



OFFERYNNAU STATUDOL
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WELSH STATUTORY
INSTRUMENTS

2011 Rhif 2184 (Cy.236)

2011 No. 2184 (W.236)

**DIOGELU'R AMGYLCHEDD,
CYMRU**

**ENVIRONMENTAL
PROTECTION, WALES**

Rheoliadau Codi Tâl am Fagiau
Siopa Untro (Cymru) (Diwygio)
2011

The Single Use Carrier Bags
Charge (Wales) (Amendment)
Regulations 2011

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Codi Tâl am Fagiau Siopa Untro (Cymru) 2010. Cânt eu gwneud o dan Ddeddf Newid Hinsawdd 2008, ac maent yn gymwys o ran Cymru ac maent yn dod i rym ar 1 Hydref 2011.

These Regulations amend the Single Use Carrier Bags Charge (Wales) Regulations 2010. They are made under the Climate Change Act 2008, apply in relation to Wales and come into force on 1 October 2011.

Mae Rheoliadau 2010 yn ei gwneud yn ofynnol i werthwyr godi isafswm tâl am fagiau siopa untro. Maent yn gosod gofynion cadw cofnodion ac adrodd ar werthwyr, penodi awdurdodau lleol i weinyddu'r cynllun codi tâl a gosod pwerau sancsiynu sifil ar awdurdodau lleol i ofodi'r Rheoliadau.

The 2010 Regulations require sellers to charge a minimum price for single use carrier bags. They impose record-keeping and reporting requirements on sellers, appoint local authorities to administer the charging scheme and confer civil sanctioning powers on local authorities to enforce the Regulations.

Mae'r prif ddiwygiadau a wneir i Rheoliadau 2010 gan y Rheoliadau hyn fel a ganlyn.

The principal amendments made to the 2010 Regulations by these Regulations are as follows.

Mae Rheoliad 4 yn rhoi rheoliad 6 newydd yn lle'r rheoliad gwreiddiol. Effaith y newid fydd sicrhau, pan fydd cwsmer yn talu 5 ceiniog am fag siopa untro bod y 5 ceiniog yn cynnwys TAW pan delir ef i werthwr sydd wedi ei gofrestru ar gyfer TAW.

Regulation 4 substitutes a new regulation 6 for the original. The effect of the change is to ensure that when a customer pays 5 pence for a single use carrier bag, the 5 pence includes VAT when paid to a seller who is registered for VAT.

Mae rheoliad 5 yn mewnosod rheoliad 7A newydd yn Rheoliadau 2010. Mae'r rheoliad newydd yn datgymhwyso'r gofynion cadw cofnodion ac adrodd ar gyfer blwyddyn adrodd os yw gwerthwr yn cyflogi llai o staff na'r hyn sy'n cyfateb i ddeg aelod llawnamser ar ddiwrnod cyntaf y flwyddyn adrodd honno.

Regulation 5 inserts a new regulation 7A into the 2010 Regulations. The new regulation disapplies the record-keeping and reporting requirements for a reporting year if a seller employs less than 10 full-time equivalent members of staff on the first day of that reporting year.

Mae'r rheoliad 6 yn rhoi rheoliad 8 newydd yn lle'r rheoliad gwreiddiol. Un o brif effeithiau'r newid yw ei gwneud yn ofynnol i werthwyr ddiystyru unrhyw swm dros 5 ceiniog y mae cwsmeriaid yn ei dalu am fagiau siopa untro pan fydd gwerthwyr yn cyflwyno adroddiad am yr enillion net a gafwyd drwy'r tâl a godwyd.

Regulation 6 substitutes a new regulation 8 for the original. One of the principal effects of the change is to require sellers to discount any amount above 5 pence that customers pay for single use carrier bags when sellers are reporting the net proceeds they have received from the charge.

Prif effaith arall y newid yw cynnwys y costau yr aed iddynt cyn 1 Hydref 2011 yn "costau rhesymol". Yn ei dro, effaith hyn fydd pan fo gwerthwyr yn cyflwyno adroddiad am yr enillion net a gafwyd drwy'r tâl a godir yn y flwyddyn gyntaf, na fydd y swm hwnnw'n cynnwys unrhyw gostau y maent yn rhesymol wedi mynd iddynt wrth baratoi at gyflwyno'r tâl .

Mae'r rheoliad 7 yn rhoi rheoliad 13(1) newydd yn lle'r rheoliad gwreiddiol. Effaith hyn yw ychwanegu dau amgylchiad pellach pan na chaniateir cyflwyno hysbysiad o'r bwriad i osod cosb ariannol benodedig. Yr amgylchiadau yw pan fo'r gwerthwr eisoes wedi gwneud taliad rhyddhad rhag atebolrwydd mewn perthynas â'r un toriad o dan Rheoliadau 2010; neu os gosodwyd eisoes gosb ariannol benodedig mewn perthynas â'r un weithred neu anwaith.

Mae rheoliad 8 yn mewnosod paragraff newydd 1(1)(za) yn Atodlen 1. Mae'r paragraff newydd hwn yn dwyn ynghyd yr esemptiadau gwreiddiol a gaed ym mharagraff 1(1)(a) i (ch) a (k) o'r Atodlen honno ac yn diwygio'r ffordd y mae'r esemptiadau hynny'n gweithio. Yr effaith yw y bydd bag siopa untro a ddefnyddir i gynnwys un neu fwy o'r eitemau a restrir yn awr yn y paragraff newydd 1(1)(za) yn esempt rhag y tâl; nid oes angen bellach i fag gael ei ddefnyddio'n unig i gynnwys un o'r eitemau hynny er mwyn cael mantais yr esemptiad.

Mae rheoliad 8 yn tynnu'r esemptiad ar gyfer bagiau wedi eu selio a gyflenwir gan werthwr cyn cyrraedd y man gwerthu. Mae rheoliad 8 hefyd yn rhoi paragraff newydd 1(1)(ff) yn lle'r gwreiddiol. Yr effaith yw esemptio bagiau anfon archeb drwy'r post a bagiau negeseuwyr rhag y gofyniad i godi tâl.

Cafodd yr asesiad effaith rheoleiddiol a luniwyd ar gyfer Rheoliadau 2010 ei ddiweddarau i gynnwys yr effaith a ddaw wrth ddatgymhwyso'r gofynion adrodd i fusnesau micro. Gellir cael copi o'r asesiad effaith hwnnw gan Lywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ.

The other principal effect of the change is to include costs incurred before 1 October 2011 in "reasonable costs". The effect of this in turn will be that when sellers are reporting on the net proceeds they have received from the charge in the first year, that amount will not include any costs they have reasonably incurred in preparing for the introduction of the charge.

Regulation 7 substitutes a new regulation 13(1) for the original. The effect is to add two further circumstances in which a notice of intent to impose a fixed monetary penalty may not be served. Those circumstances are where the seller has previously made a discharge payment in relation to the same breach under the 2010 Regulations; or if a fixed penalty has previously been imposed in relation to the same act or omission.

Regulation 8 inserts a new paragraph 1(1)(za) into Schedule 1. This new paragraph brings together the original exemptions that were contained in paragraph 1(1)(a) to (d) and (o) of that Schedule and makes an amendment to how those exemptions work. The effect is that a single use carrier bag which is used to contain one or more of the items now listed in the new paragraph 1(1)(za) will be exempt from the charge; there is no longer a need for a bag to be used solely to contain one of those items in order to benefit from the exemption.

Regulation 8 removes the exemption for sealed bags supplied by a seller before the point of sale. Regulation 8 also substitutes a new paragraph 1(1)(i) for the original. The effect is to exempt mail order dispatch and courier bags from the requirement to charge.

The regulatory impact assessment prepared for the 2010 Regulations has been updated to include the impact arising from the disapplication of the reporting requirements to micro businesses. A copy of that impact assessment can be obtained from the Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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Gwnaed 2 Medi 2011
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru 7 Medi 2011
Yn dod i rym 1 Hydref 2011

Made 2 September 2011
Laid before the National Assembly for Wales 7 September 2011
Coming into force 1 October 2011

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddwyd gan adrannau 77(2) a 90(3)(a) o Ddeddf Newid Hinsawdd 2008 a pharagraffau 1, 2, 4, 7, 9 a 10 o Atodlen 6 iddi(1).

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 77(2) and 90(3)(a) of, and paragraphs 1, 2, 4, 7, 9 and 10 of Schedule 6 to, the Climate Change Act 2008(1).

Enwi, cychwyn, cymhwyso a dehongli

Title, commencement, application and interpretation

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Codi Tâl am Fagiau Siopa Untro (Cymru) (Diwygio) 2011.

1.—(1) The title of these Regulations is the Single Use Carrier Bags Charge (Wales) (Amendment) Regulations 2011.

(2) Daw'r Rheoliadau hyn i rym ar 1 Hydref 2011 ac maent yn gymwys o ran Cymru.

(2) These Regulations come into force on 1 October 2011 and apply in relation to Wales.

(3) Yn y Rheoliadau hyn ystyr "Rheoliadau 2010" ("*the 2010 Regulations*") yw Rheoliadau Codi Tâl am Fagiau Siopa Untro (Cymru) 2010(2).

(3) In these Regulations "the 2010 Regulations" ("*Rheoliadau 2010*") means the Single Use Carrier Bags Charge (Wales) Regulations 2010(2).

Diwygio Rheoliadau 2010

Amendment of the 2010 Regulations

2.—(1) Mae Rheoliadau 2010 wedi eu diwygio yn unol â rheoliadau 3 i 8.

2.—(1) The 2010 Regulations are amended in accordance with regulations 3 to 8.

Diwygio rheoliad 2 (dehongli)

Amendment of regulation 2 (interpretation)

3.—(1) Yn rheoliad 2(1)—
(a) yn lle'r diffiniad o "y tâl" ("*the charge*") rhodder—

3.—(1) In regulation 2(1)—
(a) for the definition of "the charge" ("*y tâl*") substitute—

(1) 2008 p.27; gweler adran 77(3) o Ddeddf Newid Hinsawdd 2008 i gael y diffiniad o "the relevant national authority". Mae diwygiadau i adran 77 o'r Ddeddf ac i Atodlen 6 iddi nad ydynt yn berthnasol i'r Rheoliadau hyn.

(1) 2008 c.27; see section 77(3) of the Climate Change Act 2008 for the definition of "the relevant national authority". There are amendments to section 77 of, and Schedule 6 to, the Act which are not relevant to these Regulations.

(2) O.S 2010/2880 (Cy.238).

(2) S.I 2010/2880 (W. 238).

"ystyr "y tâl" ("*the charge*") yw isafswm y gydnabyddiaeth y mae'n rhaid i gwsmer ei thalu yn rhinwedd rheoliad 6(2);";

(b) mewnosoder yn y manau priodol—

- (i) "mae "cydnabyddiaeth" ("*consideration*") yn cynnwys unrhyw TAW y gellir ei godi;";
- (ii) "mae i "TAW" ("*VAT*") yr ystyr a roddir i "VAT" yn adran 96 o Ddeddf Treth ar Werth 1994(1).".

Diwygio rheoliad 6 (gofyniad i godi tâl)

4. Yn lle rheoliad 6 rhodder—

"Gofyniad i godi tâl

6.—(1) Rhaid i werthwr godi tâl am bob bag siopa untro newydd a gyflenwir—

- (a) yn y lle yng Nghymru lle y gwerthir y nwyddau, at ddibenion galluogi'r nwyddau i gael eu cymryd oddi yno;
- (b) at ddibenion galluogi'r nwyddau i gael eu cyflenwi i bersonau yng Nghymru.

Mae hyn yn ddarostyngedig i reoliad 7.

(2) Y swm y mae'n rhaid i werthwr ei godi yw'r swm hwnnw sy'n sicrhau bod y gydnabyddiaeth a delir gan gwsmer am bob bag siopa untro ddim llai na 5 ceiniog."

Ychwanegu rheoliad 7A (cymhwyso Rhan 3)

5. Yn Rhan 3 (cofnodion a chyhoeddi) o flaen rheoliad 8 (cadw cofnodion) mewnosoder—

"Cymhwyso'r Rhan hon

7A.—(1) Mae'r Rhan hon yn gymwys i werthwr mewn perthynas ag unrhyw flwyddyn adrodd y mae'r gwerthwr yn bodloni'r amod ym mharagraff (2) ynddi.

(2) Yr amod yw bod y gwerthwr yn cyflogi staff sy'n cyfateb i ddeg aelod llawnamser neu fwy ar ddiwrnod cyntaf y flwyddyn adrodd."

Amnewid rheoliad 8 (cadw cofnodion)

6. Yn lle rheoliad 8, rhodder—

"Cadw cofnodion

8.—(1) Rhaid i werthwr gadw cofnod o'r wybodaeth a bennir ym mharagraff (3) ar gyfer pob blwyddyn adrodd.

(2) Rhaid i werthwr ddal gafael ar gofnodion am gyfnod o dair blynedd gan gychwyn ar 31 Mai yn y flwyddyn adrodd yn dilyn honno y mae cofnod yn berthnasol iddi.

"the charge" ("*y tâl*") means the minimum consideration that must be paid by a customer by virtue of regulation 6(2);";

(b) in the appropriate places insert—

- (i) ""consideration" ("*cydnabyddiaeth*") includes any chargeable VAT;";
- (ii) ""VAT" ("*TAW*") has the meaning given in section 96 of the Value Added Tax Act 1994(1).".

Amendment of regulation 6 (requirement to charge)

4. For regulation 6 substitute—

"Requirement to charge

6.—(1) A seller must charge for every single use carrier bag supplied new—

- (a) at the place in Wales where the goods are sold, for the purpose of enabling the goods to be taken away;
- (b) for the purpose of enabling the goods to be delivered to persons in Wales.

This is subject to regulation 7.

(2) The amount that a seller must charge is such amount as ensures that the consideration paid by a customer for each single use carrier bag is not less than 5 pence."

Addition of regulation 7A (application of Part 3)

5. In Part 3 (records and publication) before regulation 8 (record-keeping) insert—

"Application of this Part

7A.—(1) This Part applies to a seller in relation to any reporting year in which the seller meets the condition in paragraph (2).

(2) The condition is that on the first day of the reporting year the seller employs ten or more full time equivalent members of staff."

Substitution of regulation 8 (record-keeping)

6. For regulation 8 substitute—

"Record-keeping

8.—(1) A seller must keep a record of the information specified in paragraph (3) for every reporting year.

(2) Records must be retained by a seller for a period of three years beginning on 31 May in the reporting year following that to which a record relates.

(1) 1994 p. 23; mae diwygiadau i adran 96 nad ydynt yn berthnasol i'r Rheoliadau hyn.

(1) 1994 c. 23; there are amendments to section 96 which are not relevant to these Regulations.

(3) Dyma'r wybodaeth—

- (a) nifer y bagiau siopa untro a gyflenwir sy'n denu'r tâl;
- (b) y swm a gafwyd yn gydnabyddiaeth am fapiau siopa untro sy'n denu'r tâl ;
- (c) y swm a gafwyd drwy'r tâl a godwyd;
- (ch) enillion net y tâl(1);
- (d) dadansoddiad o sut y daethpwyd at y swm sy'n cynrychioli'r gwahaniaeth rhwng y swm a gafwyd drwy'r tâl a godwyd ac enillion net y tâl, gan gynnwys—
 - (i) y dosraniad rhwng unrhyw TAW y gellir ei chodi a chostau rhesymol;
 - (ii) y dosraniad rhwng pennau gwahanol o gostau rhesymol;
- (dd) at ba ddibenion y defnyddiwyd enillion net y tâl.

(4) Y canlynol yw'r symiau penodedig at ddibenion y diffiniad o "net proceeds of the charge" ym mharagraff 7(4) Atodlen 6 i Ddeddf Newid Hinsawdd 2008(2)—

- (a) unrhyw swm sy'n fwy na'r tâl a gafwyd yn gydnabyddiaeth am fapiau siopa untro sy'n denu'r tâl;
- (b) unrhyw swm o TAW y gellir ei chodi a gafwyd drwy'r tâl;
- (c) swm unrhyw gostau rhesymol.

(5) Yn y rheoliad hwn ystyr "costau rhesymol" ("*reasonable costs*") yw—

- (a) costau y mae gwerthwr yn rhesymol yn mynd iddynt i alluogi'r gwerthwr i gydymffurfio â'r Rheoliadau hyn;
- (b) costau y mae gwerthwr yn rhesymol yn mynd iddynt i alluogi'r gwerthwr i gyfathrebu gwybodaeth am y tâl i gwsmeriaid.

Mae hyn yn ddarostyngedig i baragraff (6).

(6) Mewn perthynas â'r flwyddyn adrodd gyntaf, mae "costau rhesymol" yn cynnwys costau yr aeth gwerthwr iddynt cyn y dyddiad y daeth y Rheoliadau hyn i rym—

- (a) i alluogi'r gwerthwr i gydymffurfio â'r Rheoliadau hyn;
- (b) i alluogi'r gwerthwr i gyfathrebu gwybodaeth am y tâl i gwsmeriaid."

(3) The information is—

- (a) the number of single use carrier bags supplied which attract the charge;
- (b) the amount received by way of consideration for single use carrier bags which attract the charge;
- (c) the amount received by way of the charge;
- (d) the net proceeds of the charge(1);
- (e) a breakdown of how the amount which represents the difference between the amount received by way of the charge and the net proceeds of the charge has been arrived at, including—
 - (i) the apportionment between any chargeable VAT and reasonable costs;
 - (ii) the apportionment between different heads of reasonable costs;
- (f) the uses to which the net proceeds of the charge have been put.

(4) The following are the amounts specified for the purposes of the definition of "net proceeds of the charge" in paragraph 7(4) of Schedule 6 to the Climate Change Act 2008(2)—

- (a) any amount in excess of the charge received by way of consideration for single use carrier bags which attract the charge;
- (b) any amount of chargeable VAT received by way of the charge;
- (c) the amount of any reasonable costs.

(5) In this regulation "reasonable costs" ("*costau rhesymol*") means—

- (a) costs reasonably incurred by a seller to enable the seller to comply with these Regulations;
- (b) costs reasonably incurred by a seller to enable the seller to communicate information about the charge to customers.

This is subject to paragraph (6).

(6) In relation to the first reporting year, "reasonable costs" includes costs reasonably incurred by a seller before the date on which these Regulations come into force —

- (a) to enable the seller to comply with these Regulations;
- (b) to enable the seller to communicate information about the charge to customers."

(1) I gael ystyr "enillion net y tâl" gweler y diffiniad o "net proceeds of the charge" ym mharagraff 7(4) o Atodlen 6 i Ddeddf Newid Hinsawdd 2008.

(2) 2008 p. 27.

(1) For the meaning of "net proceeds of the charge" see paragraph 7(4) of Schedule 6 to the Climate Change Act 2008.

(2) 2008 c. 27.

Diwygio rheoliad 13 (cyfuniad o gosbau)

7. Yn lle rheoliad 13(1) rhodder —

"(1) Ni chaiff gweinyddwr gyflwyno hysbysiad o fwriad sy'n ymwneud â chosb ariannol benodedig i werthwr yn unrhyw un neu ragor o'r amgylchiadau canlynol—

- (a) pan fo gofyniad yn ôl disgrisiwn wedi cael ei osod ar y gwerthwr hwnnw mewn perthynas â'r un toriad yn y Rheoliadau hyn;
- (b) pan fo'r gwerthwr wedi rhyddhau ei hun rhag atebolrwydd i gosb ariannol benodedig mewn perthynas â'r un toriad yn y Rheoliadau hyn drwy dalu swm penodedig;
- (c) pan fo cosb ariannol benodedig eisoes wedi ei gosod mewn perthynas â'r un weithred neu anwaith."

Diwygio Atodlen 1 (esemptiadau)

8.—(1) Ym mharagraff 1(1) o Atodlen 1—

(a) o flaen paragraff (a) mewnosoder—

"(za) bagiau a ddefnyddir yn unig i gynnwys un neu fwy o eitemau o'r mathau canlynol—

- (i) bwyd heb ei becynnu ar gyfer ei fwyta gan bobl neu gan anifeiliaid;
- (ii) hadau, bylbiau, cormau neu risomau rhydd heb eu pecynnu;
- (iii) unrhyw fwyell, cyllell, llafn cyllell neu lafn rasel heb eu pecynnu;
- (iv) nwyddau heb eu pecynnu a halogwyd gan bridd;
- (v) eitemau o'r categorïau a bennir yn is-baragraff (2);"

(b) hepgorer paragraffau (a) i (ch) ac (dd);

(c) yn lle paragraff (ff) , rhodder—

"(ff) bagiau anfon archeb drwy'r post a bagiau negeseuwyr;"

(ch) hepgorer is-baragraff (k).

(2) Ym mharagraff 1(2)(b) o Atodlen 1 hepgorer y geiriau "neu pan gyflenwir".

Amendment of regulation 13 (combination of penalties)

7. For regulation 13(1) substitute—

"(1) An administrator may not serve a notice of intent in relation to a fixed monetary penalty on a seller in any of the following circumstances—

- (a) where a discretionary requirement has been imposed on that seller in relation to the same breach;
- (b) where the seller has discharged liability to a fixed monetary penalty in respect of the same breach by payment of a specified sum;
- (c) where a fixed monetary penalty has previously been imposed in respect of the same act or omission."

Amendment of Schedule 1 (exemptions)

8.—(1) In paragraph 1(1) of Schedule 1—

(a) before paragraph (a) insert—

"(za) bags used solely to contain one or more items of the following kinds—

- (i) unpackaged food for human or animal consumption;
- (ii) unpackaged loose seeds, bulbs, corms or rhizomes;
- (iii) any unpackaged axe, knife, knife blade or razor blade;
- (iv) unpackaged goods contaminated by soil;
- (v) items from the categories specified in sub-paragraph (2);"

(b) omit paragraphs (a) to (d) and (f);

(c) for paragraph (i) substitute—

"(i) mail order dispatch and courier bags;"

(d) omit paragraph (o).

(2) In paragraph 1(2)(b) of Schedule 1 omit the words "or supplied".

John Griffiths

Gweinidog yr Amgylchedd a Datblygu Cynaliadwy, un
o Weinidogion Cymru

Minister for Environment and Sustainable
Development, one of the Welsh Ministers

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