (sef y rheoleiddiwr at ddiben y Rheoliadau hyn) yn gweithredu yn unol â'r egwyddorion y cyfeirir atynt yn adran 5(2) o'r Ddeddf honno wrth arfer pŵer a roddir gan y Rheoliadau hyn.

Yn unol ag adran 160A(2) a (5) o Ddeddf Diogelu'r Amgylchedd 1990(1), adran 2(8) o Ddeddf 1999(2) ac adran 61(2) o Ddeddf 2008(3), gosodwyd drafft o'r Rheoliadau hyn gerbron Senedd Cymru ac fe'i cymeradwywyd ganddi drwy benderfyniad.

RHAN 1

Cyflwyniad

Enwi, dod i rym a chymhwys

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gofynion Gwahanu Gwastraff (Cymru) 2023.

(2) Daw'r Rheoliadau hyn i rym ar 6 Ebrill 2024.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn—

mae i “carafân” yr ystyr a roddir i “caravan” gan adran 75(5)(b) o Ddeddf 1990;

ystyr “cartonau a'u tebyg” (“*cartons and similar*”) yw pecynwaith cyfansawdd sy'n seiliedig ar ffibr, sef deunydd pecynwaith sydd wedi ei wneud o bapur-fwrdd neu ffibrau papur, wedi ei lamineiddio â phlastig polythen neu bolypropylen dwysedd isel, ac y gall fod iddo haenau o ddeunyddiau eraill, i ffurfio un uned na ellir ei gwahanu â llaw;

mae “cyflwyno gwastraff i'w gasglu” (“*presenting waste for collection*”) yn cynnwys meddiannydd mangre yn mynd â gwastraff a reolir i fan casglu canoledig;

ystyr “Deddf 1990” (“*the 1990 Act*”) yw Deddf Diogelu'r Amgylchedd 1990;

(1) Mewnosodwyd adran 160A gan adran 63(2) o Ddeddf yr Amgylchedd 2021 (p. 30).

(2) Mae'r cyfeiriad yn adran 2(8) o Ddeddf 1999 at gymeradwyaeth dau Dŷ Senedd y Deyrnas Unedig yn cael effaith mewn perthynas ag arfer swyddogaethau gan Weinidogion Cymru fel pe bai'n gyfeiriad at gymeradwyaeth Senedd Cymru, yn rhinwedd adran 150A(2) o Ddeddf Llywodraeth Cymru 2006 a pharagraff 33 o Atodlen 11 iddi.

(3) Mae'r cyfeiriad yn adran 61(2) o Ddeddf 2008 at Gynulliad Cenedlaethol Cymru bellach yn cael effaith fel cyfeiriad at Senedd Cymru, yn rhinwedd adran 150A(2) o Ddeddf Llywodraeth Cymru 2006.

In accordance with section 66 of the 2008 Act the Welsh Ministers are satisfied that Natural Resources Wales (who is the regulator for the purpose of these Regulations) will act in accordance with the principles referred to in section 5(2) of that Act in exercising a power conferred by these Regulations.

In accordance with section 160A(2) and (5) of the Environmental Protection Act 1990(1), section 2(8) of the 1999 Act(2) and section 61(2) of the 2008 Act(3), a draft of these Regulations has been laid before, and approved by resolution of, Senedd Cymru.

PART 1

Introduction

Title, coming into force and application

1.—(1) The title of these Regulations is the Waste Separation Requirements (Wales) Regulations 2023.

(2) These Regulations come into force on 6 April 2024.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the 1990 Act” (“*Deddf 1990*”) means the Environmental Protection Act 1990;

“caravan” (“*carafân*”) has the meaning given by section 75(5)(b) of the 1990 Act;

“cartons and similar” (“*cartonau a'u tebyg*”) means fibre-based composite packaging, being packaging material which is made of paperboard or paper fibres, laminated with low density polythene or polypropylene plastic, and which may also have layers of other materials, to form a single unit that cannot be separated by hand;

“controlled waste” (“*gwastraff a reolir*”) has the meaning given by section 75(4) of the 1990 Act;

(1) Section 160A was inserted by section 63(2) of the Environment Act 2021 (c. 30).

(2) The reference in section 2(8) of the 1999 Act to approval by each House of Parliament has effect in relation to the exercise of functions by the Welsh Ministers as if it were a reference to approval by Senedd Cymru, by virtue of section 150A(2) of, and paragraph 33 of Schedule 11 to, the Government of Wales Act 2006.

(3) The reference in section 61(2) of the 2008 Act to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006.

mae i “eiddo domestig” yr ystyr a roddir i “domestic property” gan adran 75(5)(a) o Ddeddf 1990;

ystyr “ffrydiau gwastraff ailgylchadwy” (“*recyclable waste streams*”) yw—

- (a) gwydr;
- (b) cartonau a’u tebyg, metel a phlastig;
- (c) papur a cherdyn;
- (d) gwastraff bwyd;
- (e) offer trydanol ac electronig gwastraff bach nas gwerthwyd;
- (f) tecstilau nas gwerthwyd,

y mae pob un ohonynt wedi ei ffurfio gan yr isffracsiynau gwastraff a restrir yn Atodlen 1, ac ystyr “ffrwd wastraff ailgylchadwy” yw pob ffrwd unigol a restrir ym mharagraffau (a) i (f);

mae i “gwastraff a reolir” yr ystyr a roddir i “controlled waste” gan adran 75(4) o Ddeddf 1990;

mae i “gwastraff bwyd” yr ystyr a roddir i “food waste” gan adran 34D(5) o Ddeddf 1990, ond nid yw’n cynnwys—

- (a) sgil-gynhyrchion anifeiliaid sy’n ffurfio deunydd Categori 1 fel y’i rhestrir yn Erthygl 8, neu ddeunydd Categori 2 fel y’i rhestrir yn Erthygl 9, o Reoliad (EC) Rhif 1069/2009 Senedd Ewrop a’r Cyngor sy’n gosod rheolau iechyd ynghylch sgil-gynhyrchion anifeiliaid a chynhyrchion sy’n deillio o anifeiliaid nas bwriedir i’w bwyta gan bobl(1),
- (b) gwastraff bwyd o fangre sy’n cynhyrchu llai na 5 cilogram o wastraff bwyd mewn saith niwrnod olynol, nac
- (c) unrhyw wastraff sydd wedi ei gategoreiddio’n wastraff peryglus o dan reoliad 6 o Reoliadau Gwastraff Peryglus (Cymru) 2005(2) neu sy’n cynnwys gweddillion gwastraff neu sylweddau sydd wedi eu categorio’n wastraff neu sylweddau peryglus o dan reoliad 6 o’r Rheoliadau hynny, neu unrhyw wastraff sydd wedi ei halogi gan wastraff neu sylweddau o’r fath;

nid yw “mangre” (“*premises*”) yn cynnwys eiddo domestig na charafán;

ystyr “nas gwerthwyd” (“*unsold*”) yw cynnyrch treulwyr nas defnyddiwyd, mewn ffatri, mangre fanwerthu, cyfanwerthwr, warws neu fangre arall,

“domestic property” (“*eiddo domestig*”) has the meaning given by section 75(5)(a) of the 1990 Act;

“electrical and electronic equipment” (“*offer trydanol ac electronig*”) means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1,000 volts for alternating current and 1,500 volts for direct current;

“food waste” (“*gwastraff bwyd*”) has the meaning given by section 34D(5) of the 1990 Act, but does not include—

- (a) animal by-products comprising Category 1 material as listed in Article 8, or Category 2 material as listed in Article 9, of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption(1),
- (b) food waste from premises that produce less than 5 kilogrammes of food waste in seven consecutive days, or
- (c) any waste categorised as hazardous under regulation 6 of the Hazardous Waste (Wales) Regulations 2005(2) or containing residues of, or contaminated by, waste or substances categorised as hazardous under regulation 6 of those Regulations;

“premises” (“*mangre*”) does not include a domestic property or a caravan;

“presenting waste for collection” (“*cyflwyno gwastraff i’w gasglu*”) includes an occupier of premises taking controlled waste to a centralised collection point;

“recyclable waste streams” (“*ffrydiau gwastraff ailgylchadwy*”) means—

- (a) glass;
- (b) cartons and similar, metal and plastic;
- (c) paper and card;
- (d) food waste;
- (e) unsold small waste electrical and electronic equipment;
- (f) unsold textiles,

(1) EUR 2009/1069, a ddiwygiwyd gan O.S. 2020/1388, mae offerynnau diwygio eraill ond nid yw’r un ohonynt yn berthnasol.
(2) O.S. 2005/1806 (Cy. 138), a ddiwygiwyd gan O.S. 2020/1339 (Cy. 296).

(1) EUR 2009/1069, amended by S.I. 2020/1388, there are other amending instruments but none is relevant.
(2) S.I. 2005/1806 (W. 138), amended by S.I. 2020/1339 (W. 296).

nad yw wedi ei werthu i dreuliwr neu sydd wedi ei werthu i dreuliwr a'i ddychwelyd gan dreuliwr;

ystyr “offer trydanol ac electronig” (“*electrical and electronic equipment*”) yw offer sy'n ddibynnol ar geryntau trydan neu feysydd electromagnetig er mwyn gweithio'n gywir ac offer ar gyfer cynhyrchu, trosglwyddo a mesur ceryntau a meysydd o'r fath ac a ddyluniwyd i'w defnyddio â graddiad foltedd nad yw'n fwy na 1,000 o foltiau ar gyfer cerrynt eiledol a 1,500 o foltiau ar gyfer cerrynt union;

ystyr “offer trydanol ac electronig gwastraff bach” (“*small waste electrical and electronic equipment*”) yw offer trydanol ac electronig sy'n dod o fewn un o'r categorïau o offer trydanol ac electronig a restrir yn Atodlen 3 i Reoliadau Offer Trydanol ac Electronig Gwastraff 2013(1), ac eithrio eitemau sydd ag unrhyw ddimensiwn allanol sy'n fwy na 50 o gentimetrau;

ystyr “rheoleiddiwr” (“*regulator*”) yw Cyfoeth Naturiol Cymru.

each comprising of the waste sub-fractions listed in Schedule 1, and “recyclable waste stream” means each of the individual streams listed in paragraphs (a) to (f);

“regulator” (“*rheoleiddiwr*”) means Natural Resources Wales;

“small waste electrical and electronic equipment” (“*offer trydanol ac electronig gwastraff bach*”) means electrical and electronic equipment falling within one of the categories of EEE listed in Schedule 3 to the Waste Electrical and Electronic Equipment Regulations 2013(1), excluding items with any external dimension of more than 50 centimetres;

“unsold” (“*nas gwerthwyd*”) means an unused consumer product, in a factory, retail premises, wholesaler, warehouse or other premises, that has not been sold to a consumer or has been sold and returned by a consumer.

RHAN 2

Y Gofynion Gwahanu

Dyletswyddau mewn perthynas â chyflwyno gwastraff

3.—(1) At ddibenion adran 45AA(4) o Ddeddf 1990, y gofynion gwahanu yw bod rhaid i bob ffrwd wastraff ailgylchadwy, fel gofyniad sylfaenol, gael ei chyflwyno i'w chasglu ar wahân i unrhyw ffrwd wastraff ailgylchadwy arall ac i fathau eraill o wastraff a reolir neu ddeunyddiau neu eitemau eraill.

(2) Er gwaethaf rheoliad 3(1), caniateir i wastraff bwyd o fewn ei becynwaith gwreiddiol gael ei gyflwyno i'w gasglu o fewn ffrwd wastraff ailgylchadwy gwastraff bwyd ar yr amod nad yw'n rhesymol ymarferol i'r meddiannydd wahanu'r gwastraff bwyd o'i becynwaith gwreiddiol ac y bydd y gwastraff yn cael ei gludo i gyfleuster, a'i brosesu mewn cyfleuster, ar gyfer—

- (a) ei baratoi i'w aildddefnyddio, neu
- (b) ei ailgylchu.

(3) Nid yw paragraff (1) yn gymwys i—

- (a) meddiannydd ysbyty tan 6 Ebrill 2026;

PART 2

Separation Requirements

Duties in relation to presentation of waste

3.—(1) For the purposes of section 45AA(4) of the 1990 Act, the separation requirements are that each recyclable waste stream must, as a minimum, be presented for collection separately from any other recyclable waste stream and from other types of controlled waste or other substances or articles.

(2) Notwithstanding regulation 3(1), food waste within its original packaging may be presented for collection within the food waste recyclable waste stream provided that it is not reasonably practicable for the occupier to separate the food waste from its original packaging and that waste will be taken to and processed at a facility for—

- (a) preparation for re-use, or
- (b) recycling.

(3) Paragraph (1) does not apply to—

- (a) an occupier of a hospital until 6 April 2026;

(1) O.S. 2013/3113, a ddiwygiwyd gan O.S. 2018/1214.

(1) S.I. 2013/3113, amended by S.I. 2018/1214.

- (b) gwastraff a reolir a gesglir gan awdurdod lleol o ran unrhyw briffordd berthnasol y mae gan awdurdod lleol ddyletswydd mewn cysylltiad â hi o dan adran 89(1)(a) o Ddeddf 1990 i sicrhau bod y tir, cyhyd ag y bo'n ymarferol, yn cael ei gadw'n glir o sbwriel a sorod;
- (c) gwastraff a reolir a gesglir gan brif awdurdod sbwriel o ran ei dir perthnasol y mae gan brif awdurdod sbwriel ddyletswydd mewn cysylltiad ag ef o dan adran 89(1)(c) o Ddeddf 1990 i sicrhau bod y tir, cyhyd ag y bo'n ymarferol, yn cael ei gadw'n glir o sbwriel a sorod.

(4) Yn y rheoliad hwn—

ystyr “ailgylchu” (“*recycling*”) yw unrhyw weithrediad adfer y mae deunyddiau gwastraff yn cael eu hailbroseu drwyddo yn gynhyrchion, yn ddeunyddiau neu'n sylweddau pa un ai at y diben gwreiddiol neu at ddibenion eraill. Mae'n cynnwys ailbroseu deunydd organig ond nid yw'n cynnwys adfer ynni ac ailbroseu'n ddeunyddiau sydd i'w defnyddio fel tanwyddau neu ar gyfer gweithrediadau ôl-lenwi;

ystyr “paratoi i'w aildefnyddio” (“*preparation for re-use*”) yw gweithrediadau adfer gwirio, glanhau neu atgyweirio, y mae cynhyrchion neu gydrannau cynhyrchion sydd wedi dod yn wastraff yn cael eu paratoi drwyddynt fel y gellir eu defnyddio drachefn at yr un diben y'u crëwyd ato heb unrhyw ragbroseu;

mae i “prif awdurdod sbwriel”, “priffordd berthnasol” a “tir perthnasol” yr ystyron a roddir i “principal litter authority”, “relevant highway” a “relevant land”, yn y drefn honno, gan adran 86 o Ddeddf 1990;

mae i “ysbyty” yr ystyr a roddir i “hospital” gan adran 206(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006(1).

Dyletswyddau mewn perthynas â chasglu gwastraff

4. At ddibenion adran 45AA(1) a (2)(a) o Ddeddf 1990, y gofynion gwahanu yw bod rhaid i bob ffrwd wastraff ailgylchadwy sydd wedi ei chyflwyno ar wahân er mwyn ei chasglu o dan reoliad 3, fel gofyniad sylfaenol, gael ei chasglu ar wahân i unrhyw ffrwd wastraff ailgylchadwy arall ac i fathau eraill o wastraff a reolir neu ddeunyddiau neu eitemau eraill.

- (b) controlled waste collected by a local authority as respects any relevant highway in respect of which a local authority has a duty under section 89(1)(a) of the 1990 Act to ensure that the land is, so far as is practicable, kept clear of litter and refuse;
- (c) controlled waste collected by a principal litter authority as respects its relevant land in respect of which a principal litter authority has a duty under section 89(1)(c) of the 1990 Act to ensure that the land is, so far as is practicable, kept clear of litter and refuse.

(4) In this regulation—

“hospital” (“*ysbyty*”) has the meaning given by section 206(1) of the National Health Service (Wales) Act 2006(1);

“preparation for re-use” (“*paratoi i'w aildefnyddio*”) means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be used again for the same purpose for which they were conceived without any pre-processing;

“principal litter authority” (“*prif awdurdod sbwriel*”), “relevant highway” (“*priffordd berthnasol*”) and “relevant land” (“*tir perthnasol*”) have the meanings given by section 86 of the 1990 Act;

“recycling” (“*ailgylchu*”) means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.

Duties in relation to collection of waste

4. For the purposes of section 45AA(1) and (2)(a) of the 1990 Act, the separation requirements are that each recyclable waste stream that has been presented separately for collection under regulation 3 must, as a minimum, be collected separately from any other recyclable waste stream and from other types of controlled waste or other substances or articles.

(1) 2006 p. 42.

(1) 2006 c. 42.

Dyletswyddau mewn perthynas â gwastraff sydd wedi ei gasglu

5.—(1) At ddibenion adran 45AA(2)(b) o Ddeddf 1990, y gofynion gwahanu yw, pan fo gwastraff a reolir wedi ei gasglu ar wahân o fangre, na chaniateir i berson sy'n gweithredu yng nghwrs busnes sy'n cael y gwastraff hwnnw, sy'n ei gadw, sy'n ei drin neu sy'n ei gludo gymysgu'r gwastraff hwnnw ag unrhyw ffrwd wastraff ailgylchadwy arall na'i gymysgu â mathau eraill o wastraff neu ddeunyddiau neu eitemau eraill.

(2) Yn y rheoliad hwn, mae i "person sy'n gweithredu yng nghwrs busnes" yr ystyr a roddir i "person acting in the course of a business" gan adran 45AA(3) o Ddeddf 1990.

RHAN 3

Sanctsiynau Sifil

Sanctsiynau sifil

6. Mae Atodlen 2 (sanctsiynau sifil) yn gwneud darpariaeth ynghylch y sanctsiynau sifil y caniateir eu gosod at ddiben gorfodi trosedd o dan adran 45AA(8) o Ddeddf 1990.

RHAN 4

Diwygiadau i Ddeddf 1990 a Rheoliadau Gwastraff (Cymru a Lloegr) 2011

Diwygio Deddf 1990: Cymru

7. Mae Deddf 1990 wedi ei diwygio fel a ganlyn.

8. Yn adran 46 (deiliadyddion ar gyfer gwastraff aelwydydd), ar ôl is-adran (5) mewnosoder—

“(5A) A requirement imposed on an occupier by a waste collection authority in Wales by a notice under this section does not apply so far as the requirement duplicates or conflicts with a requirement imposed on the occupier under section 45AA(4).”

9. Yn adran 47 (deiliadyddion ar gyfer gwastraff masnachol neu ddiwydiannol), ar ôl is-adran (5) mewnosoder—

“(5A) A requirement imposed on an occupier by a waste collection authority in Wales by a notice under this section does not apply so far as the requirement duplicates or conflicts with a requirement imposed on the occupier under section 45AA(4).”

Duties in relation to collected waste

5.—(1) For the purposes of section 45AA(2)(b) of the 1990 Act, the separation requirements are that, where controlled waste has been separately collected from premises, a person acting in the course of a business who receives, keeps, treats or transports that waste must not mix that waste with any other recyclable waste stream or with other types of waste or other substances or articles.

(2) In this regulation, “person acting in the course of a business” has the meaning given by section 45AA(3) of the 1990 Act.

PART 3

Civil Sanctions

Civil sanctions

6. Schedule 2 (civil sanctions) makes provision about the civil sanctions that may be imposed for the purpose of the enforcement of an offence under section 45AA(8) of the 1990 Act.

PART 4

Amendments to the 1990 Act and the Waste (England and Wales) Regulations 2011

Amendments to the 1990 Act: Wales

7. The 1990 Act is amended as follows.

8. In section 46 (receptacles for household waste), after subsection (5) insert—

“(5A) A requirement imposed on an occupier by a waste collection authority in Wales by a notice under this section does not apply so far as the requirement duplicates or conflicts with a requirement imposed on the occupier under section 45AA(4).”

9. In section 47 (receptacles for commercial or industrial waste), after subsection (5) insert—

“(5A) A requirement imposed on an occupier by a waste collection authority in Wales by a notice under this section does not apply so far as the requirement duplicates or conflicts with a requirement imposed on the occupier under section 45AA(4).”

Diwygio Rheoliadau Gwastraff (Cymru a Lloegr) 2011: Cymru

10. Mae Rheoliadau Gwastraff (Cymru a Lloegr) 2011(1) wedi eu diwygio fel a ganlyn.

11. Yn rheoliad 13 (dyletswyddau mewn perthynas â chasglu gwastraff), o flaen paragraff (2) mewnosoder—

“(1A) In relation to Wales, paragraphs (2) to (4) apply in relation to the collection of waste from a domestic property or a caravan.”

12. Yn rheoliad 14 (dyletswydd mewn perthynas â gwastraff sydd wedi ei gasglu), o flaen paragraff (1) mewnosoder—

“(A1) In relation to Wales, paragraphs (1) and (2) apply in relation to separately collected waste from a domestic property or a caravan.”

13. Ar ôl rheoliad 15 (canllawiau) mewnosoder—

“Interpretation: Wales

15A. For the purposes of regulations 13 and 14, in relation to Wales—

“caravan” has the meaning given by section 75(5)(b) of the Environmental Protection Act 1990;

“domestic property” has the meaning given by section 75(5)(a) of the Environmental Protection Act 1990.”

Amendments to the Waste (England and Wales) Regulations 2011: Wales

10. The Waste (England and Wales) Regulations 2011(1) are amended as follows.

11. In regulation 13 (duties in relation to collection of waste), before paragraph (2) insert—

“(1A) In relation to Wales, paragraphs (2) to (4) apply in relation to the collection of waste from a domestic property or a caravan.”

12. In regulation 14 (duty in relation to collected waste), before paragraph (1) insert—

“(A1) In relation to Wales, paragraphs (1) and (2) apply in relation to separately collected waste from a domestic property or a caravan.”

13. After regulation 15 (guidance) insert—

“Interpretation: Wales

15A. For the purposes of regulations 13 and 14, in relation to Wales—

“caravan” has the meaning given by section 75(5)(b) of the Environmental Protection Act 1990;

“domestic property” has the meaning given by section 75(5)(a) of the Environmental Protection Act 1990.”

Julie James

Y Gweinidog Newid Hinsawdd, un o Weinidogion
Cymru
29 Tachwedd 2023

Minister for Climate Change, one of the Welsh
Ministers
29 November 2023

(1) O.S. 2011/988, yr offerynnau diwygio perthnasol yw O.S. 2012/1889, 2020/904.

(1) S.I. 2011//988; relevant amending instruments are S.I. 2012/1889, 2020/904.

YR ATODLENNI

ATODLEN 1 Rheoliad 2

Is-ffracsiynau gwastraff sy'n ffurfio pob ffrwd wastraff ailgylchadwy

Gwydr

Jariau gwydr a ddefnyddir fel pecynwaith

Poteli gwydr a ddefnyddir fel pecynwaith

ond gan eithrio unrhyw wastraff sydd wedi ei gategoreiddio'n wastraff peryglus o dan reoliad 6 o Reoliadau Gwastraff Peryglus (Cymru) 2005 neu sy'n cynnwys gweddillion gwastraff neu sylweddau sydd wedi eu categorio'n wastraff neu sylweddau peryglus o dan reoliad 6 o'r Rheoliadau hynny, neu unrhyw wastraff sydd wedi ei halogi gan wastraff neu sylweddau o'r fath

Cartonau a'u tebyg, metel a phlastig

Cartonau a'u tebyg

Pecynwaith cyfansawdd sy'n seiliedig ar ffibr, sef deunydd pecynwaith sydd wedi ei wneud o bapur-fwrdd neu ffibrau papur, wedi ei lamio â phlastig polythen neu bolypropylen dwysedd isel, ac y gall fod iddo haenau o ddeunyddiau eraill, i ffurfio un uned na ellir ei gwahanu â llaw, yn gyfyngedig i'r canlynol:

Cartonau

Cwpanau diod papur sydd â haen blastig bolythen neu bolypropylen dwysedd isel

Cynwysyddion papur anhyblyg

ond gan eithrio unrhyw wastraff sydd wedi ei gategoreiddio'n wastraff peryglus o dan reoliad 6 o Reoliadau Gwastraff Peryglus (Cymru) 2005 neu sy'n cynnwys gweddillion gwastraff neu sylweddau sydd wedi eu categorio'n wastraff neu sylweddau peryglus o dan reoliad 6 o'r Rheoliadau hynny, neu unrhyw wastraff sydd wedi ei halogi gan wastraff neu sylweddau o'r fath

Metel

Aerosolau dur ac alwminiwm

Cacadau a chapiau jariau a photeli dur ac alwminiwm

Ffoil alwminiwm

Hambyrddau bwyd alwminiwm

Tiwbiau alwminiwm

Tuniau a chaniau dur ac alwminiwm

SCHEDULES

SCHEDULE 1 Regulation 2

Waste sub-fractions comprising each recyclable waste stream

Glass

Glass bottles used as packaging

Glass jars used as packaging

but excluding any waste categorised as hazardous under regulation 6 of the Hazardous Waste (Wales) Regulations 2005 or containing residues of, or contaminated by, waste or substances categorised as hazardous under regulation 6 of those Regulations

Cartons and similar, metal and plastic

Cartons and similar

Fibre-based composite packaging, being packaging material which is made of paperboard or paper fibres, laminated with low density polythene or polypropylene plastic, and which may also have layers of other materials, to form a single unit that cannot be separated by hand, limited to:

Cartons

Paper drinks cups with a low density polythene or polypropylene plastic layer

Rigid paper containers

but excluding any waste categorised as hazardous under regulation 6 of the Hazardous Waste (Wales) Regulations 2005 or containing residues of, or contaminated by, waste or substances categorised as hazardous under regulation 6 of those Regulations

Metal

Aluminium foil

Aluminium food trays

Aluminium tubes

Steel and aluminium aerosols

Steel and aluminium jar and bottle lids and caps

Steel and aluminium tins and cans

ond gan eithrio unrhyw wastraff sydd wedi ei gategoreiddio'n wastraff peryglus o dan reoliad 6 o Reoliadau Gwastraff Peryglus (Cymru) 2005 neu sy'n cynnwys gweddillion gwastraff neu sylweddau sydd wedi eu categorio'n wastraff neu sylweddau peryglus o dan reoliad 6 o'r Rheoliadau hynny, neu unrhyw wastraff sydd wedi ei halogi gan wastraff neu sylweddau o'r fath

Plastig

Pecynwaith plastig polyethylen tereffthalad amorffaid a pholyethylen tereffthalad crisialog yn cynnwys potiau, tybiau, hambyrddau, caeadau anhyblyg a lled anhyblyg a chwpanau clir ac eithrio pan fo'r plastig yn cynnwys pigment du carbon fel nad yw'n ganfyddadwy yn isgoch agos

Pecynwaith plastig polypropylen a pholypropylen wedi ei ehangu yn cynnwys potiau, tybiau, hambyrddau, caeadau anhyblyg a lled anhyblyg a chwpanau clir ac eithrio pan fo'r plastig yn cynnwys pigment du carbon fel nad yw'n ganfyddadwy yn isgoch agos

Pecynwaith polyethylen dwysedd uchel a pholyethylen dwysedd isel yn cynnwys potiau, tybiau, hambyrddau, a chaeadau anhyblyg a lled anhyblyg ac eithrio pan fo'r plastig yn cynnwys pigment du carbon fel nad yw'n ganfyddadwy yn isgoch agos

Poteli plastig polyethylen tereffthalad amorffaid ac eithrio pan fo'r plastig yn cynnwys pigment du carbon fel nad yw'n ganfyddadwy yn isgoch agos

Poteli, pypiau a thrigerau plastig polyethylen dwysedd uchel a pholyethylen dwysedd isel ac eithrio pan fo'r plastig yn cynnwys pigment du carbon fel nad yw'n ganfyddadwy yn isgoch agos

Poteli, pypiau a thrigerau plastig polypropylen ac eithrio pan fo'r plastig yn cynnwys pigment du carbon fel nad yw'n ganfyddadwy yn isgoch agos

Tiwbiau pecynwaith plastig polyethylen a pholypropylen ac eithrio:

pan fônt yn llai na 50x50mm;

pan fônt wedi cynnwys cynhyrchion a ddefnyddir mewn gwaith adeiladu;

pan fo ganddynt haen fetel, neu

pan fônt yn blastig amlfonomer

ond gan eithrio unrhyw wastraff sydd wedi ei gategoreiddio'n wastraff peryglus o dan reoliad 6 o Reoliadau Gwastraff Peryglus (Cymru) 2005 neu sy'n cynnwys gweddillion gwastraff neu sylweddau sydd wedi eu categorio'n wastraff neu sylweddau peryglus o dan reoliad 6 o'r Rheoliadau hynny, neu unrhyw wastraff sydd wedi ei halogi gan wastraff neu sylweddau o'r fath

but excluding any waste categorised as hazardous under regulation 6 of the Hazardous Waste (Wales) Regulations 2005 or containing residues of, or contaminated by, waste or substances categorised as hazardous under regulation 6 of those Regulations

Plastic

Amorphous polyethylene terephthalate and crystallised polyethylene terephthalate plastic packaging comprising pots, tubs, trays, rigid and semi-rigid lids and clear cups except where the plastic contains carbon black pigment so that it is not near infrared detectable

Amorphous polyethylene terephthalate plastic bottles except where the plastic contains carbon black pigment so that it is not near infrared detectable

High density polyethylene and low density polyethylene packaging comprising pots, tubs, trays and rigid and semi-rigid lids except where the plastic contains carbon black pigment so that it is not near infrared detectable

High density polyethylene and low density polyethylene plastic bottles, pumps and triggers except where the plastic contains carbon black pigment so that it is not near infrared detectable

Polypropylene and expanded polypropylene plastic packaging comprising pots, tubs, trays, rigid and semi-rigid lids and clear cups except where the plastic contains carbon black pigment so that it is not near infrared detectable

Polyethylene and polypropylene plastic packaging tubes except:

where they are less than 50x50mm,

where they have contained products used in construction works,

where they have a metal layer, or

where they are multi-monomer plastic

Polypropylene plastic bottles, pumps and triggers except where the plastic contains carbon black pigment so that it is not near infrared detectable

but excluding any waste categorised as hazardous under regulation 6 of the Hazardous Waste (Wales) Regulations 2005 or containing residues of, or contaminated by, waste or substances categorised as hazardous under regulation 6 of those Regulations

Papur a cherdyn

Yr holl bapur a cherdyn ac eithrio:

Amlenni clustogog wedi eu leinio â pholyethylen

Cardiau crafu

Cwyr, silicon, papurau gwrthsaim

Derbynebaw til

Llyfrau clawr caled

Papur a cherdyn sydd wedi eu halogi â bwyd, paent, olew neu sailm

Papur a cherdyn sy'n cynnwys gliter neu ffoil

Papur a cherdyn wedi ei lamineiddio

Papur wal

Papur wedi ei ddarnio

Pecynwaith cyfansawdd sy'n seiliedig ar ffibr, sef deunydd pecynwaith sydd wedi ei wneud o bapur-fwrdd neu ffibrau papur, wedi ei lamineiddio â phlastig, ac y gall fod iddo haenau o ddeunyddiau eraill hefyd, i ffurfio un uned na ellir ei gwahanu â llaw

Sticeri a nodiadau gludiog

Tyweli papur, hancesi papur, weipiau gwlyb, papur cegin

a chan eithrio hefyd unrhyw bapur neu gerdyn gwastraff sydd wedi eu categorio'n wastraff peryglus o dan reoliad 6 o Reoliadau Gwastraff Peryglus (Cymru) 2005 neu sy'n cynnwys gweddillion gwastraff neu sylweddau sydd wedi eu categorio'n wastraff neu sylweddau peryglus o dan reoliad 6 o'r Rheoliadau hynny, neu unrhyw bapur neu gerdyn gwastraff sydd wedi eu halogi gan wastraff neu sylweddau o'r fath

Gwastraff bwyd

Pob gwastraff bwyd (gweler y diffiniad o "gwastraff bwyd" yn rheoliad 2)

Offer trydanol ac electronig gwastraff bach nas gwerthwyd

Pob offer trydanol ac electronig gwastraff bach nas gwerthwyd (gweler y diffiniadau o "offer trydanol ac electronig gwastraff bach" ac "nas gwerthwyd" yn rheoliad 2), ond gan eithrio unrhyw wastraff sydd wedi ei halogi gan wastraff neu sylweddau sydd wedi eu categorio'n wastraff neu sylweddau peryglus o dan reoliad 6 o Reoliadau Gwastraff Peryglus (Cymru) 2005

Paper and card

All paper and card except:

Fibre-based composite packaging, being packaging material which is made of paperboard or paper fibres, laminated with plastic, and which may also have layers of other materials, to form a single unit that cannot be separated by hand

Hardback books

Padded polyethylene lined envelopes

Paper and card containing glitter or foil

Paper and card contaminated with food, paint, oil or grease

Paper and card that has been laminated

Paper towels, tissues, wet wipes, kitchen roll

Scratch cards

Shredded paper

Stickers and sticky notes

Till receipts

Wallpaper

Wax, silicone, greaseproof papers

and also excluding any waste paper or card categorised as hazardous under regulation 6 of the Hazardous Waste (Wales) Regulations 2005 or containing residues of, or contaminated by, waste or substances categorised as hazardous under regulation 6 of those Regulations

Food waste

All food waste (see definition of "food waste" in regulation 2)

Unsold small waste electrical and electronic equipment

All unsold small waste electrical and electronic equipment (see definitions of "small waste electrical and electronic equipment" and "unsold" in regulation 2), but excluding any waste contaminated by waste or substances categorised as hazardous under regulation 6 of the Hazardous Waste (Wales) Regulations 2005

Tecstilau nas gwerthwyd

Dillad

Pecynwaith sydd wedi ei wneud o decstilau

Tecstilau nad ydynt yn ddillad gan gynnwys carpedi a theils carped, tecstilau hamdden (fel pebyll a tharpolinau), matresi, rygiau, deunyddiau dodrefnu meddal (fel llenni, cynfasau gwely, blancedi, dwfes, clustogau, tyweli), isgarped

ond gan eithrio unrhyw wastraff sydd wedi ei gategoreiddio'n wastraff peryglus o dan reoliad 6 o Reoliadau Gwastraff Peryglus (Cymru) 2005 neu sy'n cynnwys gweddillion gwastraff neu sylweddau sydd wedi eu categorio'n wastraff neu sylweddau peryglus o dan reoliad 6 o'r Rheoliadau hynny, neu unrhyw wastraff sydd wedi ei halogi gan wastraff neu sylweddau o'r fath

ATODLEN 2 Rheoliad 6 **Sanctsiynau sifil**

RHAN 1

Cosbau ariannol benodedig

Gosod cosb ariannol benodedig

1.—(1) Caiff y rheoleiddiwr drwy hysbysiad osod cosb ariannol benodedig ar berson (“cosb ariannol benodedig”) mewn perthynas â throsedd o dan adran 45AA(8) o Ddeddf 1990.

(2) Cyn gwneud hynny, rhaid i'r rheoleiddiwr fod wedi ei fodloni y tu hwnt i amheuaeth resymol fod y person wedi cyflawni'r drosedd.

(3) Mae swm y gosb sydd i'w thalu i'r rheoleiddiwr wedi ei phennu yn y tabl yn Rhan 2 o'r Atodlen hon.

Hysbysiad o fwriad

2.—(1) Pan fo'r rheoleiddiwr yn cynnig gosod cosb ariannol benodedig ar berson, rhaid i'r rheoleiddiwr gyflwyno hysbysiad o'r hyn a gynigir (“hysbysiad o fwriad”) i'r person hwnnw.

(2) Rhaid i'r hysbysiad o fwriad gynnwys—

- (a) y seiliau dros y cynnig i osod y gosb;
- (b) swm y gosb;

Unsold textiles

Clothing

Non-clothing textiles including carpets and carpet tiles, leisure textiles (such as tents and tarpaulins), mattresses, rugs, soft furnishings (such as curtains, bedsheets, blankets, duvets, pillows, towels), underlay

Packaging made from textiles

but excluding any waste categorised as hazardous under regulation 6 of the Hazardous Waste (Wales) Regulations 2005 or containing residues of, or contaminated by, waste or substances categorised as hazardous under regulation 6 of those Regulations

SCHEDULE 2 Regulation 6 **Civil sanctions**

PART 1

Fixed monetary penalties

Imposition of a fixed monetary penalty

1.—(1) The regulator may by notice impose a fixed monetary penalty on a person (“fixed monetary penalty”) in relation to an offence under section 45AA(8) of the 1990 Act.

(2) Before doing so, the regulator must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) The amount of penalty to be paid to the regulator is specified in the table in Part 2 of this Schedule.

Notice of intent

2.—(1) Where the regulator proposes to impose a fixed monetary penalty on a person, the regulator must serve on that person a notice of what is proposed (“notice of intent”).

(2) The notice of intent must include—

- (a) the grounds for the proposal to impose the penalty;
- (b) the amount of the penalty;

- (c) datganiad y gellir cael rhyddhad rhag atebolrwydd am y gosb drwy dalu 50% o'r gosb o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad;
- (d) gwybodaeth am—
 - (i) effaith y taliad rhyddhau hwnnw;
 - (ii) yr hawl i gyflwyno sylwadau a gwrthwynebiadau o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad o fwriad;
 - (iii) ym mha amgylchiadau na chaiff y rheoleiddiwr osod y gosb (gan gynnwys unrhyw amddiffyniadau sy'n ymwneud â'r drosedd y cyflwynir yr hysbysiad mewn perthynas â hi).

- (c) a statement that liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day on which the notice was received;
- (d) information as to—
 - (i) the effect of that discharge payment;
 - (ii) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;
 - (iii) the circumstances in which the regulator must not impose the penalty (including any defences relating to the offence in relation to which the notice is served).

Rhyddhau rhag atebolrwydd

3. Caiff y gosb ei rhyddhau os yw person sy'n cael hysbysiad o fwriad yn talu 50% o swm y gosb o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad.

Discharge of liability

3. The penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received.

Cyflwyno sylwadau a gwrthwynebiadau

4. Caiff person y cyflwynir hysbysiad o fwriad iddo, o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad, gyflwyno sylwadau a gwrthwynebiadau ysgrifenedig i'r rheoleiddiwr mewn perthynas â'r cynnig i osod y gosb ariannol benodedig.

Making representations and objections

4. A person on whom a notice of intent is served may, within 28 days beginning with the day on which the notice was received, make written representations and objections to the regulator in relation to the proposed imposition of the fixed monetary penalty.

Cyflwyno hysbysiad terfynol

5.—(1) Os nad yw'r person sydd wedi cael hysbysiad o fwriad yn ei ryddhau ei hun rhag atebolrwydd o fewn 28 o ddiwrnodau, caiff y rheoleiddiwr gyflwyno hysbysiad terfynol ("hysbysiad terfynol") sy'n gosod cosb ariannol benodedig.

Service of final notice

5.—(1) If the person who has received a notice of intent does not discharge liability within 28 days the regulator may serve a final notice ("final notice") imposing a fixed monetary penalty.

(2) Ni chaiff y rheoleiddiwr gyflwyno hysbysiad terfynol i berson pan fo'r rheoleiddiwr wedi ei fodloni na fyddai'r person, oherwydd unrhyw amddiffyniad, yn agored i gael ei euogfarnu o'r drosedd y mae'r hysbysiad yn ymwneud â hi.

(2) The regulator must not serve a final notice on a person where the regulator is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

(3) Ni chaiff y rheoleiddiwr sy'n cyflwyno hysbysiad terfynol sy'n ymwneud â chosb ariannol benodedig gyflwyno unrhyw hysbysiad arall o dan y Rheoliadau hyn mewn perthynas â'r drosedd.

(3) The regulator who serves a final notice relating to a fixed monetary penalty must not serve any other notice under these Regulations in relation to the offence.

Cynnwys hysbysiad terfynol

6. Rhaid i hysbysiad terfynol gynnwys gwybodaeth am—

- (a) y seiliau dros osod y gosb,
- (b) swm y gosb,

Contents of final notice

6. A final notice must include information as to—

- (a) the grounds for imposing the penalty,
- (b) the amount of the penalty,

- (c) sut y caniateir talu,
- (d) y cyfnod o 56 o ddiwrnodau y mae rhaid talu o'i fewn,
- (e) manylion y disgowntiau am dalu'n gynnar a'r cosbau am dalu'n hwyr,
- (f) hawliau apelio, ac
- (g) canlyniadau peidio â thalu.

- (c) how payment may be made,
- (d) the period of 56 days within which payment must be made,
- (e) details of the early payment discounts and late payment penalties,
- (f) rights of appeal, and
- (g) the consequences of non-payment.

Disgownt am dalu'n gynnar

7. Os yw person y cyflwynwyd hysbysiad o fwriad iddo wedi cyflwyno sylwadau neu wrthwynebiadau ynglŷn â'r hysbysiad hwnnw o fewn y terfyn amser, caiff y person hwnnw ryddhau hysbysiad terfynol drwy dalu 50% o'r gosb o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad terfynol.

Discount for early payment

7. If a person who was served with a notice of intent made representations or objections concerning that notice within the time limit, that person may discharge a final notice by paying 50% of the penalty within 28 days beginning with the day on which the final notice was received.

Apelau yn erbyn hysbysiad terfynol

8.—(1) Caiff y person sy'n cael hysbysiad terfynol apelio yn ei erbyn.

(2) Y seiliau dros apelio yw—

- (a) bod y penderfyniad yn seiliedig ar wall ffeithiol;
- (b) bod y penderfyniad yn anghywir mewn cyfraith;
- (c) bod y penderfyniad yn afresymol;
- (d) unrhyw reswm tebyg arall.

Appeals against final notice

8.—(1) The person receiving a final notice may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable;
- (d) any other similar reason.

Peidio â thalu ar ôl 56 o ddiwrnodau (cosb am dalu'n hwyr)

9.—(1) Rhaid i'r gosb gael ei thalu o fewn 56 o ddiwrnodau i gael hysbysiad terfynol.

(2) Os na thelir y gosb o fewn 56 o ddiwrnodau cynyddir y swm sy'n daladwy 50%.

(3) Yn achos apêl mae'r gosb yn daladwy o fewn 28 o ddiwrnodau i benderfynu'r apêl (os yw'r apêl yn aflwyddiannus), ac os nad yw wedi ei thalu o fewn 28 o ddiwrnodau cynyddir swm y gosb 50%.

Non-payment after 56 days (late payment penalty)

9.—(1) The penalty must be paid within 56 days of receipt of a final notice.

(2) If the penalty is not paid within 56 days the amount payable is increased by 50%.

(3) In the case of an appeal the penalty is payable within 28 days of the determination of the appeal (if the appeal is unsuccessful), and if it is not paid within 28 days the amount of the penalty is increased by 50%.

Achosion troseddol

10.—(1) Os cyflwynir hysbysiad o fwriad ar gyfer cosb ariannol benodedig i unrhyw berson—

- (a) ni chaniateir dechrau achos troseddol am y drosedd yn erbyn y person hwnnw mewn cysylltiad â'r weithred neu'r anweithred y mae'r hysbysiad yn ymwneud â hi cyn 28 o ddiwrnodau o'r dyddiad y ceir yr hysbysiad o fwriad, a

Criminal proceedings

10.—(1) If a notice of intent for a fixed monetary penalty is served on any person—

- (a) no criminal proceedings for the offence may be instituted against that person in respect of the act or omission to which the notice relates before 28 days from the date the notice of intent is received, and

(b) os yw'r person hwnnw yn ei ryddhau ei hun rhag atebolrwydd yn y fath fodd, ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o'r drosedd mewn perthynas â'r weithred neu'r anweithred honno.

(2) Os gosodir cosb ariannol benodedig ar unrhyw berson, ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o'r drosedd mewn cysylltiad â'r weithred neu'r anweithred sy'n arwain at y gosb.

(b) if that person so discharges liability, that person must not at any time be convicted of the offence in relation to that act or omission.

(2) If a fixed monetary penalty is imposed on any person, that person must not at any time be convicted of the offence in respect of the act or omission giving rise to the penalty.

RHAN 2

Symiau cosb ariannol benodedig

<i>Y toriad</i>	<i>Swm y gosb ariannol benodedig</i>
Methu â chydymffurfio ag adran 45AA(2) o Ddeddf 1990, heb esgus rhesymol	£500
Methu â chydymffurfio ag adran 45AA(4) o Ddeddf 1990, heb esgus rhesymol	£300

PART 2

Fixed monetary penalty amounts

<i>Breach</i>	<i>Amount of fixed monetary penalty</i>
Failure without reasonable excuse to comply with section 45AA(2) of the 1990 Act	£500
Failure without reasonable excuse to comply with section 45AA(4) of the 1990 Act	£300

RHAN 3

Cosbau ariannol amrywiadwy

Gosod cosb ariannol amrywiadwy

11.—(1) Caiff y rheoleiddiwr drwy hysbysiad osod cosb ariannol ar berson sy'n ei gwneud yn ofynnol i'r person hwnnw dalu i'r rheoleiddiwr unrhyw swm a bennir gan y rheoleiddiwr (“cosb ariannol amrywiadwy”) mewn perthynas â throredd o dan adran 45AA(8) o Ddeddf 1990.

(2) Cyn gwneud hynny, rhaid i'r rheoleiddiwr fod wedi ei fodloni y tu hwnt i amheuaeth resymol fod y person wedi cyflawni'r drosedd.

(3) Pan osodir cosb ariannol amrywiadwy mewn perthynas â throredd—

- (a) y gellir ei rhoi ar brawf yn ddiannod yn unig, a
- (b) sydd i'w chosbi ar euogfarn ddiannod drwy ddirwy (pa un a yw hefyd i'w chosbi drwy gyfnod o garchar ai peidio),

ni chaniateir i swm y gosb ariannol amrywiadwy fod yn fwy nag uchafswm y ddirwy honno (os oes uchafswm).

PART 3

Variable monetary penalties

Imposition of a variable monetary penalty

11.—(1) The regulator may by notice impose a monetary penalty on a person requiring that person to pay such amount to the regulator as the regulator may determine (“variable monetary penalty”) in relation to an offence under section 45AA(8) of the 1990 Act.

(2) Before doing so, the regulator must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) Where a variable monetary penalty is imposed in relation to an offence that is—

- (a) triable summarily only, and
- (b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),

the amount of the variable monetary penalty must not exceed the maximum amount (if any) of that fine.

(4) Cyn cyflwyno hysbysiad sy'n ymwneud â chosb ariannol amrywiadwy i berson, caiff y rheoleiddiwr ei gwneud yn ofynnol i'r person ddarparu unrhyw wybodaeth sy'n rhesymol at ddiben cadarnhau swm unrhyw fudd ariannol sy'n deillio o'r drosedd.

Hysbysiad o fwriad

12.—(1) Pan fo'r rheoleiddiwr yn cynnig gosod cosb ariannol amrywiadwy ar berson, rhaid i'r rheoleiddiwr gyflwyno i'r person hwnnw hysbysiad o'r hyn a gynnigir ("hysbysiad o fwriad").

(2) Rhaid i'r hysbysiad o fwriad gynnwys—

- (a) y seiliau dros y cynnig i osod y gosb;
- (b) swm y gosb;
- (c) gwybodaeth am—
 - (i) yr hawl i gyflwyno sylwadau a gwrthwynebiadau o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad o fwriad;
 - (ii) ym mha amgylchiadau na chaiff y rheoleiddiwr osod y gosb (gan gynnwys unrhyw amddiffyniadau sy'n ymwneud â'r drosedd y cyflwynir yr hysbysiad mewn perthynas â hi).

Cyflwyno sylwadau a gwrthwynebiadau

13. Caiff person y cyflwynir hysbysiad o fwriad iddo, o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cafwyd yr hysbysiad, gyflwyno sylwadau a gwrthwynebiadau ysgrifenedig i'r rheoleiddiwr mewn perthynas â'r cynnig i osod y gosb ariannol amrywiadwy.

Ymgymeriadau trydydd parti

14.—(1) Caiff person y cyflwynir hysbysiad o fwriad iddo gynnig ymgymeriad o ran y camau sydd i'w cymryd gan y person hwnnw (gan gynnwys talu swm o arian) er budd unrhyw berson y mae'r drosedd yn effeithio arno ("ymgymeriad trydydd parti").

(2) Rhaid i'r rheoleiddiwr dderbyn neu wrthod ymgymeriad trydydd parti.

Cyflwyno hysbysiad terfynol

15.—(1) Ar ddiwedd y cyfnod ar gyfer cyflwyno sylwadau a gwrthwynebiadau, rhaid i'r rheoleiddiwr benderfynu pa un ai i osod y gosb ariannol amrywiadwy yn yr hysbysiad o fwriad ai peidio, gydag addasiadau neu hebddynt.

(4) Before serving a notice relating to a variable monetary penalty on a person, the regulator may require the person to provide such information as is reasonable for the purpose of establishing the amount of any financial benefit arising as a result of the offence.

Notice of intent

12.—(1) Where the regulator proposes to impose a variable monetary penalty on a person, the regulator must serve on that person a notice of what is proposed ("notice of intent").

(2) The notice of intent must include—

- (a) the grounds for the proposal to impose the penalty;
- (b) the amount of the penalty;
- (c) information as to—
 - (i) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;
 - (ii) the circumstances in which the regulator must not impose the penalty (including any defences relating to the offence in relation to which the notice is served).

Making representations and objections

13. A person on whom a notice of intent is served may, within 28 days beginning with the day on which the notice was received, make written representations and objections to the regulator in relation to the proposed imposition of the variable monetary penalty.

Third party undertakings

14.—(1) A person on whom a notice of intent is served may offer an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any person affected by the offence ("third party undertaking").

(2) The regulator must accept or reject a third party undertaking.

Service of final notice

15.—(1) At the end of the period for making representations and objections, the regulator must decide whether to impose the variable monetary penalty in the notice of intent, with or without modifications.

(2) Rhaid i'r rheoleiddiwr ystyried unrhyw ymgymeriad trydydd parti a dderbynnir ganddo wrth benderfynu—

- (a) pa un ai i gyflwyno hysbysiad terfynol ai peidio, a
- (b) swm unrhyw gosb ariannol amrywiadwy a osodir ganddo.

(3) Pan fo'r rheoleiddiwr yn penderfynu gosod cosb ariannol amrywiadwy, rhaid i'r rheoleiddiwr gyflwyno hysbysiad sy'n ei gosod ("hysbysiad terfynol") sy'n cydymffurfio â pharagraff 16.

(4) Ni chaiff y rheoleiddiwr gyflwyno hysbysiad terfynol i berson pan fo'r rheoleiddiwr wedi ei fodloni na fyddai'r person, oherwydd unrhyw amddiffyniad, yn agored i gael ei euogfarnu o'r drosedd y mae'r hysbysiad yn ymwneud â hi.

Cynnwys hysbysiad terfynol

16. Rhaid i hysbysiad terfynol gynnwys gwybodaeth am—

- (a) y seiliau dros osod y gosb,
- (b) swm y gosb,
- (c) sut y caniateir talu,
- (d) y cyfnod y mae rhaid talu o'i fewn, na chaiff fod yn llai nag 28 o ddiwrnodau,
- (e) hawliau apelio, ac
- (f) canlyniadau peidio â thalu.

Apelau yn erbyn hysbysiad terfynol

17.—(1) Caiff y person sy'n cael hysbysiad terfynol apelio yn ei erbyn.

(2) Y seiliau dros apelio yw—

- (a) bod y penderfyniad yn seiliedig ar wall ffeithiol;
- (b) bod y penderfyniad yn anghywir mewn cyfraith;
- (c) bod swm y gosb yn afresymol;
- (d) bod y penderfyniad yn afresymol am unrhyw reswm arall;
- (e) unrhyw reswm tebyg arall.

Achosion troseddol

18.—(1) Os—

- (a) gosodir cosb ariannol amrywiadwy ar unrhyw berson, neu
- (b) derbynnir ymgymeriad trydydd parti oddi wrth unrhyw berson,

(2) The regulator must take into account any third party undertaking that it accepts in deciding—

- (a) whether or not to serve a final notice, and
- (b) the amount of any variable monetary penalty it imposes.

(3) Where the regulator decides to impose a variable monetary penalty, the regulator must serve a notice imposing it ("final notice") that complies with paragraph 16.

(4) The regulator must not serve a final notice on a person where the regulator is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

Contents of final notice

16. A final notice must include information as to—

- (a) the grounds for imposing the penalty,
- (b) the amount of the penalty,
- (c) how payment may be made,
- (d) the period within which payment must be made, which must be not less than 28 days,
- (e) rights of appeal, and
- (f) the consequences of non-payment.

Appeals against a final notice

17.—(1) The person receiving a final notice may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the amount of the penalty is unreasonable;
- (d) that the decision was unreasonable for any other reason;
- (e) any other similar reason.

Criminal proceedings

18.—(1) If—

- (a) a variable monetary penalty is imposed on any person, or
- (b) a third party undertaking is accepted from any person,

ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o'r drosedd mewn cysylltiad â'r weithred neu'r anweithred sy'n arwain at y gosb ariannol amrywiadwy neu'r ymgymeriad trydydd parti ac eithrio mewn achos y cyfeirir ato yn is-baragraff (2).

(2) Mae'r achos y cyfeirir ato yn is-baragraff (1) yn achos—

- (a) pan fo ymgymeriad trydydd parti yn cael ei dderbyn oddi wrth berson,
- (b) pan na fo cosb ariannol amrywiadwy yn cael ei gosod ar y person hwnnw, ac
- (c) pan fo'r person hwnnw yn methu â chydymffurfio â'r ymgymeriad trydydd parti.

(3) Caniateir dechrau achos troseddol am droseddau y gellir eu rhoi ar brawf yn ddiannod y mae ymgymeriad trydydd parti yn is-baragraff (2) yn ymwneud â hwy ar unrhyw adeg hyd at chwe mis o'r dyddiad pan fydd y rheoleiddiwr yn hysbysu'r person bod y person wedi methu â chydymffurfio â'r ymgymeriad hwnnw.

RHAN 4

Cosbau am beidio â chydymffurfio

Cosbau am beidio â chydymffurfio

19.—(1) Os yw person yn methu â chydymffurfio ag ymgymeriad trydydd parti, caiff y rheoleiddiwr gyflwyno hysbysiad i'r person hwnnw sy'n gosod cosb ariannol (“cosb am beidio â chydymffurfio”) mewn cysylltiad â'r un drosedd, ni waeth a osodwyd cosb ariannol amrywiadwy hefyd mewn cysylltiad â'r drosedd honno ai peidio.

(2) Rhaid i'r rheoleiddiwr bennu swm y gosb, a rhaid i'r swm hwnnw fod yn ganran o gostau bodloni gweddill gofynion yr ymgymeriad trydydd parti.

(3) Rhaid i'r rheoleiddiwr bennu'r ganran gan roi sylw i holl amgylchiadau'r achos, a chaiff y ganran honno fod yn 100%, os yw'n briodol.

(4) Rhaid i'r hysbysiad gynnwys gwybodaeth am—

- (a) y seiliau dros osod y gosb,
- (b) swm y gosb,
- (c) sut y caniateir talu,
- (d) y cyfnod y mae rhaid talu o'i fewn, na chaiff fod yn llai nag 28 o ddiwrnodau,
- (e) hawliau apelio,
- (f) canlyniadau peidio â thalu, ac
- (g) unrhyw amgylchiadau pan gaiff y rheoleiddiwr leihau swm y gosb.

that person must not at any time be convicted of the offence in respect of the act or omission giving rise to the variable monetary penalty or third party undertaking except in a case referred to in subparagraph (2).

(2) The case referred to in subparagraph (1) is a case where—

- (a) a third party undertaking is accepted from a person,
- (b) no variable monetary penalty is imposed on that person, and
- (c) that person fails to comply with the third party undertaking.

(3) Criminal proceedings for offences triable summarily to which a third party undertaking in subparagraph (2) relates may be instituted at any time up to six months from the date when the regulator notifies the person that the person has failed to comply with that undertaking.

PART 4

Non-compliance penalties

Non-compliance penalties

19.—(1) If a person fails to comply with a third party undertaking, the regulator may serve a notice on that person imposing a monetary penalty (“non-compliance penalty”) in respect of the same offence, irrespective of whether a variable monetary penalty was also imposed in respect of that offence.

(2) The amount of the penalty must be determined by the regulator, and must be a percentage of the costs of fulfilling the remaining requirements of the third party undertaking.

(3) The percentage must be determined by the regulator having regard to all the circumstances of the case and may, if appropriate, be 100%.

(4) The notice must include information as to—

- (a) the grounds for imposing the penalty,
- (b) the amount of the penalty,
- (c) how payment may be made,
- (d) the period within which payment must be made, which must not be less than 28 days,
- (e) rights of appeal,
- (f) the consequences of non-payment, and
- (g) any circumstances in which the regulator may reduce the amount of the penalty.

(5) Os cyflawnir ymgymeriad trydydd parti cyn y terfyn amser ar gyfer talu'r gosb am beidio â chydymffurfio, nid yw'r gosb yn daladwy.

Apelau yn erbyn cosbau am beidio â chydymffurfio

20.—(1) Caiff person sy'n cael cosb am beidio â chydymffurfio apelio yn ei herbyn.

(2) Y seiliau dros apelio yw—

- (a) bod y penderfyniad yn seiliedig ar wall ffeithiol;
- (b) bod y penderfyniad yn anghywir mewn cyfraith;
- (c) bod y penderfyniad yn annheg neu'n afresymol am unrhyw reswm;
- (d) bod swm y gosb yn afresymol;
- (e) unrhyw reswm tebyg arall.

RHAN 5

Cyfuno sancsiynau

Cyfuno sancsiynau

21.—(1) Ni chaiff y rheoleiddiwr gyflwyno hysbysiad o fwriad sy'n ymwneud â chosb ariannol benodedig os gosodwyd cosb ariannol amrywiadwy ar y person hwnnw sy'n ymwneud â'r un weithred neu anweithred.

(2) Ni chaiff y rheoleiddiwr gyflwyno hysbysiad o fwriad sy'n ymwneud â chosb ariannol amrywiadwy i berson os, mewn perthynas â'r un weithred neu anweithred—

- (a) gosodwyd cosb ariannol benodedig ar y person hwnnw, neu
- (b) rhyddhawyd y person hwnnw rhag atebolrwydd am gosb ariannol benodedig ar ôl cyflwyno hysbysiad o fwriad i osod y gosb honno.

RHAN 6

Hysbysiad adennill cost gorfodaeth

Hysbysiaid adennill cost gorfodaeth

22.—(1) Caiff y rheoleiddiwr gyflwyno hysbysiad (“hysbysiad adennill cost gorfodaeth”) i berson y gosodwyd cosb ariannol amrywiadwy arno sy'n ei gwneud yn ofynnol i'r person hwnnw dalu'r costau y mae'r rheoleiddiwr wedi mynd iddynt mewn perthynas â gosod y gosb ariannol amrywiadwy hyd at yr adeg y'i gosodwyd.

(5) If a third party undertaking is fulfilled before the time set for payment of the non-compliance penalty, the penalty is not payable.

Appeals against non-compliance penalties

20.—(1) A person receiving a non-compliance penalty may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unfair or unreasonable for any reason;
- (d) that the amount of the penalty is unreasonable;
- (e) any other similar reason.

PART 5

Combination of sanctions

Combination of sanctions

21.—(1) The regulator must not serve a notice of intent relating to a fixed monetary penalty if a variable monetary penalty has been imposed on that person relating to the same act or omission.

(2) The regulator must not serve a notice of intent relating to a variable monetary penalty on a person if, in relation to the same act or omission—

- (a) a fixed monetary penalty has been imposed on that person, or
- (b) that person has discharged liability to a fixed monetary penalty following service of a notice of intent to impose that penalty.

PART 6

Enforcement cost recovery notices

Enforcement cost recovery notices

22.—(1) The regulator may serve a notice (“enforcement cost recovery notice”) on a person on whom a variable monetary penalty has been imposed requiring that person to pay the costs incurred by the regulator in relation to the imposition of the variable monetary penalty up to the time of its imposition.

- (2) Mae costau yn cynnwys yn benodol—
- (a) costau ymchwilio;
 - (b) costau gweinyddu;
 - (c) costau cael cyngor arbenigol (gan gynnwys cyngor cyfreithiol).

(3) Rhaid i'r hysbysiad adennill cost gorfodaeth bennu—

- (a) y seiliau dros osod yr hysbysiad,
- (b) y swm y mae'n ofynnol ei dalu,
- (c) sut y caniateir talu,
- (d) y cyfnod y mae rhaid talu o'i fewn, na chaiff fod yn llai nag 28 o ddiwrnodau,
- (e) hawliau apelio, ac
- (f) canlyniadau peidio â thalu.

(4) Caiff y person y cyflwynir yr hysbysiad iddo ei gwneud yn ofynnol i'r rheoleiddiwr ddarparu dadansoddiad manwl o'r swm.

(5) Nid yw'r person y mae'n ofynnol iddo dalu costau yn agored i dalu unrhyw gostau y mae'r person hwnnw'n dangos yr aed iddynt yn ddiangen.

Apelau yn erbyn hysbysiadau adennill cost gorfodaeth

23. Caiff y person y mae'n ofynnol iddo dalu costau o dan baragraff 22(1) apelio—

- (a) yn erbyn penderfyniad y rheoleiddiwr i osod y gofyniad i dalu costau,
- (b) yn erbyn penderfyniad y rheoleiddiwr o ran swm y costau hynny, neu
- (c) am unrhyw reswm tebyg arall.

(2) Y seiliau dros apelio yw—

- (a) bod y penderfyniad yn seiliedig ar wall ffeithiol;
- (b) bod y penderfyniad yn anghywir mewn cyfraith;
- (c) bod swm y costau yn afresymol;
- (d) bod y penderfyniad yn afresymol am unrhyw reswm arall;
- (e) unrhyw reswm tebyg arall.

(2) Costs include in particular—

- (a) investigation costs;
- (b) administration costs;
- (c) costs of obtaining expert advice (including legal advice).

(3) The enforcement cost recovery notice must specify—

- (a) the grounds for imposing the notice,
- (b) the amount required to be paid,
- (c) how payment may be made,
- (d) the period within which payment must be made, which must not be less than 28 days,
- (e) rights of appeal, and
- (f) the consequences of non-payment.

(4) The person on whom the notice is served may require the regulator to provide a detailed breakdown of the amount.

(5) The person required to pay costs is not liable to pay any costs shown by that person to have been unnecessarily incurred.

Appeals against enforcement cost recovery notices

23.—(1) The person required to pay costs under paragraph 22(1) may appeal—

- (a) against the decision of the regulator to impose the requirement to pay costs,
- (b) against the decision of the regulator as to the amount of those costs, or
- (c) for any other similar reason.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the amount of the costs is unreasonable;
- (d) that the decision was unreasonable for any other reason;
- (e) any other similar reason.

RHAN 7

Gweinyddu ac apelau

Tynnu hysbysiad yn ôl neu ddiwygio hysbysiad

24. Caiff y rheoleiddiwr ar unrhyw adeg yn ysgrifenedig—

- (a) tynnu cosb ariannol benodedig yn ôl;
- (b) tynnu cosb ariannol amrywiadwy, cosb am beidio â chydymffurfio neu hysbysiad adennill cost gorfodaeth yn ôl neu leihau'r swm a bennir yn y gosb neu'r hysbysiad.

Canllawiau ar ddefnyddio sancsiynau sifil

25.—(1) Pan fo'r Rheoliadau hyn yn rhoi pŵer i'r rheoleiddiwr i osod sancsiwn sifil—

- (a) rhaid i'r rheoleiddiwr gyhoeddi canllawiau ar ei ddefnydd o'r sancsiwn;
- (b) yn achos canllawiau sy'n ymwneud â chosb ariannol benodedig neu gosb ariannol amrywiadwy, rhaid i'r canllawiau gynnwys yr wybodaeth berthnasol;
- (c) rhaid i'r rheoleiddiwr ddiwygio'r canllawiau pan fo'n briodol;
- (d) rhaid i'r rheoleiddiwr roi sylw i'r canllawiau neu'r canllawiau diwygiedig wrth arfer ei swyddogaethau.

(2) Yn achos canllawiau sy'n ymwneud â chosb ariannol benodedig, yr wybodaeth berthnasol y cyfeirir ati yn is-baragraff (1)(b) yw gwybodaeth am—

- (a) ym mha amgylchiadau y mae'r gosb yn debygol o gael ei gosod,
- (b) ym mha amgylchiadau na chaniateir gosod y gosb,
- (c) swm y gosb,
- (d) sut y caniateir cael rhyddhad rhag atebolrwydd am y gosb ac effaith y rhyddhad hwnnw, ac
- (e) hawliau i gyflwyno sylwadau a gwrthwynebiadau a hawliau apelio.

(3) Yn achos canllawiau sy'n ymwneud â chosb ariannol amrywiadwy, yr wybodaeth berthnasol y cyfeirir ati yn is-baragraff (1)(b) yw gwybodaeth am—

- (a) ym mha amgylchiadau y mae'r gosb yn debygol o gael ei gosod,
- (b) ym mha amgylchiadau na chaniateir gosod y gosb,

PART 7

Administration and appeals

Withdrawing or amending a notice

24. The regulator may at any time in writing—

- (a) withdraw a fixed monetary penalty;
- (b) withdraw a variable monetary penalty, a non-compliance penalty or an enforcement cost recovery notice or reduce the amount specified in the penalty or notice.

Guidance as to use of civil sanctions

25.—(1) Where these Regulations confer power on the regulator to impose a civil sanction—

- (a) the regulator must publish guidance about its use of the sanction;
- (b) in the case of guidance relating to a fixed monetary penalty or variable monetary penalty, the guidance must contain the relevant information;
- (c) the regulator must revise the guidance where appropriate;
- (d) the regulator must have regard to the guidance or revised guidance in exercising its functions.

(2) In the case of guidance relating to a fixed monetary penalty, the relevant information referred to in sub-paragraph (1)(b) is information as to—

- (a) the circumstances in which the penalty is likely to be imposed,
- (b) the circumstances in which the penalty must not be imposed,
- (c) the amount of the penalty,
- (d) how liability for the penalty may be discharged and the effect of discharge, and
- (e) rights to make representations and objections and rights of appeal.

(3) In the case of guidance relating to a variable monetary penalty, the relevant information referred to in sub-paragraph (1)(b) is information as to—

- (a) the circumstances in which the penalty is likely to be imposed,
- (b) the circumstances in which the penalty must not be imposed,

- (c) y materion y mae'r rheoleiddiwr yn debygol o'u hystyried wrth bennu swm y gosb (gan gynnwys person yn rhoi gwybod o'i wirfodd nad yw wedi cydymffurfio), a
- (d) hawliau i gyflwyno sylwadau a gwrthwynebiadau a hawliau apelio.

Canllawiau ychwanegol

26. Rhaid i'r rheoleiddiwr gyhoeddi canllawiau sy'n ymwneud â defnyddio cosbau am beidio â chydymffurfio a hysbysiadau adennill cost gorfodaeth sy'n pennu—

- (a) ym mha amgylchiadau y maent yn debygol o gael eu gosod,
- (b) ym mha amgylchiadau na chaniateir eu gosod,
- (c) materion i'w hystyried wrth bennu'r swm o dan sylw, a
- (d) hawliau apelio.

Ymgynghori ar ganllawiau

27. Rhaid i'r rheoleiddiwr ymgynghori â'r personau hynny y mae'n ystyried eu bod yn briodol cyn cyhoeddi unrhyw ganllawiau neu unrhyw ganllawiau diwygiedig o dan y Rheoliadau hyn.

Cyhoeddi camau gorfodi

28.—(1) Pan fo pŵer yn cael ei roi i'r rheoleiddiwr i osod sancsiwn sifil o dan y Rheoliadau hyn, rhaid i'r rheoleiddiwr o bryd i'w gilydd gyhoeddi adroddiadau sy'n pennu—

- (a) yr achosion y gosodwyd y sancsiwn sifil ynddynt,
- (b) pan fo'r sancsiwn sifil yn gosb ariannol benodedig, yr achosion y cafwyd rhyddhad rhag atebolrwydd am y gosb ynddynt yn sgil talu'r gosb yn dilyn yr hysbysiad o fwriad a heb fod camau pellach yn cael eu cymryd, ac
- (c) pan fo'r sancsiwn sifil yn gosb ariannol amrywiadwy, yr achosion y derbyniwyd ymgymeriad trydydd parti ynddynt.

(2) Yn is-baragraff (1)(a), nid yw'r cyfeiriad at achosion y gosodwyd y sancsiwn sifil ynddynt yn cynnwys achosion pan fo'r sancsiwn wedi ei osod ond wedi ei wrthdroi ar apêl.

(3) Nid yw'r paragraff hwn yn gymwys mewn achosion pan fo Gweinidogion Cymru yn ystyried y byddai cyhoeddi camau gorfodi yn amhriodol.

- (c) the matters likely to be taken into account by the regulator in determining the amount of the penalty (including voluntary reporting by any person of their own non-compliance), and
- (d) rights to make representations and objections and rights of appeal.

Additional guidance

26. The regulator must publish guidance relating to the use of non-compliance penalties and enforcement cost recovery notices specifying—

- (a) the circumstances in which they are likely to be imposed,
- (b) the circumstances in which they must not be imposed,
- (c) matters to be taken into account in establishing the amount involved, and
- (d) rights of appeal.

Consultation on guidance

27. The regulator must consult such persons as it considers appropriate before publishing any guidance or revised guidance under these Regulations.

Publication of enforcement action

28.—(1) Where a power is conferred on the regulator to impose a civil sanction under these Regulations, the regulator must from time to time publish reports specifying—

- (a) the cases in which the civil sanction has been imposed,
- (b) where the civil sanction is a fixed monetary penalty, the cases in which liability to the penalty has been discharged by payment of the penalty following the notice of intent and without further action being taken, and
- (c) where the civil sanction is a variable monetary penalty, the cases in which a third party undertaking has been accepted.

(2) In sub-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 paragraph does not apply in cases where the Welsh Ministers consider that publication would be inappropriate.

Adennill taliadau

29. Caiff y rheoleiddiwr adennill unrhyw gosb ariannol benodedig, unrhyw gosb ariannol amrywiadwy neu unrhyw gosb am beidio â chydymffurfio a osodir o dan y Rheoliadau hyn ac unrhyw gosb ariannol am dalu'n hwyr, ar orchymyn llys, fel pe bai'n daladwy o dan orchymyn llys.

Apelau

30.—(1) Mae apêl o dan y Rheoliadau hyn yn apêl i'r Tribiwnlys Haen Gyntaf (“y Tribiwnlys”).

(2) Mewn unrhyw apêl pan fo cyflawni trosedd yn fater y mae'n ofynnol penderfynu arno, rhaid i'r rheoleiddiwr brofi'r drosedd honno yn ôl yr un baich profi a'r un safon brofi ag mewn erlyniad troseddol.

(3) Mewn unrhyw achos arall rhaid i'r Tribiwnlys bennu'r safon brofi.

(4) Mae pob hysbysiad wedi ei atal dros dro wrth aros i'r apêl gael ei phenderfynu neu ei thynnu yn ôl.

(5) Caiff y Tribiwnlys, mewn perthynas â gosod cosb neu gyflwyno hysbysiad o dan y Rheoliadau hyn—

- (a) tynnu'r gosb neu'r hysbysiad yn ôl,
- (b) cadarnhau'r gosb neu'r hysbysiad,
- (c) amrywio'r gosb neu'r hysbysiad,
- (d) cymryd unrhyw gamau y gallai'r rheoleiddiwr eu cymryd mewn perthynas â'r weithred neu'r anweithred sy'n arwain at y gosb neu'r hysbysiad, neu
- (e) anfon y penderfyniad o ran pa un ai i gadarnhau'r gosb neu'r hysbysiad ai peidio, neu unrhyw fater sy'n ymwneud â'r penderfyniad hwnnw, at y rheoleiddiwr.

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Recovery of payments

29. The regulator may recover any fixed monetary penalty, variable monetary penalty or non-compliance penalty imposed under these Regulations and any financial penalty for late payment, on the order of a court, as if payable under a court order.

Appeals

30.—(1) An appeal under these Regulations is to the First-tier Tribunal (“the Tribunal”).

(2) In any appeal where the commission of an offence is an issue requiring determination, the regulator must prove that offence according to the same burden and standard of proof as in a criminal prosecution.

(3) In any other case the Tribunal must determine the standard of proof.

(4) All notices are suspended pending the determination or withdrawal of the appeal.

(5) The Tribunal may, in relation to the imposition of a penalty or service of a notice under these Regulations—

- (a) withdraw the penalty or notice,
- (b) confirm the penalty or notice,
- (c) vary the penalty or notice,
- (d) take such steps as the regulator could take in relation to the act or omission giving rise to the penalty or notice, or
- (e) remit the decision whether to confirm the penalty or notice, or any matter relating to that decision, to the regulator.

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