
STATUTORY INSTRUMENTS

2023 No. 982

The Environmental Protection (Plastic Plates etc. and Polystyrene Containers etc.) (England) Regulations 2023

PART 5

Supplementary

Guidance

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

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

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

- (a) the circumstances in which the penalty or notice is likely to be imposed;
- (b) the circumstances in which it may not be imposed;
- (c) rights to make representations and objections and rights of appeal; and
- (d) in the case of a fixed monetary penalty, the amount of the penalty, how liability for the penalty may be discharged and the effect of discharge.

(4) The regulator must revise the guidance where appropriate.

(5) The regulator must consult such persons as it considers appropriate before publishing any guidance or revised guidance under this regulation.

(6) The regulator must have regard to the guidance or revised guidance in exercising its functions.

Review

13.—(1) The Secretary of State must—

- (a) as soon as reasonably practicable after the end of the period of three years from the date on which these Regulations come into force carry out a review of the operation of the provisions in Part 4 (enforcement and civil sanctions) and Schedule 1;
- (b) from time to time carry out a review of the regulatory provision contained in these Regulations (including Part 4 and Schedule 1); and
- (c) publish a report setting out the conclusions of any review.

(2) In the case of a review under paragraph (1)(a)—

- (a) section 67 of the Regulatory Enforcement and Sanctions Act 2008 requires that the review must in particular consider whether the provision has implemented its objectives efficiently and effectively;
- (b) the Secretary of State, in conducting the review, must consult such persons as the Secretary of State considers appropriate; and

- (c) the Secretary of State must lay a copy of the report under paragraph (1)(c) before Parliament.
- (3) In the case of a review under paragraph (1)(b)—
 - (a) the first report must be published before the expiry of the period ending five years from the date on which these Regulations come into force;
 - (b) subsequent reports must be published at intervals not exceeding five years; and
 - (c) section 30(4) of the Small Business, Enterprise and Employment Act 2015⁽¹⁾ requires that a report published under this regulation must, in particular—
 - (i) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(b);
 - (ii) assess the extent to which those objectives are achieved;
 - (iii) assess whether those objectives remain appropriate; and
 - (iv) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (4) In this regulation “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

⁽¹⁾ 2015 c. 26.