

Government Response: The Environmental Protection (Single-use Plastic Products) (Civil Sanctions) (Wales) Regulations 2023

Technical Scrutiny point 1: The Environmental Protection (Single-use Plastic Products) (Civil Sanctions) (Wales) Regulations 2023 ('the Regulations') are made under section 17 of the Environmental Protection (Single-use Plastic Products) (Wales) Act 2023. Section 17 applies functions in Part 3 of the Regulatory Enforcement and Sanctions Act 2008 ('the Act') to the Regulations. Section 52 of the Act provides for the enforcement of monetary penalties and regulation 6 of the Regulations mirrors wording in that enabling power. Regulation 6 provides for the enforcement of monetary penalties through the civil courts and while we note its expression could be clearer, we don't believe it's unclear.

Technical Scrutiny point 2: Section 65 of the Act provides for the publication of enforcement action and regulation 14 of the Regulations mirrors wording in that enabling power. Regarding the questions put by the Committee: a) the intent behind regulation 14(3) is to enable discretion in circumstances where it may be inappropriate for certain cases to be publicised b) data protection considerations could, for example, lead the Welsh Ministers to conclude it may be inappropriate for certain cases to be publicised, and c) the Welsh Ministers could communicate the exercise of the discretion through written contact with local authorities.

Technical Scrutiny point 3: Section 40(3) of the Act provides for the content of the notice of intent and paragraph 2 of Schedule 1 to the Regulations reflects requirements in that enabling power. Regarding the questions put by the Committee: a) in terms of legislative provision, no, the provision reflects the requirements of its enabling power. However, the content of the notice listed in the provision is not exhaustive and, as such, in terms of practical application, the notice may address additional administrative matters including how the discharge payment may be made, and b) 'requirement' means the requirement to pay the fixed monetary penalty. While we note the expression of paragraph 2(2)(d)(iii) could be clearer, we don't believe it's unclear.

Technical Scrutiny point 4: Paragraph 1(4) of Schedule 2 to the Regulations provides a discretion to require information. The provision neither includes a mechanism to enforce the requirement nor prevents the issue of the notice (or consideration of other enforcement options) when a person refuses to provide information.