

2013 No. 2215

REGULATORY REFORM

**The Regulatory Enforcement and Sanctions Act 2008
(Amendment of Schedule 3) Order 2013**

Made - - - - *4th September 2013*

Coming into force - - *1st October 2013*

The Secretary of State, in exercise of the powers conferred by section 4(4)(a) of the Regulatory Enforcement and Sanctions Act 2008^(a) and with the consent of the Welsh Ministers^(b), makes the following Order.

In accordance with section 20(3) of the Regulatory Enforcement and Sanctions Act 2008, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Regulatory Enforcement and Sanctions Act 2008 (Amendment of Schedule 3) Order 2013 and comes into force on 1st October 2013.

Amendments to Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008

2.—(1) Schedule 3(c) to the Regulatory Enforcement and Sanctions Act 2008 (enactments specified for purposes of section 4(1): definition of “relevant function”) is amended as follows.

(2) In the appropriate places, insert—

“Single Use Carrier Bags Charge (Wales) Regulations 2010 (S.I. 2010/2880)”^(d); and

“Sunbeds (Regulation) Act 2010 (c. 20)”^(e).

(a) 2008 c.13.

(b) Required by section 4(6) of the Regulatory Enforcement and Sanctions Act 2008 (c.13).

(c) Schedule 3 was amended by Part 4 of Schedule 22 to the Marine and Coastal Access Act 2009 (c.23), paragraphs 97 and 99 of Schedule 26 and Part 1 of Schedule 27 to the Equality Act 2010 (c. 15) (as amended by SI 2010/2279, Schedule 1, paragraph 6 and Schedule 2), paragraph 130 of Schedule 7 to the Charities Act 2011 (c. 25) and paragraph 4(1) and (2) of Schedule 6 and Part 1 of Schedule 8 to S.I. 2010/2960.

(d) These regulations were amended by S.I. 2011/2184.

(e) The Schedule to the Sunbeds (Regulation) Act 2010 was modified by S.I. 2011/1130 (W.156), regulation 9(3) and (4), in relation to matters arising under that instrument.

(3) In the entry relating to the Housing Act 2004(a), for “Parts 2 to 5” substitute “Parts 1 to 4”(b).

Jo Swinson

Parliamentary Under-Secretary of State for Employment Relations and Consumer Affairs
4th September 2013
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008 (2008 c. 13) (“the Act”), adding legislation to the list in that Schedule. Enactments listed in Schedule 3, and the provisions of any secondary legislation made under a listed Act, are “relevant enactments” for the purposes of the definition in section 4 of the Act of a “relevant function” of a local authority in England or Wales. The definition of “relevant function” applies for the purposes of Parts 1 and 2 of the Act. It covers particular regulatory functions under any “relevant enactment” in relation to any activity, such as a statutory function of giving guidance in relation to an activity. It also covers functions relating to (broadly speaking) the enforcement of any restrictions or requirements which, under or by virtue of any “relevant enactment”, relate to an activity.

Under Part 1 of the Act the Secretary of State and the Welsh Ministers have powers and duties in relation to the exercise of “relevant functions” by local authorities in England and Wales, including powers to give guidance on the exercise of such functions so as to ensure that, among other things, they are exercised effectively and in a way that does not give rise to unnecessary burdens.

Part 2 of the Act applies where a person (“the regulated person”) carries on an activity in the areas of two or more local authorities and each of those authorities has the same “relevant function” in relation to that activity. Part 2 enables a local authority to be nominated by the Secretary of State as the “primary authority” for the exercise of that “relevant function” in relation to the regulated person. The primary authority gives advice and guidance to the regulated person in relation to the “relevant function” in question and gives advice and guidance to other local authorities as to how they should exercise that function in relation to the regulated person. The primary authority can prevent proposed enforcement action being taken against the regulated person by other local authorities where the proposed action is inconsistent with advice or guidance previously given by the primary authority. And the primary authority is able to make an “inspection plan” containing recommendations as to how a local authority with an inspection function should exercise it in relation to the regulated person. For the purposes of Part 2 of the Act, “relevant function” has the same meaning, in relation to local authorities in England and Wales, as it does in Part 1.

Article 2 of this Order adds enactments to the list in Schedule 3 to the Act. Provisions of the added legislation, and of any secondary legislation made under a newly specified Act, will as a result constitute “relevant enactments” for the purposes of the definition of a “relevant function” of a local authority in England or Wales which applies for the purposes of Parts 1 and 2 of the Act. The new “relevant enactments” comprise: the Single Use Carrier Bags Charge (Wales) Regulations 2010 (S.I. 2010/2880); the Sunbeds (Regulation) Act 2010 (c.20) and regulations made under it; and Part 1 of the Housing Act 2004 (c.34), under which local authorities assess the condition of residential housing in their areas and enforce housing standards.

Article 2(3) also removes from Schedule 3 to the Act a reference to Part 5 of the Housing Act 2004, which has been repealed.

(a) 2004 c.34.

(b) Part 1 of the Housing Act 2004 was amended by S.I. 2009/1307, Schedule 1, paragraphs 272 and 273.

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