
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Heather and Grass etc. (Burning) Regulations 1986 (“the previous Regulations”) in relation to Wales. These Regulations re-enact some provisions of the previous Regulations and also prescribe new provisions governing the burning of heather, rough grass, bracken, gorse and vaccinium.

As per the previous Regulations, these Regulations do not apply to private gardens or allotment gardens (though there is no longer an exclusion for pleasure grounds) (regulation 3) and certain of its provisions do not apply to railway land (regulation 4).

As per the previous Regulations, these Regulations prohibit burns from starting between sunset and sunrise, and require that there are sufficient persons and equipment to control burns and to take all reasonable precautions to prevent injury or damage arising from burns (regulation 5). Persons who burn are now required to prepare a burning plan and burn in accordance with that plan. Persons who burn continue to be required to notify others with an interest in the land on which the burning is to take place, or land adjacent to it, of their intention to burn.

Regulation 6(1)(a) prohibits burning without a licence outside the “burning season” (which is defined in regulation 2 and is longer for land in the uplands than for land outside it). This mirrors the previous Regulations. Regulation 6(1)(b) to (e) prohibits certain additional burning practices without a licence. Regulation 7 establishes a new procedure for applying for licences.

Regulation 8 is a new provision which gives the Welsh Ministers the power, where they believe that burning has taken place in contravention of these Regulations, to require the occupier of the land concerned to notify the Welsh Ministers of future burns for a period of up to two years. Regulation 9 makes provision for persons to make representations to a person appointed by the Welsh Ministers against the imposition of such a requirement.

Regulation 10 amends the Common Agricultural Policy Single Payment and Support Schemes (Cross-compliance) (Wales) Regulations 2004 so that the requirements of regulations 5 and 6(1)(a) are subject to cross-compliance under the Single Payment Scheme. Previously, the requirement to give notice of an intention to burn was also subject to cross-compliance.

The power to enter and inspect land for the purposes of these Regulations is governed by section 34 of the Hill Farming Act 1946, and section 20(2) of that Act provides that any person who contravenes any provision of these Regulations is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

A full regulatory impact assessment has been carried out in respect of these Regulations. Copies can be obtained from the Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.