
STATUTORY INSTRUMENTS

2007 No. 871

**The Producer Responsibility Obligations
(Packaging Waste) Regulations 2007**

**[^{F1}PART IX
OFFENCES**

Textual Amendments

- F1** Reg. 40A inserted (E.) (6.4.2010) by [The Environmental Civil Sanctions \(Miscellaneous Amendments\) \(England\) Regulations 2010 \(S.I. 2010/1159\)](#), regs. 1, 8

Offences and penalties

40.—(1) A producer who contravenes a requirement of—

- (a) subject to paragraph (2) below, regulation 4(4)(a);
- (b) regulation 4(4)(b); or
- (c) regulation 4(4)(c),

is guilty of an offence.

(2) A producer is not guilty of an offence under paragraph (1)(a) above in respect of any period during which, under regulation 7(7), he is treated as having been registered.

(3) An operator of a scheme who fails to comply with his [^{F2}recycling obligations] in contravention of regulation 12(1) is guilty of an offence.

(4) A person who contravenes a requirement of regulation 23 or who is in breach of either of the conditions specified in paragraph 1(a) or 1(d) of Schedule 5 is guilty of an offence.

(5) A person who furnishes any information to the appropriate Agency in connection with its functions under these Regulations or furnishes information to which regulation 19 applies to an operator of a scheme shall be guilty of an offence if, in furnishing the information, he—

- (a) knows the information to be false or misleading in a material particular; or
- (b) furnishes such information recklessly and it is false or misleading in a material particular.

(6) A person who fails without reasonable excuse to comply with any requirement imposed in a notice under regulation 31(3) shall be guilty of an offence.

(7) A person who intentionally delays or obstructs a person authorised by the appropriate Agency in the exercise of powers referred to in regulation 35 is guilty of an offence.

(8) Where in accordance with Schedule 8 there is a group registration the holding company is guilty of an offence if—

- (a) it does not comply with its [^{F2}recycling obligations] referred to in paragraph 5(c) of Schedule 8; or

- (b) it does not furnish a certificate of compliance in accordance with paragraph 5(d) of Schedule 8.
- (9) A person guilty of an offence under any of paragraphs (1) to (8) above shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.
- (10) Where an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or have been attributable to neglect on the part of, any partner or a person who was purporting to act as such, that person as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Textual Amendments

- F2** Words in Regulations substituted (S.) (1.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) Amendment \(Scotland\) Regulations 2020 \(S.S.I. 2020/387\)](#), **reg. 2(2)**; (E.) (1.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) \(England\) Regulations 2020 \(S.I. 2020/1336\)](#), **reg. 2(2)**; and (W.) (1.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) \(Wales\) Regulations 2020 \(S.I. 2020/1390\)](#), **reg. 2(2)**

Civil sanctions

40A.—(1) The Environment Agency may impose a fixed monetary penalty or variable monetary penalty, or accept an enforcement undertaking, in relation to an offence specified in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (England) Order 2010.

Table of civil sanctions

<i>Offence under these Regulations</i>	<i>Fixed monetary penalty</i>	<i>Variable monetary penalty</i>	<i>Enforcement undertaking</i>
regulation 40(1)(a)	Yes	Yes	Yes
regulation 40(1)(b)	No	Yes	Yes
regulation 40(1)(c)	Yes	No	No
regulation 40(3)	No	Yes	Yes
regulation 40(7)	No	Yes	No
regulation 40(8)(a)	No	Yes	Yes
regulation 40(8)(b)	Yes	No	No

- (2) The terms used in this regulation have the same meaning as in that Order.
- (3) The provisions of that Order in relation to those sanctions apply as if they were provisions of those Regulations.
- (4) This regulation applies only in England.]

[^{F3}Civil sanctions, Wales

40B.—(1) [^{F4}The Natural Resources Body for Wales] may impose a fixed monetary penalty or variable monetary penalty, or accept an enforcement undertaking, in relation to an offence specified in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (Wales) Order 2010.

Table of civil sanctions

<i>Offence under these Regulations</i>	<i>Fixed monetary penalty</i>	<i>Variable monetary penalty</i>	<i>Enforcement undertaking</i>
regulation 40(1)(a)	Yes	Yes	Yes
regulation 40(1)(b)	No	Yes	Yes
regulation 40(1)(c)	Yes	No	No
regulation 40(3)	No	Yes	Yes
regulation 40(7)	No	Yes	No
regulation 40(8)(a)	No	Yes	Yes
regulation 40(8)(b)	Yes	No	No

(2) The terms used in this regulation have the same meaning as in that Order.

(3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.

(4) This regulation applies only in Wales.]

Textual Amendments

F3 Reg. 40B inserted (W.) (15.7.2010) by [The Environmental Civil Sanctions \(Miscellaneous Amendments\) \(Wales\) Regulations 2010 \(S.I. 2010/1820\)](#), regs. 1, 5

F4 Words in reg. 40B substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 275** (with Sch. 7)

Changes to legislation:

There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007, PART IX.