



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

2023 asc 2

Prohibition on the supply of certain single-use plastic products

1 Key concepts: “plastic product”, “single-use” and “plastic”

- (1) This section defines certain key concepts for the purposes of this Act.
- (2) A “plastic product” is a product—
 - (a) of which all or any of the main structural components are made wholly or partly of plastic, or
 - (b) that has a lining or coating made wholly or partly of plastic.
- (3) “Single-use”, in relation to a plastic product, means a product that is not designed or manufactured to be used for the purpose for which it was designed or manufactured more than once (or on more than one occasion) before being disposed of.
- (4) “Plastic” means a material consisting of a polymer, other than an adhesive, paint or ink, and includes a material consisting of a polymer that has other substances added to it.
- (5) In subsection (4), the reference to “polymer”—
 - (a) means a polymer that can function as the main structural component of a product;
 - (b) does not include a natural polymer that has not been chemically modified.
- (6) For the purposes of subsection (3), a carrier bag is deemed to have been designed to be used to carry goods more than once before being disposed of unless it is made of plastic film no greater than 49 microns in thickness (in which case it is considered to be a plastic product that is single-use).

2 Prohibited single-use plastic products

- (1) For the purposes of this Act, a single-use plastic product is prohibited if—

- (a) it is a product that is listed in column 1 of the Table in paragraph 1 of the Schedule, and
 - (b) no exemption in a corresponding entry in column 2 of that Table applies in respect of that product.
- (2) A product that falls within subsection (1) is referred to in this Act as a “prohibited single-use plastic product”.
- (3) The Welsh Ministers must prepare and publish guidance about—
- (a) the single-use plastic products that are prohibited under this Act;
 - (b) the application of any exemptions listed in column 2 of the Table in paragraph 1 of the Schedule.

3 Prohibited single-use plastic products: power to amend

- (1) The Welsh Ministers may by regulations amend the Schedule—
- (a) to add a product to, or remove a product from, column 1 of the Table in paragraph 1;
 - (b) to add an exemption to, or remove an exemption from, column 2 of the Table in paragraph 1, or to amend an exemption in that column;
 - (c) to add a definition to, or remove a definition from, paragraph 2, or to amend a definition in that paragraph.
- (2) Before making regulations under this section the Welsh Ministers must consult—
- (a) local authorities;
 - (b) the Natural Resources Body for Wales and any other person that the Welsh Ministers consider to be concerned with promoting the protection of the environment in Wales;
 - (c) such persons as the Welsh Ministers consider represent the interests of producers or suppliers of single-use plastic products in Wales;
 - (d) such persons as the Welsh Ministers consider represent the interests of people who have a protected characteristic within the meaning given in section 4 of the [Equality Act 2010 \(c. 15\)](#), and on whom the regulations may have a particular impact for that reason;
 - (e) such other persons as the Welsh Ministers consider appropriate.

4 Power to amend: duties relating to sustainable development and reporting

- (1) In considering whether to exercise the power in section 3, the Welsh Ministers must take into account their duty—
- (a) to promote sustainable development under section 79(1) of the [Government of Wales Act 2006 \(c. 32\)](#), and
 - (b) to carry out sustainable development under the [Well-being of Future Generations \(Wales\) Act 2015 \(anaw 2\)](#).
- (2) In the report they are required to publish under section 79(2) of the Government of Wales Act 2006, the Welsh Ministers must set out information about their consideration of whether to exercise the power in section 3 including but not limited to their consideration of whether to—
- (a) add wet wipes and sauce sachets to column 1 of the Table in paragraph 1 of the Schedule;

- (b) remove an exemption from, or amend an exemption in, column 2 of the Table in paragraph 1 of the Schedule in respect of cups, takeaway food containers and lids for these products that are not made of polystyrene.

Offence

5 Offence of supplying prohibited single-use plastic product

- (1) A person of a description referred to in subsection (2) (“P”) commits an offence if that person—
 - (a) supplies (as to which see subsection (3)) a prohibited single-use plastic product to a consumer who is in Wales, and this includes arranging for the delivery of the product to a consumer at an address in Wales;
 - (b) offers on premises in Wales (as to which see subsection (4)) to supply a prohibited single-use plastic product to a consumer.
- (2) The descriptions of person that may commit an offence under this section are—
 - (a) a body corporate (including a body exercising any function of a public nature);
 - (b) a partnership;
 - (c) an unincorporated association;
 - (d) a person acting as a sole trader.
- (3) P supplies a prohibited single-use plastic product if P, or any person accountable to P—
 - (a) sells the product, or
 - (b) provides the product free of charge.
- (4) P offers to supply a prohibited single-use plastic product if P, or any person accountable to P—
 - (a) displays the product on the premises, or
 - (b) otherwise keeps the product on the premises such that it is accessible by, or available to, a consumer at the premises.
- (5) A person is accountable to P if—
 - (a) that person—
 - (i) is an employee of P,
 - (ii) has a contract for services with P,
 - (iii) is an agent of P, or
 - (iv) is otherwise subject to the management, control or oversight of P, and
 - (b) that person—
 - (i) is acting in the course of P’s business, trade or profession,
 - (ii) is acting in relation to the exercise by P of P’s functions,
 - (iii) is acting in relation to P’s objects or purposes, or
 - (iv) is otherwise acting under the management, control or oversight of P.
- (6) Where P is shown to have arranged for a product to be delivered to a consumer at an address in Wales the product is taken to have been supplied by P to that consumer even if (for whatever reason)—
 - (a) the product was delivered to a different address, or
 - (b) the product was not delivered to any known address.

- (7) In proceedings for an offence under subsection (1), it is a defence for P to show that P exercised all due diligence and took all reasonable precautions to avoid committing the offence.
- (8) P is taken to have shown that P exercised all due diligence and took all reasonable precautions to avoid committing the offence if—
- (a) sufficient evidence of this is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (9) In proceedings for an offence under subsection (1), an allegation that a product was a single-use plastic product of a kind listed in column 1 of the Table in paragraph 1 of the Schedule will be accepted as proved in the absence of evidence to the contrary.
- (10) Where two or more prohibited single-use plastic products are supplied, or offered for supply, together, for the purposes of subsection (1) this is to be treated as a single act of supply, or offering to supply, of a prohibited single-use plastic product.
- (11) In this section, “consumer” means an individual acting for purposes that are wholly or mainly outside that individual’s trade, business or profession (whether or not the individual purchased the product).

6 Offence: mode of trial and penalty

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

Enforcement

7 Enforcement action by local authorities

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

8 Power to make test purchases

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

9 Power of entry

- (1) An authorised officer of a local authority may enter premises at any reasonable time if the officer—
- (a) has reasonable grounds for believing that an offence under section 5 has been committed in the area of the local authority, and

- (b) considers it necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed.
- (2) This does not apply in relation to residential premises.
- (3) An authorised officer of a local authority may not enter premises by force under this section.
- (4) Before entering premises under this section an authorised officer must, if asked to do so, show documentary evidence of the authorisation referred to in section 7(2).
- (5) For the purposes of this section and sections 10 and 11, “residential premises” means premises, or any part of premises, used wholly or mainly as a dwelling.

10 Power of entry: residential premises

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

11 Power of entry: other circumstances requiring warrant

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

12 Powers of entry: supplementary

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

13 Power of inspection

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

- (5) For this purpose, “documents” includes information recorded in any form; and references to documents found on the premises include—
 - (a) documents stored on computers or other electronic devices on the premises, and
 - (b) documents stored elsewhere that can be accessed by computers or other electronic devices on the premises.
- (6) A person is not required by this section to answer any question or produce any document that the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in Wales or in England.
- (7) This section applies to a vehicle as if it were premises.

14 Offence of obstruction etc. of officers

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

15 Retained property: appeals

- (1) A person (“A”) with an interest in anything taken away under section 13(1)(c) (“retained property”) may apply by way of complaint to any magistrates’ court for an order requiring the retained property to be released, either to A or to another person.
- (2) If, on an application under this section, the court is satisfied that the continued retention of the retained property is not necessary for the purpose of ascertaining whether an offence under section 5 has been committed, it may make an order requiring the release of the retained property.
- (3) An order under this section may contain whatever provision the court thinks appropriate for delaying its coming into force pending the making and determination of an appeal (including an application under section 111 of the [Magistrates’ Courts Act 1980 \(c. 43\)](#)).
- (4) If the court adjourns the hearing of an application under this section, it may make an order in respect of the retained property that lasts until the final hearing of the application or until any further order is made, if it considers it appropriate to do so.
- (5) Nothing in this section affects any other power of the court to make an order in respect of the retained property, including any power to make an order under section 1 of the [Police \(Property\) Act 1897 \(c. 30\)](#) (power to make order with respect to property in possession of police).

16 Appropriated property: compensation

- (1) A person (“A”) with an interest in anything of which an authorised officer of a local authority has taken possession under section 13(1)(c) (“appropriated property”) may apply by way of complaint to any magistrates’ court for compensation.
- (2) Subsection (3) applies if, on an application under this section, the court is satisfied that—
 - (a) A has suffered loss or damage in consequence of the authorised officer’s taking possession of the appropriated property, or retaining it, in circumstances where doing so was not necessary for the purpose of ascertaining whether an offence under section 5 had been committed, and
 - (b) the loss or damage is not attributable to the neglect or default of A.
- (3) The court may order the local authority to pay compensation to A.

17 Civil sanctions

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

18 Offences committed by partnerships and other unincorporated associations

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

- (5) A fine imposed on a partnership on its conviction for an offence under this Act is to be paid out of the partnership's assets.
- (6) A fine imposed on an unincorporated association other than a partnership on its conviction for an offence under this Act is to be paid out of the funds of the association.

19 Criminal liability of senior officers etc.

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

General

20 Interpretation

In this Act—

“authorised officer of a local authority” (“*swyddog awdurdodedig awdurdod lleol*”) has the meaning given in section 7(2);

“carrier bag” (“*bag siopa*”) has the meaning given in paragraph 2 of the Schedule;

“consumer” has the meaning given in section 5(11);

“local authority” (“*awdurdod lleol*”) means a county council or county borough council for an area in Wales;

“partnership” (“*partneriaeth*”) means—

- (a) a partnership within the [Partnership Act 1890 \(c. 39\)](#), or
- (b) a limited partnership registered under the [Limited Partnerships Act 1907 \(c. 24\)](#);

“plastic” (“*plastig*”) has the meaning given in section 1(4);

“plastic product” (“*cynnyrch plastig*”) has the meaning given in section 1(2);

“prohibited single-use plastic product” (*“cynnyrch plastig untro gwaharddedig”*) has the meaning given in section 2(2);

“single-use” (*“untro”*), in relation to a plastic product, has the meaning given in section 1(3).

21 Regulations

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) A power to make regulations under this Act includes a power—
 - (a) to make different provision for different purposes;
 - (b) to make supplementary, incidental, consequential, transitional, transitory or saving provision, including provision amending this Act.
- (3) A statutory instrument made under this Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.

22 Coming into force

- (1) This section and sections 3, 4, 17, 21 and 23 come into force on the day after the day on which this Act receives Royal Assent.
- (2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (3) An order under subsection (2)—
 - (a) may make transitional, transitory or saving provision;
 - (b) may appoint different days for different purposes.

23 Short title

The short title of this Act is the Environmental Protection (Single-use Plastic Products) (Wales) Act 2023.