OFFERYNNAU STATUDOL CYMRU

2024 Rhif 1324 (Cy. 223)

DIOGELU'R AMGYLCHEDD, CYMRU

Rheoliadau Diogelu'r Amgylchedd (Fêps Untro) (Cymru) 2024

Gwnaed *11 Rhagfyr 2024*

Yn dod i rym *1 Mehefin 2025*

WELSH STATUTORY INSTRUMENTS

2024 No. 1324 (W. 223)

ENVIRONMENTAL PROTECTION, WALES

The Environmental Protection (Single-use Vapes) (Wales) Regulations 2024

Made *11 December 2024*

Coming into force *1 June 2025*

£13.57

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Rheoliadau Diogelu'r Amgylchedd (Fêps Untro) (Cymru) 2024

The Environmental Protection (Single-use Vapes) (Wales) Regulations 2024

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn, sy'n gymwys yng Nghymru, yn gwahardd cyflenwi fêps untro. Maent wedi eu gwneud o dan bwerau a roddir gan adran 140 o Ddeddf Diogelu'r Amgylchedd 1990 ("Deddf 1990") ac adran 62 o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008 ("Deddf 2008"). Mae Deddf 1990 yn caniatáu i Weinidogion Cymru wahardd defnyddio, cyflenwi a storio eitemau penodedig i'w hatal rhag achosi llygredd amgylcheddol a niwed i iechyd anifeiliaid. Mae hefyd yn caniatáu iddynt roi pwerau sy'n cyfateb i'r rhai o dan adran 108 o Ddeddf yr Amgylchedd 1995 i bersonau awdurdodedig, gan gynnwys pwerau mynediad, archwilio ac ymchwilio, pwerau i dynnu ffotograffau a chymryd samplau, a phwerau i chwilio dogfennau ac ymafael ynddynt. Mae Deddf 2008 yn caniatáu i Weinidogion Cymru, wrth wneud is-ddeddfwriaeth sy'n creu trosedd, wneud unrhyw ddarpariaeth y gellid ei gwneud o dan Ran 3 o Ddeddf 2008. Mae hyn yn cynnwys gosod y sancsiynau sifil a ganlyn: cosbau ariannol penodedig, cosbau ariannol amrywiadwy, hysbysiadau cydymffurfio, cosbau am beidio â chydymffurfio, hysbysiadau stop ac ymgymeriadau gorfodi.

Mae Rhan 1 o'r Rheoliadau hyn yn cynnwys darpariaethau dehongli, megis y diffiniadau o "cyflenwi" (rheoliad 2) a "fêp untro" (rheoliad 3).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in Wales, prohibit the supply of single-use vapes. They are made under powers conferred by section 140 of the Environmental Protection Act 1990 ("the 1990 Act") and section 62 of the Regulatory Enforcement and Sanctions Act 2008 ("the 2008 Act"). The 1990 Act allows the Welsh Ministers to prohibit the use, supply, and storage of specified articles to prevent them from causing pollution of the environment and harm to the health of animals. It also allows them to confer powers corresponding to those under section 108 of the Environment Act 1995 on authorised persons, including powers of entry, examination, and investigation, for taking photographs and samples, and the search and seizure of documents. The 2008 Act allows the Welsh Ministers, when making secondary legislation creating a criminal offence, to make any provision which could be made under Part 3 of the 2008 Act. This includes the imposition of the following civil sanctions: fixed monetary penalties, variable monetary penalties, compliance notices, non-compliance penalties, stop notices and enforcement undertakings.

Part 1 of these Regulations includes interpretation provisions, such as the definitions of "supply" (regulation 2) and of a "single-use vape" (regulation 3).

Mae Rhan 2 o'r Rheoliadau hyn yn nodi dwy drosedd. Mae'r gyntaf yn gwahardd cyflenwi, neu gynnig cyflenwi, fêps untro (rheoliad 4). Mae torri'r darpariaethau hyn yn drosedd. Mae'r ail yn ei gwneud yn drosedd i rwystro swyddogion gorfodaeth rhag arfer eu pwerau neu i fethu â chydymffurfio â'u ceisiadau (rheoliad 5). Darperir ar gyfer amddiffyniad o ddiwydrwydd dyladwy yn rheoliad 6.

Part 2 of these Regulations sets out two offences. The first prohibits the supply, or offer for supply, of single-use vapes (regulation 4). Breach of these provisions is an offence. The second makes it an offence to obstruct enforcement officers from exercising their powers or to fail to comply with their requests (regulation 5). A defence of due diligence is provided for in regulation 6.

Mae Rhan 3 yn ymwneud â phwerau gorfodi ac ymchwilio. Mae'n cyflwyno'r "diben awdurdodedig" y mae rhaid arfer pwerau swyddog gorfodaeth ar ei gyfer, sef penderfynu a yw trosedd wedi ei chyflawni neu a yw gofyniad sancsiwn sifil wedi ei dorri (rheoliad 7). Mae'r pwerau gorfodi wedi eu cynnwys yn rheoliadau 9 a 10 ac maent yn cynnwys pwerau mynediad, archwilio ac ymchwilio, pwerau i dynnu ffotograffau a chymryd samplau a phwerau i chwilio dogfennau ac ymafael ynddynt. Mae rheoliad 11 yn darparu ar gyfer digolledi sy'n gysylltiedig â'r pwerau hyn. Mae rheoliad 12 yn rhoi pŵer i Weinidogion Cymru i gyfarwyddo bod fêps untro penodol i'w trin fel gwastraff.

Part 3 is concerned with enforcement and investigatory powers. It introduces the "authorised purpose" for which an enforcement officer's powers must be exercised, being to determine whether an offence has been committed or a requirement of a civil sanction has been contravened (regulation 7). The enforcement powers are contained in regulations 9 and 10 and include powers of entry, examination, and investigation, taking photographs and samples, and the search and seizure of documents. Regulation 11 provides for compensation associated with these powers. Regulation 12 provides a power for the Welsh Ministers to direct that certain single-use vapes be treated as waste.

Mae Rhan 3 hefyd yn cyflwyno cyfundrefn sancsiynau sifil i alluogi rheoleiddwyr i osod ystod o sancsiynau sifil mewn perthynas â'r troseddau Rhan 2 (rheoliad 8 a'r Atodlen). Y sancsiynau sifil yw: cosbau ariannol penodedig, cosbau ariannol amrywiadwy, hysbysiadau cydymffurfio, hysbysiadau stop, hysbysiadau adennill cost gorfodaeth a chosbau am beidio â chydymffurfio. Caiff rheoleiddwyr hefyd dderbyn ymgymeriadau gorfodi o dan y darpariaethau hyn. Mae'r Rheoliadau yn gwneud darpariaeth ar gyfer y weithdrefn sy'n ymwneud â'r sancsiynau sifil hyn a'r mecanweithiau apelio sydd ar gael. Mae methu â chydymffurfio â hysbysiad stop yn drosedd (paragraff 18 o'r Atodlen). Mae'r holl apelau sy'n ymwneud â sancsiwn sifil i'w cyflwyno i'r Tribiwnlys Haen Gyntaf. Gall rheoleiddwyr adennill costau gorfodaeth yn achos hysbysiadau cydymffurfio a hysbysiadau stop, a rhaid iddynt gyhoeddi canllawiau ynghylch eu defnydd o hysbysiadau adennill cost gorfodaeth (paragraff 29 o'r Atodlen).

Part 3 also introduces a civil sanctions regime to enable regulators to impose a range of civil sanctions in relation to the Part 2 offences (regulation 8 and the Schedule). These are: fixed monetary penalties, variable monetary penalties, compliance notices, stop notices, enforcement cost recovery notices and non-compliance penalties. Regulators may also accept enforcement undertakings under these provisions. The Regulations make provision for the procedure relating to these civil sanctions and the available appeal mechanisms. Failure to comply with a stop notice is an offence (paragraph 18 of the Schedule). All appeals relating to a civil sanction are to the First-tier Tribunal. Regulators are able to recover the costs of enforcement in the case of compliance notices and stop notices, and must issue guidance about their use of enforcement cost recovery notices (paragraph 29 of the Schedule).

Mae Rhan 3 yn darparu ar gyfer cyhoeddi gwybodaeth am gamau gorfodi a gymerir gan reoleiddwyr (rheoliad 13). Mae rheoliad 14 yn darparu bod rhaid llunio canllawiau sy'n ymwneud â defnyddio sancsiynau sifil ac ymgynghori arnynt, ac mae'n pennu gwybodaeth sydd i'w chynnwys yn y canllawiau hynny.

Part 3 provides for the publication of information on enforcement action taken by regulators (regulation 13). Regulation 14 provides that guidance relating to the use of civil sanctions must be prepared and consulted on, and specifies information to be included in such guidance.

Mae Rhan 4 yn cynnwys darpariaeth atodol ar gyfer adolygu'r Rheoliadau (rheoliad 15).

Part 4 contains supplementary provision for review of the Regulations (regulation 15).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

2024 Rhif 1324 (Cy. 223)

DIOGELU'R AMGYLCHEDD, CYMRU

Rheoliadau Diogelu'r Amgylchedd (Fêps Untro) (Cymru) 2024

Gwnaed *11 Rhagfyr 2024*

Yn dod i rym *1 Mehefin 2025*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan adran 140(1)(c) a (d), (3)(a), (c) a (d) a (9) o Ddeddf Diogelu'r Amgylchedd 1990(**1**) ("Deddf 1990") ac adran 62(2) o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008(**2**) ("Deddf 2008").

Mae Gweinidogion Cymru—

(a) yn ystyried ei bod yn briodol gwneud y Rheoliadau hyn at ddiben atal yr eitemau a bennir ynddynt rhag achosi llygredd amgylcheddol a niwed i iechyd anifeiliaid;

(b) wedi cyhoeddi hysbysiad yn y London Gazette a'r Western Mail yn unol ag adran 140(6)(b)(**3**) o Ddeddf 1990, ac wedi ystyried y sylwadau a gyflwynwyd yn unol â'r hysbysiad hwnnw fel sy'n ofynnol gan adran 140(6)(c) o Ddeddf 1990;

(c) wedi ymgynghori â'r Ysgrifennydd Gwladol yn unol ag adran 59(3) o Ddeddf 2008;

(**1**) 1990 p. 43. Diwygiwyd adran 140(3)(c) gan O.S. 1999/1108. Yn rhinwedd erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac Atodlen 1 iddo, ac adran 162 o Ddeddf Llywodraeth Cymru 2006 (2006 p. 32) a pharagraff 30 o Atolden 11 iddi, yn ddarostyngedig i eithriadau penodol nad ydynt yn berthnasol i'r Rheoliadau hyn, mae swyddogaethau'r Ysgrifennydd Gwladol o dan adran 140 yn arferadwy gan Weinidogion Cymru o ran Cymru.
(**2**) 2008 p. 13.
(**3**) Diwygiwyd adran 140(6)(b) gan O.S. 2012/1923.

2024 No. 1324 (W. 223)

ENVIRONMENTAL PROTECTION, WALES

The Environmental Protection (Single-use Vapes) (Wales) Regulations 2024

Made *11 December 2024*

Coming into force *1 June 2025*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 140(1)(c) and (d), (3)(a), (c) and (d) and (9) of the Environmental Protection Act 1990(**1**) ("the 1990 Act") and section 62(2) of the Regulatory Enforcement and Sanctions Act 2008(**2**) ("the 2008 Act").

The Welsh Ministers—

(a) consider it appropriate to make these Regulations for the purpose of preventing the articles specified in them from causing pollution of the environment and harm to the health of animals;

(b) have published a notice in the London Gazette and the Western Mail in accordance with section 140(6)(b)(**3**) of the 1990 Act, and have considered the representations made in accordance with that notice as required by section 140(6)(c) of the 1990 Act;

(c) have consulted the Secretary of State in accordance with section 59(3) of the 2008 Act;

(**1**) 1990 c. 43. Section 140(3)(c) was amended by S.I. 1999/1108. By virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), and section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (2006 c. 32), subject to certain exceptions that are not relevant to these Regulations, the functions of the Secretary of State under section 140 are exercisable by the Welsh Ministers in relation to Wales.
(**2**) 2008 c. 13.
(**3**) Section 140(6)(b) was amended by S.I. 2012/1923.

(d) wedi ymgynghori ag awdurdodau lleol (sy'n rheoleiddwyr at ddibenion y Rheoliadau hyn), yn unol ag adran 60(1) o Ddeddf 2008;

(e) wedi ymgynghori ag unrhyw sefydliadau yr oedd Gweinidogion Cymru yn ystyried eu bod yn cynrychioli personau y mae'r cynigion yn debygol o gael effaith sylweddol arnynt, ac unrhyw bersonau eraill yr oedd Gweinidogion Cymru yn ystyried eu bod yn briodol, yn unol ag adran 60(1) o Ddeddf 2008;

(f) wedi eu bodloni, yn unol ag adran 66 o Ddeddf 2008, y bydd awdurdodau lleol (sy'n rheoleiddwyr at ddibenion y Rheoliadau hyn) yn gweithredu yn unol â'r egwyddorion y cyfeirir atynt yn adran 5(2) o'r Ddeddf honno wrth arfer pŵer a roddir gan y Rheoliadau hyn.

Yn unol ag adran 62(3) o Ddeddf 2008, gosodwyd drafft o'r Rheoliadau hyn gerbron Senedd Cymru ac fe'i cymeradwywyd ganddi drwy benderfyniad.

(d) have consulted local authorities (who are regulators for the purposes of these Regulations), in accordance with section 60(1) of the 2008 Act;

(e) have consulted such organisations that the Welsh Ministers considered to be representative of persons likely to be substantially affected by the proposals, and such other persons as the Welsh Ministers considered appropriate, in accordance with section 60(1) of the 2008 Act;

(f) are satisfied, in accordance with section 66 of the 2008 Act, that local authorities (who are regulators for the purposes of these Regulations) will act in accordance with the principles referred to in section 5(2) of that Act in exercising a power conferred by these Regulations.

In accordance with section 62(3) of the 2008 Act, a draft of these Regulations has been laid before, and approved by resolution of, Senedd Cymru.

RHAN 1

Cyflwyniad

Enwi, dod i rym a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Diogelu'r Amgylchedd (Fêps Untro) (Cymru) 2024.

(2) Daw'r Rheoliadau hyn i rym ar 1 Mehefin 2025.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru yn unig.

Dehongli

2. Yn y Rheoliadau hyn—

mae "anweddu" ("*vaporise*") yn cynnwys erosoli;

ystyr "awdurdod lleol" ("*local authority*") yw cyngor sir neu gyngor bwrdeistref sirol yng Nghymru;

mae i "cosb am beidio â chydymffurfio" ("*non-compliance penalty*") yr ystyr a roddir ym mharagraff 26(1) o'r Atodlen;

mae i "cosb ariannol amrywiadwy" ("*variable monetary penalty*") yr ystyr a roddir gan baragraff 1(1)(b) yn yr Atodlen;

mae i "cosb ariannol benodedig" ("*fixed monetary penalty*") yr ystyr a roddir gan baragraff 1(1)(a) o'r Atodlen;

PART 1

Introduction

Title, coming into force and application

1.—(1) The title of these Regulations is the Environmental Protection (Single-use Vapes) (Wales) Regulations 2024.

(2) These Regulations come into force on 1 June 2025.

(3) These Regulations apply in relation to Wales only.

Interpretation

2. In these Regulations—

"civil sanction" ("*sancsiwn sifil*") means a fixed monetary penalty, a variable monetary penalty, a compliance notice, a non-compliance penalty, a stop notice or an enforcement undertaking (and references to imposition of a civil sanction include acceptance of an enforcement undertaking);

"compliance notice" ("*hysbysiad cydymffurfio*") has the meaning given by paragraph 1(1)(c) of the Schedule;

"container" ("*cynhwysydd*") means a cartridge, pod, tank, capsule, or any other receptacle designed to hold a vaping substance and to be used with a vape;

ystyr "cyflenwi" ("*supply*") yw cyflenwi, pa un ai drwy werthu ai peidio, yng nghwrs busnes;

ystyr "cynhwysydd" ("*container*") yw cetrisen, pod, tanc, capsiwl, neu unrhyw ddaliedydd arall sydd wedi ei dylunio neu ei ddylunio i ddal sylwedd fepio ac i'w defnyddio neu ei ddefnyddio gyda fêp;

ystyr "fêp" ("*vape*") yw dyfais—

(a) sy'n anweddu sylweddau, ac eithrio tybaco, at ddibenion mewnanadlu drwy ddarn ceg (pa un a yw hefyd yn anweddu tybaco ai peidio); a

(b) nad yw'n ddyfais feddygol o fewn yr ystyr a roddir i "medical device" gan reoliad 2(1) o Reoliadau Dyfeisiau Meddygol 2002(**1**) nac yn gynnyrch meddyginiaethol o fewn yr ystyr a roddir i "medicinal product" gan reoliad 2(1) o Reoliadau Meddyginiaethau Dynol 2012(**2**);

mae i "fêp untro" ("*single-use vape*") yr ystyr a roddir yn rheoliad 3(1);

mae i "hysbysiad cydymffurfio" ("*compliance notice*") yr ystyr a roddir gan baragraff 1(1)(c) o'r Atodlen;

mae i "hysbysiad stop" ("*stop notice*") yr ystyr a roddir gan baragraff 11(2) o'r Atodlen;

mae "mangre" ("*premises*") yn cynnwys unrhyw dir, cerbyd, llestr neu offer symudol;

ystyr "rheoleiddiwr" ("*regulator*") yw awdurdod lleol;

ystyr "sancsiwn sifil" ("*civil sanction*") yw cosb ariannol benodedig, cosb ariannol amrywiadwy, hysbysiad cydymffurfio, cosb am beidio â chydymffurfio, hysbysiad stop neu ymgymeriad gorfodi (ac mae cyfeiriadau at osod sancsiwn sifil yn cynnwys derbyn ymgymeriad gorfodi);

ystyr "swyddog gorfodaeth" ("*enforcement officer*") yw person a awdurdodir o dan reoliad 7(1);

ystyr "sylwedd fepio" ("*vaping substance*") yw sylwedd, ac eithrio tybaco, y bwriedir iddo gael ei anweddu â fêp;

ystyr "ymgymeriad gorfodi" ("*enforcement undertaking*") yw ymgymeriad ysgrifenedig i gymryd unrhyw gamau a bennir yn yr ymgymeriad, o fewn unrhyw gyfnod a bennir felly;

mae i "ymgymeriad trydydd parti" ("*third party undertaking*") yr ystyr a roddir gan baragraff 3(1) o'r Atodlen.

"enforcement officer" ("*swyddog gorfodaeth*") means a person authorised under regulation 7(1);

"enforcement undertaking" ("*ymgymeriad gorfodi*") means a written undertaking to take such action as may be specified in the undertaking, within such period as may be so specified;

"fixed monetary penalty" ("*cosb ariannol benodedig*") has the meaning given by paragraph 1(1)(a) of the Schedule;

"local authority" ("*awdurdod lleol*") means a county council or county borough council in Wales;

"non-compliance penalty" ("*cosb am beidio â chydymffurfio*") has the meaning given in paragraph 26(1) of the Schedule;

"premises" ("*mangre*") includes any land, vehicle, vessel or mobile plant;

"regulator" ("*rheoleiddiwr*") means a local authority;

"single-use vape" ("*fêp untro*") has the meaning given in regulation 3(1);

"stop notice" ("*hysbysiad stop*") has the meaning given by paragraph 11(2) of the Schedule;

"supply" ("*cyflenwi*") means supply, whether by sale or not, in the course of a business;

"third-party undertaking" ("*ymgymeriad trydydd parti*") has the meaning given by paragraph 3(1) of the Schedule;

"vape" ("*fêp*") means a device that—

(a) vaporises substances, other than tobacco, for the purposes of inhalation through a mouthpiece (whether or not it also vaporises tobacco); and

(b) is not a medical device within the meaning of regulation 2(1) of the Medical Devices Regulations 2002(**1**) or a medicinal product within the meaning of regulation 2(1) of the Human Medicines Regulations 2012(**2**);

"vaping substance" ("*sylwedd fepio*") means a substance, other than tobacco, that is intended to be vaporised with a vape;

"vaporise" ("*anweddu*") includes aerosolise;

"variable monetary penalty" ("*cosb ariannol amrywiadwy*") has the meaning given by paragraph 1(1)(b) in the Schedule.

(**1**) O.S. 2002/618, a ddiwygiwyd gan O.S. 2008/2936. Mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol.
(**2**) O.S. 2012/1916.

(**1**) S.I. 2002/618, amended by S.I. 2008/2936. There are other amending instruments but none are relevant.
(**2**) S.I. 2012/1916.

Ystyr fêp untro

3.—(1) Fêp untro yw fêp nad yw wedi ei ddylunio na'i fwriadu i gael ei ailddefnyddio.

(2) Ni fwriedir i fêp untro gael ei ailddefnyddio—

(a) os na ellir ei ail-lenwi,

(b) os na ellir ei ailwefru, neu

(c) os na ellir ei ail-lenwi ac na ellir ei ailwefru.

(3) At ddibenion y rheoliad hwn, ni ellir ail-lenwi fêp oni bai ei fod wedi ei ddylunio i gynnwys—

(a) cynhwysydd untro sydd ar gael ar wahân ac y gall defnyddiwr unigol ei amnewid yng nghwrs arferol ei ddefnyddio, neu

(b) cynhwysydd y gall defnyddiwr unigol ei ail-lenwi yng nghwrs arferol ei ddefnyddio.

(4) At ddibenion y rheoliad hwn, ni ellir ailwefru fêp os yw wedi ei ddylunio i gynnwys—

(a) batri na ellir ei ailwefru, neu

(b) coil nad yw ar gael ar wahân ac na all defnyddiwr unigol ei amnewid yng nghwrs arferol ei ddefnyddio, gan gynnwys unrhyw goil sydd wedi ei gynnwys mewn cetrisen neu bod untro nad yw ar gael ar wahân ac na all defnyddiwr unigol ei amnewid yng nghwrs arferol ei ddefnyddio.

(5) At ddibenion y rheoliad hwn, ystyr "ar gael ar wahân" yw ar gael i'w brynu gan ddefnyddiwr unigol.

Meaning of single-use vape

3.—(1) A single-use vape is a vape which is not designed or intended to be re-used.

(2) A single-use vape is not intended to be re-used if it is—

(a) not refillable,

(b) not rechargeable, or

(c) not refillable and not rechargeable.

(3) For the purposes of this regulation, a vape is not refillable unless it is designed to include—

(a) a single-use container which is separately available and can be replaced by an individual user in the normal course of use, or

(b) a container which can be refilled by an individual user in the normal course of use.

(4) For the purposes of this regulation, a vape is not rechargeable if it is designed to contain—

(a) a battery which cannot be recharged, or

(b) a coil which is not separately available and cannot be replaced by an individual user in the normal course of use, including any coil which is contained in a single-use cartridge or pod which is not separately available and cannot be replaced by an individual user in the normal course of use.

(5) For the purposes of this regulation, "separately available" means available for purchase by an individual user.

RHAN 2

Troseddau

Trosedd: cyflenwi fêps untro

4.—(1) Mae person yn cyflawni trosedd—

(a) os yw'n cyflenwi fêp untro,

(b) os yw'n cynnig cyflenwi fêp untro, neu

(c) os oes fêp untro yn ei feddiant ar gyfer ei gyflenwi.

(2) Mae person a euogfarnwyd o drosedd o dan baragraff (1) yn agored—

(a) ar euogfarn ddiannod, i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol neu i'w garcharu am gyfnod nad yw'n hwy na'r terfyn cyffredinol mewn llys ynadon, neu'r ddau, neu

(b) ar euogfarn ar dditiad, i ddirwy neu i'w garcharu am gyfnod nad yw'n hwy na dwy flynedd, neu'r ddau.

PART 2

Offences

Offence: supply of single-use vapes

4.—(1) A person commits an offence if they—

(a) supply a single-use vape,

(b) offer to supply a single-use vape, or

(c) have in their possession for supply a single-use vape.

(2) A person convicted of an offence under paragraph (1) is liable—

(a) on summary conviction, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding the general limit in a magistrates' court, or both, or

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years, or both.

Trosedd: rhwystro swyddogion gorfodaeth a methu â chydymffurfio â'u ceisiadau

5.—(1) Mae person yn cyflawni trosedd—

(a) os yw'n rhwystro yn fwriadol swyddog gorfodaeth sy'n arfer pwerau o dan reoliad 9 (pwerau mynediad) neu reoliad 10 (pŵer mynediad, ymchwilio ac archwilio etc.), neu

(b) os yw'n methu, heb esgus rhesymol, â chydymffurfio â chais a wneir gan swyddog gorfodaeth wrth arfer ei bwerau o dan reoliad 10(1)(f), (g) neu (h).

(2) Mae person a euogfarnwyd o drosedd o dan baragraff (1)(a) neu (1)(b) yn agored ar euogfarn ddiannod i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol.

Amddiffyniad o ddiwydrwydd dyladwy

6.—(1) Yn ddarostyngedig i baragraffau (2) a (4), mewn achos am drosedd o dan y Rhan hon, mae'n amddiffyniad i berson ("P") ddangos bod P wedi cymryd pob cam rhesymol ac wedi arfer pob diwydrwydd dyladwy i osgoi cyflawni'r drosedd.

(2) Ni chaniateir i P ddibynnu ar amddiffyniad o dan baragraff (1) sy'n cynnwys honiad trydydd parti oni bai bod P—

(a) wedi cyflwyno hysbysiad yn unol â pharagraff (3), neu

(b) wedi cael caniatâd y llys.

(3) Rhaid i'r hysbysiad—

(a) rhoi unrhyw wybodaeth sydd ym meddiant P sy'n adnabod y person, neu sydd o gymorth o ran adnabod y person—

(i) a gyflawnodd y weithred neu'r diffyg, neu

(ii) a gyflenwodd yr wybodaeth yr oedd P yn dibynnu arni, a

(b) cael ei gyflwyno i'r person sy'n dwyn yr achos ddim llai na 7 diwrnod clir cyn gwrandawiad yr achos.

(4) Ni chaniateir i P ddibynnu ar amddiffyniad o dan baragraff (1) sy'n cynnwys honiad y cyflawnwyd y drosedd o ganlyniad i ddibynnu ar wybodaeth a gyflenwyd gan berson arall, oni bai ei bod yn rhesymol i P fod wedi dibynnu ar yr wybodaeth, gan roi sylw penodol i—

(a) y camau a gymerwyd gan P, a'r rheini y gellid yn rhesymol fod wedi eu cymryd, at ddiben gwirhau'r wybodaeth, a

(b) a oedd gan P unrhyw reswm i beidio â chredu'r wybodaeth.

Offence: obstruction of enforcement officers and failure to comply with their requests

5.—(1) A person commits an offence if they—

(a) intentionally obstruct an enforcement officer exercising powers under regulation 9 (powers of entry) or regulation 10 (power of entry, investigation, and examination etc.), or

(b) fail, without reasonable excuse, to comply with a request made by an enforcement officer in the exercise of their powers under regulation 10(1)(f), (g) or (h).

(2) A person convicted of an offence under paragraph (1)(a) or (1)(b) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence of due diligence

6.—(1) Subject to paragraphs (2) and (4), in proceedings for an offence under this Part, it is a defence for a person ("P") to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) P may not rely on a defence under paragraph (1) which involves a third-party allegation unless P has—

(a) served a notice in accordance with paragraph (3), or

(b) obtained the leave of the court.

(3) The notice must—

(a) give any information in P's possession which identifies or assists in identifying the person who—

(i) committed the act or default, or

(ii) supplied the information upon which P relied, and

(b) be served on the person bringing the proceedings not less than 7 clear days before the hearing of the proceedings.

(4) P may not rely on a defence under paragraph (1) which involves an allegation that the commission of the offence was due to reliance on information supplied by another person, unless it was reasonable for P to have relied on the information, having regard in particular to—

(a) the steps that P took, and those which might reasonably have been taken, for the purposes of verifying the information, and

(b) whether P had any reason to disbelieve the information.

(5) Yn y rheoliad hwn, ystyr "honiad trydydd parti" yw honiad y cyflawnwyd y drosedd o ganlyniad i—

(a) gweithred neu ddiffyg person arall, neu

(b) dibynnu ar wybodaeth a gyflenwyd gan berson arall.

(5) In this regulation, "third-party allegation" means an allegation that the commission of the offence was due to—

(a) the act or default of another person, or

(b) reliance on information supplied by another person.

RHAN 3

Gorfodi, pwerau ymchwilio a sancsiynau sifil

Gorfodi

7.—(1) Caiff rheoleiddiwr awdurdodi unrhyw berson yn swyddog gorfodaeth i arfer, at ddiben awdurdodedig ac yn unol â thelerau'r awdurdodiad, unrhyw un neu ragor o'r pwerau a bennir yn rheoliad 10 (pŵer mynediad, ymchwilio ac archwilio etc.) os ymddengys i'r rheoleiddiwr fod y person hwnnw yn addas i'w arfer neu i'w harfer.

(2) Rhaid i awdurdodiad o dan baragraff (1) fod yn ysgrifenedig.

(3) Yn y Rhan hon, ystyr "diben awdurdodedig" yw'r diben o benderfynu a yw trosedd o dan y Rheoliadau hyn wedi ei chyflawni neu'n cael ei chyflawni, neu a yw unrhyw ofyniad cosb sifil a osodwyd o dan y Rheoliadau hyn wedi ei dorri neu'n cael ei dorri.

Sancsiynau sifil

8. Mae'r Atodlen yn gwneud darpariaeth ar gyfer gorfodi trosedd, drwy sancsiynau sifil, o dan Ran 2 o'r Rheoliadau hyn.

Pwerau mynediad

9.—(1) Yn ddarostyngedig i baragraff (2), caiff swyddog gorfodaeth, ar unrhyw adeg resymol a heb rybudd ymlaen llaw, fynd i fangre y mae gan y swyddog gorfodaeth reswm dros amau ei bod yn angenrheidiol mynd iddi at ddiben awdurdodedig.

(2) Pan fo unrhyw un neu ragor o'r amodau ym mharagraff (3) yn gymwys, ni chaniateir mynd i'r fangre honno yn rhinwedd paragraff (1) ond o dan awdurdod gwarant a roddwyd gan ynad heddwch.

PART 3

Enforcement, investigatory powers and civil sanctions

Enforcement

7.—(1) A regulator may authorise any person as an enforcement officer to exercise, for an authorised purpose and in accordance with the terms of the authorisation, any of the powers specified in regulation 10 (power of entry, investigation, and examination etc.) if that person appears to the regulator suitable to exercise them.

(2) An authorisation under paragraph (1) must be in writing.

(3) In this Part, "authorised purpose" means the purpose of determining whether an offence under these Regulations has been or is being committed, or whether any requirement of a civil sanction imposed under these Regulations has been or is being contravened.

Civil sanctions

8. The Schedule makes provision for the enforcement of an offence, via civil sanctions, under Part 2 of these Regulations.

Powers of entry

9.—(1) Subject to paragraph (2), an enforcement officer may, at any reasonable time and without prior notice, enter premises which the enforcement officer has reason to suspect it is necessary to enter for an authorised purpose.

(2) Where any of the conditions in paragraph (3) apply, any entry onto those premises by virtue of paragraph (1) may be effected only under the authority of a warrant granted by a justice of the peace.

(3) Os yw ynad heddwch, ar sail gwybodaeth ysgrifenedig ar lw, wedi ei fodloni—

(a) bod sail resymol dros fynd i unrhyw fangre wrth arfer y pŵer ym mharagraff (1), a

(b) bod unrhyw un neu ragor o'r amodau ym mharagraff (4) wedi ei fodloni neu wedi eu bodloni,

caiff yr ynad heddwch drwy warant awdurdodi swyddog gorfodaeth i fynd i'r fangre, drwy rym rhesymol, os oes angen.

(4) Yr amodau a grybwyllir ym mharagraff (3) yw—

(a) bod mynediad wedi ei wrthod,

(b) bod y swyddog gorfodaeth yn dirnad ar sail resymol bod mynediad yn debygol o gael ei wrthod,

(c) nad yw'r fangre wedi ei meddiannu,

(d) bod y meddiannydd yn absennol o'r fangre dros dro a bod yr achos yn achos brys, neu

(e) y byddai cais i fynd i'r fangre yn tanseilio diben y mynediad arfaethedig.

(5) Mae gwarant a roddir o dan baragraff (3) yn parhau i fod mewn grym tan ddiwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r dyddiad y'i dyroddwyd.

(6) Rhaid i swyddog gorfodaeth, os yw'n ymadael â'r fangre ar adeg pan nad oes perchennog neu feddiannydd yn bresennol, ei gadael wedi ei diogelu yr un mor effeithiol rhag tresmaswyr ag yr oedd pan aeth y swyddog gorfodaeth iddi.

(7) Nid yw'r rheoliad hwn yn gymwys i fangre breswyl.

(8) At ddibenion y rheoliad hwn, ystyr "mangre breswyl" yw mangre, neu unrhyw ran o fangre, a ddefnyddir yn gyfan gwbl neu'n bennaf fel annedd.

Pŵer mynediad, ymchwilio ac archwilio etc.

10.—(1) Caiff swyddog gorfodaeth sy'n mynd i fangre o dan neu yn rhinwedd reoliad 9 (pwerau mynediad)—

(a) mynd yng nghwmni swyddog gorfodaeth arall, ac os oes gan y swyddog gorfodaeth achos rhesymol dros ddirnad unrhyw rwystr difrifol wrth arfer ei ddyletswydd, yng nghwmni cwnstabl;

(b) dod ag unrhyw gyfarpar neu ddeunyddiau at y diben awdurdodedig y mae'r pŵer mynediad yn cael ei arfer ar ei gyfer;

(c) cynnal yr archwiliadau a'r ymchwiliadau hynny sy'n angenrheidiol mewn unrhyw amgylchiadau;

(3) If a justice of the peace, on sworn information in writing, is satisfied—

(a) that there are reasonable grounds to enter any premises in exercise of the power in paragraph (1), and

(b) that any of the conditions in paragraph (4) are met,

the justice of the peace may by warrant authorise an enforcement officer to enter the premises, if need be by reasonable force.

(4) The conditions mentioned in paragraph (3) are—

(a) entry has been refused,

(b) the enforcement officer apprehends on reasonable grounds that entry is likely to be refused,

(c) the premises are unoccupied,

(d) the occupier is temporarily absent from the premises and the case is one of urgency, or

(e) an application to enter the premises would defeat the object of the proposed entry.

(5) A warrant granted under paragraph (3) continues in force until the end of the period of 28 days beginning with the date it was issued.

(6) An enforcement officer must, if leaving the premises at a time where no owner or occupier is present, leave it as effectively secured against trespassers as the enforcement officer found it.

(7) This regulation does not apply to residential premises.

(8) For the purposes of this regulation, "residential premises" means premises, or any part of premises, used wholly or mainly as a dwelling.

Power of entry, investigation and examination etc.

10.—(1) An enforcement officer entering premises under or by virtue of regulation 9 (powers of entry) may—

(a) be accompanied by another enforcement officer, and if the enforcement officer has reasonable cause to apprehend any serious obstruction in the execution of their duty, a constable;

(b) bring any equipment or materials for the authorised purpose for which the power of entry is being exercised;

(c) make such examination and investigation as may in any circumstances be necessary;

(d) yn ddarostyngedig i baragraff (2), chwilio'r fangre honno ac ymafael mewn unrhyw ddogfennau a symud ymaith unrhyw ddogfennau (ac eithrio fêps untro, neu gydrannau fêps untro) sydd yn neu ar y fangre, at ddiben unrhyw archwiliad neu ymchwiliad o dan is-baragraff (c);

(e) cymryd unrhyw fesuriadau, tynnu unrhyw ffotograffau a gwneud unrhyw recordiadau y mae'r swyddog gorfodaeth yn ystyried eu bod yn angenrheidiol at ddiben unrhyw archwiliad neu ymchwiliad o dan is-baragraff (c);

(f) ei gwneud yn ofynnol dangos unrhyw ddogfennau, neu pan fo'r wybodaeth wedi ei chofnodi ar ffurf gyfrifiadurol, gyflwyno detholiadau o unrhyw ddogfennau, y mae'n angenrheidiol i'r swyddog gorfodaeth eu gweld at ddibenion unrhyw archwiliad neu ymchwiliad o dan is-baragraff (c) ac edrych ar y dogfennau a chymryd copïau ohonynt, neu o unrhyw gofnod ynddynt;

(g) ei gwneud yn ofynnol i unrhyw berson roi i'r swyddog gorfodaeth y cyfleusterau hynny a'r cymorth hwnnw mewn cysylltiad ag unrhyw faterion neu bethau sydd o dan reolaeth y person, neu y mae gan y person hwnnw gyfrifoldebau mewn perthynas â hwy, ag sy'n angenrheidiol er mwyn galluogi'r swyddog gorfodaeth i arfer unrhyw un neu ragor o'r pwerau a roddir iddo gan y rheoliad hwn;

(h) cyfarwyddo bod y fangre honno neu unrhyw ran ohoni, neu unrhyw beth sydd ynddi, yn cael ei gadael heb aflonyddu arni neu ei adael heb aflonyddu arno (pa un ai'n gyffredinol neu o ran agweddau penodol) am gyhyd ag y bo'n rhesymol angenrheidiol at ddibenion archwiliad neu ymchwiliad o dan is-baragraff (c);

(i) cymryd unrhyw samplau, neu beri i samplau gael eu cymryd, o unrhyw fêps untro, neu unrhyw gydrannau o fêps untro, a geir yn neu ar y fangre honno, a pheri i'r fêps untro hynny neu'r cydrannau hynny gael eu dadansoddi neu eu profi;

(j) yn achos unrhyw fêp untro, neu unrhyw gydran o fêp untro, a geir yn neu ar y fangre honno, gymryd meddiant ohono neu ohoni, a'i gadw neu ei chadw am gyhyd ag y bo'n angenrheidiol at y cyfan neu unrhyw un neu ragor o'r dibenion a ganlyn—

(i) ei ddatgymalu neu ei datgymalu neu beri iddo gael ei ddatgymalu neu beri iddi gael ei datgymalu (ond nid er mwyn ei ddifrodi neu ei difrodi neu ei ddinistrio neu ei dinistrio, oni bai bod hynny'n angenrheidiol);

(d) subject to paragraph (2), search those premises and seize and remove any documents (other than single-use vapes, or components of single-use vapes) in or on the premises, for the purpose of any examination or investigation under sub-paragraph (c);

(e) take such measurements and photographs and make such recordings as the enforcement officer considers necessary for the purpose of any examination or investigation under sub-paragraph (c);

(f) require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any documents which it is necessary for the enforcement officer to see for the purposes of any examination or investigation under sub-paragraph (c) and to inspect and take copies of, or of any entry in, the documents;

(g) require any person to provide the enforcement officer with such facilities and assistance with respect to any matters or things within the person's control, or in relation to which that person has responsibilities, as are necessary to enable the enforcement officer to exercise any of the powers conferred by this regulation;

(h) direct that those premises or any part of them, or anything in them, be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of examination or investigation under sub-paragraph (c);

(i) take any samples, or cause samples to be taken, of any single-use vapes, or components of single-use vapes, found in or on those premises, and cause such single-use vapes or components to be analysed or tested;

(j) in the case of any single-use vape, or component of a single-use vape, found in or on those premises, take possession of it, and retain it for so long as is necessary for all or any of the following purposes—

(i) to dismantle it or to cause it to be dismantled (but not so as to damage or destroy it, unless that is necessary);

(ii) ei archwilio neu ei harchwilio, a chynnal unrhyw broses neu brofion arno neu arni, neu beri iddo gael ei archwilio neu beri iddi gael ei harchwilio;

(iii) sicrhau nad ymyrrir ag ef neu hi cyn i'r archwiliad gael ei gwblhau;

(iv) sicrhau ei fod ar gael i'w ddefnyddio neu ei bod ar gael i'w defnyddio fel tystiolaeth mewn unrhyw achos am drosedd o dan y Rheoliadau hyn;

(k) unwaith y mae yn neu ar y fangre honno, brynu fêp untro, neu ymrwymo i gytundeb i sicrhau y darperir fêp untro, heb roi rhybudd yn gyntaf, neu gael gwarant i wneud hynny.

(2) Yn ddarostyngedig i baragraff (4), ni chaiff swyddog gorfodaeth arfer y pŵer ym mharagraff (1)(d) heb—

(a) cydsyniad person sydd â hawlogaeth i roi mynediad i ddeunydd sydd yn y fangre neu'n hygyrch ohoni, neu

(b) awdurdod gwarant a roddir o dan baragraff (3).

(3) Caiff ynad heddwch drwy warrant awdurdodi swyddog gorfodaeth i arfer y pwerau ym mharagraff (1)(d) yn unol â'r warant ac, os oes angen, drwy rym, os yw'r ynad heddwch wedi ei fodloni bod sail resymol dros gredu—

(a) bod dogfennau yn y fangre o dan sylw neu sy'n hygyrch ohoni sy'n debygol o fod o werth sylweddol (ar eu pennau eu hunain neu ynghyd â deunydd arall) i archwiliad neu ymchwiliad o dan baragraff (1)(c), a

(b) ei bod yn anymarferol cyfathrebu â pherson sydd â hawlogaeth i roi mynediad i'r dogfennau, neu ei bod yn annhebygol y bydd mynediad iddynt yn cael ei roi oni bai bod gwarant yn cael ei dangos.

(4) Caiff swyddog gorfodaeth arfer y pŵer ym mharagraff (1)(d) heb gydsyniad neu awdurdod gwarant os oes gan y swyddog gorfodaeth sail resymol dros gredu bod arfer y pŵer yn angenrheidiol er mwyn atal y dogfennau rhag cael eu cuddio, eu colli, eu newid neu eu dinistrio.

(5) Pan fo swyddog gorfodaeth yn symud dogfen ymaith o dan y pŵer ym mharagraff (1)(d) sy'n "deunydd gwarchodedig"—

(a) ni chaniateir defnyddio'r deunydd at y diben awdurdodedig, a

(ii) to examine it, and to subject it to any process or test, or cause it to be examined;

(iii) to ensure that it is not tampered with before the examination is completed;

(iv) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations;

(k) once in or on those premises, make a purchase of a single-use vape, or enter into an agreement to secure provision of a single-use vape, without first giving notice, or obtaining a warrant to do so.

(2) Subject to paragraph (4), an enforcement officer may not exercise the power in paragraph (1)(d) without—

(a) the consent of a person entitled to grant access to material on or accessible from the premises, or

(b) the authority of a warrant granted under paragraph (3).

(3) A justice of the peace may by warrant authorise an enforcement officer to exercise the powers in paragraph (1)(d) in accordance with the warrant and, if need be by force, if the justice of the peace is satisfied there are reasonable grounds for believing that—

(a) there are documents on or accessible from the premises in question which are likely to be of substantial value (by themselves or together with other material) to an examination or investigation under paragraph (1)(c), and

(b) it is impracticable to communicate with a person entitled to grant access to the documents, or access to them is unlikely to be granted unless a warrant is produced.

(4) An enforcement officer may exercise the power in paragraph (1)(d) without consent or the authority of a warrant if the enforcement officer has reasonable grounds for believing that exercising the power is necessary to prevent the documents from being concealed, lost, altered, or destroyed.

(5) Where an enforcement officer removes a document under the power in paragraph (1)(d) that is "protected material"—

(a) the material may not be used for the authorised purpose, and

(b) rhaid dychwelyd y deunydd i'r fangre y'i symudwyd ymaith ohoni, neu i'r person a oedd â meddiant ohono neu reolaeth drosto yn union cyn iddo gael ei symud ymaith, cyn gynted ag y bo'n rhesymol ymarferol (ond caiff y swyddog gorfodaeth gadw unrhyw wybodaeth, neu gymryd copïau o unrhyw wybodaeth, sydd wedi ei chynnwys yn y ddogfen nad oes hawlogaeth o'r fath yn bodoli mewn perthynas â hi).

(6) At ddibenion y rheoliad hwn, ystyr "deunydd gwarchodedig" yw—

(a) deunydd sy'n ddarostyngedig i fraint broffesiynol gyfreithiol,

(b) deunydd eithriedig o fewn ystyr a roddir i "excluded material" yn adran 11 o Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984(**1**), neu

(c) deunydd newyddiadurol, o fewn yr ystyr a roddir i "journalistic material" yn adran 13 o Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984(**2**), nad yw'n ddeunydd eithriedig.

(7) Nid oes dim ym mharagraff (1)(f) sy'n gorfodi person i ddangos unrhyw ddogfennau y byddai gan y person hwnnw hawlogaeth, ar sail braint broffesiynol gyfreithiol, i ymatal rhag eu dangos ar orchymyn datgelu mewn achos yn y Llys Sirol neu'r Uchel Lys.

(8) Rhaid i swyddog gorfodaeth sy'n ceisio arfer pŵer o dan baragraff (1) ddangos tystiolaeth o bwy ydyw a thystiolaeth o'i awdurdod os gofynnir iddo gan berson sydd, neu yr ymddengys ei fod, yn—

(a) cyflenwr fêps untro;

(b) cyflogai i gyflenwr y cyfeirir ato yn is-baragraff (a);

(c) perchennog neu feddiannydd ar unrhyw fangre y mae'r swyddog gorfodaeth yn ceisio arfer y pŵer o dan sylw ynddi.

Digolledu am ddifrod a achosir drwy arfer pwerau mynediad, ymchwilio ac archwilio etc.

11.—(1) Mae'r rheoliad hwn yn gymwys i unrhyw bŵer i gael mynediad o dan reoliad 9, neu i wneud unrhyw beth o dan reoliad 10.

(2) Yn ddarostyngedig i baragraff (3), rhaid i'r rheoleiddiwr y mae'r swyddog gorfodaeth yn gweithredu o dan ei awdurdodiad ddigolledu unrhyw berson sydd wedi dioddef colled neu ddifrod oherwydd—

(a) arfer y pŵer hwnnw gan y swyddog gorfodaeth, neu

(b) the material must be returned to the premises from which it was removed, or to the person who had possession or control over it immediately before it was removed, as soon as reasonably practicable (but the enforcement officer may retain, or take copies of, any information contained in the document in relation to which no such entitlement exists).

(6) For the purposes of this regulation, "protected material" means—

(a) material subject to legal professional privilege,

(b) excluded material within the meaning of section 11 of the Police and Criminal Evidence Act 1984(**1**), or

(c) journalistic material, within the meaning of section 13 of the Police and Criminal Evidence Act 1984(**2**), which is not excluded material.

(7) Nothing in paragraph (1)(f) compels the production by a person of any documents of which that person would, on grounds of legal professional privilege, be entitled to withhold production on an order for disclosure in an action in the County Court or High Court.

(8) An enforcement officer seeking to exercise a power under paragraph (1) must produce evidence of identity and authority if requested by a person who is, or who appears to be—

(a) a supplier of single-use vapes;

(b) an employee of a supplier referred to in sub-paragraph (a);

(c) the owner or occupier of any premises in which the enforcement officer seeks to exercise the power concerned.

Compensation for damage caused by exercise of powers of entry, investigation and examination etc.

11.—(1) This Regulation applies to any power to enter under regulation 9, or to do anything under regulation 10.

(2) Subject to paragraph (3), the regulator under whose authorisation the enforcement officer acts must compensate any person who has sustained loss or damage by reason of—

(a) the exercise by the enforcement officer of that power, or

(**1**) 1984 p. 60.
(**2**) 1984 p. 60.

(**1**) 1984 c. 60.
(**2**) 1984 c. 60.

(b) cyflawni, neu fethu â chyflawni, y ddyletswydd a osodir gan reoliad 9(6).

(3) Ni fydd digolledíad yn daladwy mewn cysylltiad ag unrhyw golled neu ddifrod—

(a) sydd i'w briodoli i ddiffyg y person a'i dioddefodd, neu

(b) sy'n golled neu'n ddifrod y mae digolledíad yn daladwy mewn cysylltiad â hi neu ag ef yn rhinwedd unrhyw ddarpariaeth arall mewn deddfiad rheoli llygredd (fel y diffinnir "pollution control enactments" o dan adran 108(15) o Ddeddf yr Amgylchedd 1995(**1**)).

(4) Atgyfeirir unrhyw anghydfod o ran hawlogaeth person i ddigolledíad o dan y rheoliad hwn, neu o ran swm unrhyw ddigolledíad sy'n ddyledus, i'w gymrodeddu gan un cymrodeddwr.

(5) Ni fydd swyddog gorfodaeth yn atebol mewn unrhyw achos sifil na throseddol am unrhyw beth a wneir wrth honni arfer unrhyw bŵer perthnasol os yw'r llys wedi ei fodloni bod y weithred wedi ei gwneud yn ddidwyll a bod sail resymol dros ei gwneud.

Gwaredu fêps untro

12.—(1) Caiff Gweinidogion Cymru gyfarwyddo bod fêps untro o ddisgrifiad a bennir ym mharagraff (2) i'w trin fel gwastraff ac i'w gwaredu neu eu trin fel arall fel y mae Gweinidogion Cymru yn ystyried ei bod yn angenrheidiol.

(2) Y fêps untro y cyfeirir atynt ym mharagraff (1) yn unrhyw fêps untro sydd wedi eu cyflenwi, eu cynnig ar gyfer eu cyflenwi, neu eu dal ym meddiant person i'w cyflenwi yn groes i Ran 2, ac maent yn cynnwys fêps untro y mae rheoleiddiwr wedi gosod sancsiynau sifil mewn cysylltiad â hwy o dan y Rheoliadau hyn.

(3) O ran cyfarwyddyd o dan baragraff (1)—

(a) caniateir ei roi i unrhyw un neu ragor o reoleiddwyr mewn cysylltiad ag unrhyw gamau gorfodi a gymerir gan reoleiddiwr o dan y Rheoliadau hyn;

(b) caiff fod yn gymwys mewn cysylltiad â fêps untro a gedwir gan unrhyw swyddog gorfodaeth sydd—

(i) wedi ei awdurdodi gan y rheoleiddiwr o dan sylw, a

(ii) yn gweithredu at ddiben awdurdodedig;

(**1**) 1995 p. 25.

(b) the performance of, or failure to perform, the duty imposed by regulation 9(6).

(3) Compensation will not be payable in respect of any loss or damage which—

(a) is attributable to the default of the person who sustained it, or

(b) is loss or damage in respect of which compensation is payable by virtue of any other provision of a pollution control enactment (as defined under section 108(15) of the Environment Act 1995(**1**)).

(4) Any dispute as to a person's entitlement to compensation under this regulation, or as to the amount of any compensation due, will be referred to the arbitration of a single arbitrator.

(5) An enforcement officer will not be liable in any civil or criminal proceedings for anything done in the purported exercise of any relevant power if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Disposal of single-use vapes

12.—(1) The Welsh Ministers may direct that single-use vapes of a description specified in paragraph (2) are to be treated as waste and disposed of or otherwise treated as the Welsh Ministers consider necessary.

(2) The single-use vapes referred to in paragraph (1) are any single-use vapes which have been supplied, offered for supply, or held in a person's possession for supply in contravention of Part 2, and include single-use vapes in respect of which a regulator has imposed civil sanctions under these Regulations.

(3) A direction under paragraph (1)—

(a) may be given to any one or more regulators in connection with any enforcement action taken by a regulator under these Regulations;

(b) may be applicable in respect of single-use vapes retained by any enforcement officer who is—

(i) authorised by the regulator concerned, and

(ii) acting for an authorised purpose;

(**1**) 1995 c. 25.

(c) ni chaniateir i'r rheoleiddiwr o dan sylw (neu i berson sy'n gweithredu ar ran y rheoleiddiwr) ei weithredu hyd nes y bydd unrhyw hawl i apelio mewn perthynas â'r drosedd o dan y Rheoliadau hyn wedi ei disbyddu, neu hyd nes y bydd y cyfnod ar gyfer dwyn yr apêl honno wedi dod i ben heb i apêl gael ei dwyn.

(c) must not be executed by the regulator concerned (or by a person acting on the regulator's behalf) until any right of appeal in relation to the offence under these Regulations is exhausted, or the period for bringing that appeal has ended without an appeal being brought.

Cyhoeddi gwybodaeth am gamau gorfodi

13.—(1) Pa fo rheoleiddiwr yn gosod sancsiynau sifil o dan y Rheoliadau hyn, rhaid i'r rheoleiddiwr o bryd i'w gilydd gyhoeddi—

(a) yr achosion y gosodwyd y sancsiwn sifil ynddynt,

(b) pan fo'r sancsiwn sifil yn gosb ariannol benodedig, yn gosb ariannol amrywiadwy neu'n hysbysiad cydymffurfio, yr achosion y derbyniwyd ymgymeriad trydydd parti ynddynt, ac

(c) yr achosion yr ymrwymwyd i ymgymeriad gorfodi ynddynt.

(2) Ym mharagraff (1)(a), nid yw'r cyfeiriad at achosion y gosodwyd y sancsiwn sifil ynddynt yn cynnwys achosion pan fo'r sancsiwn wedi ei osod ond wedi ei wrthdroi ar apêl.

(3) Nid yw'r rheoliad hwn yn gymwys mewn achosion pan fo'r rheoleiddiwr yn ystyried y byddai cyhoeddi yn amhriodol.

Publication of information about enforcement action

13.—(1) Where a regulator imposes civil sanctions under these Regulations, the regulator must from time to time publish—

(a) the cases in which the civil sanction has been imposed,

(b) where the civil sanction is a fixed monetary penalty, a variable monetary penalty, or a compliance notice, the cases in which a third-party undertaking has been accepted, and

(c) the cases in which an enforcement undertaking has been entered into.

(2) In paragraph (1)(a), the reference to cases in which the civil sanction has been imposed does not include cases where the sanction has been imposed but overturned on appeal.

(3) This regulation does not apply in cases where the regulator considers that publication would be inappropriate.

Canllawiau

14.—(1) Rhaid i'r rheoleiddiwr gyhoeddi canllawiau ynghylch ei ddefnydd o sancsiynau sifil o dan y Rheoliadau hyn mewn perthynas â throsedd o dan Ran 2.

(2) Mewn perthynas â chanllawiau sy'n ymwneud â chosb ariannol benodedig, cosb ariannol amrywiadwy, hysbysiad cydymffurfio, cosb am beidio â chydymffurfio neu hysbysiad stop, rhaid i'r canllawiau gynnwys yr wybodaeth berthnasol a nodir ym mharagraff (3).

(3) Yr wybodaeth berthnasol y cyfeirir ati ym mharagraff (2) yw gwybodaeth ynghylch—

(a) ym mha amgylchiadau y mae'r gosb neu'r hysbysiad yn debygol o gael ei gosod neu ei osod,

(b) ym mha amgylchiadau na chaniateir gosod y gosb neu'r hysbysiad,

(c) yr hawl i gyflwyno sylwadau a gwrthwynebiadau, a hawliau i apelio,

Guidance

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

(2) In relation to guidance relating to a fixed monetary penalty, a variable monetary penalty, a compliance notice, a non-compliance penalty, or a 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 the penalty or notice may not be imposed,

(c) the right to make representations and objections, and rights of appeal,

(d) yn achos cosb ariannol benodedig, swm y gosb, sut y caniateir cael rhyddhad rhag atebolrwydd am y gosb, ac effaith y rhyddhad, ac

(e) yn achos cosb ariannol amrywiadwy, y materion y mae'r rheoleiddiwr yn debygol o'u hystyried wrth bennu swm y gosb (gan gynnwys unrhyw ddisgowntiau am adrodd yn wirfoddol am beidio â chydymffurfio gan unrhyw berson amdano'i hun).

(4) Rhaid i'r rheoleiddiwr ddiwygio'r canllawiau pan fo hynny'n briodol.

(5) Rhaid i'r rheoleiddiwr ymgynghori â'r personau hynny y mae'n ystyried eu bod yn briodol cyn cyhoeddi unrhyw ganllawiau neu ganllawiau diwygiedig o dan y rheoliad hwn.

(6) Rhaid i'r rheoleiddiwr roi sylw i'w ganllawiau neu ei ganllawiau diwygiedig a gyhoeddir o dan y rheoliad hwn wrth arfer ei swyddogaethau.

(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, and

(e) in the case of a variable monetary penalty, the matters likely to be taken into account by the regulator in determining the amount of the penalty (including any discounts for voluntary reporting by any person of that person's non-compliance).

(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 its guidance or revised guidance published under this regulation in exercising its functions.

RHAN 4

Darpariaeth atodol

Adolygiad

15.—(1) Rhaid i Weinidogion Cymru—

(a) cyn gynted ag y bo'n rhesymol ymarferol ar ôl diwedd y cyfnod o dair blynedd o'r dyddiad y daw'r Rheoliadau hyn i rym, gynnal adolygiad o weithrediad y darpariaethau yn Rhan 3 (gorfodi, pwerau ymchwilio a sancsiynau sifil) a'r Atodlen,

(b) o bryd i'w gilydd, gynnal adolygiad o'r ddarpariaeth reoleiddiol a geir yn y Rheoliadau hyn (gan gynnwys Rhan 3 a'r Atodlen), ac

(c) cyhoeddi adroddiad sy'n nodi casgliadau unrhyw adolygiad cyn gynted ag y bo'n rhesymol ymarferol ar ôl hynny.

(2) Yn achos adolygiad o dan baragraff (1)(a), rhaid i Weinidogion Cymru—

(a) ystyried a yw'r ddarpariaeth wedi cyflawni ei hamcanion yn effeithlon ac yn effeithiol,

(b) ymgynghori â'r personau hynny y mae Gweinidogion Cymru yn ystyried eu bod yn briodol, ac

(c) gosod copi o'r adroddiad o dan baragraff (1)(c) gerbron Senedd Cymru.

PART 4

Supplementary

Review

15.—(1) The Welsh Ministers 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 3 (enforcement, investigatory powers and civil sanctions) and the Schedule,

(b) from time to time, carry out a review of the regulatory provision contained in these Regulations (including Part 3 and the Schedule), and

(c) publish a report setting out the conclusions of any review as soon as reasonably practicable thereafter.

(2) In the case of a review under paragraph (1)(a), the Welsh Ministers must—

(a) consider whether the provision has implemented its objectives efficiently and effectively,

(b) consult such persons as the Welsh Ministers consider appropriate, and

(c) lay a copy of the report under paragraph (1)(c) before Senedd Cymru.

(3) Yn y rheoliad hwn, mae i "darpariaeth reoleiddiol" yr un ystyr ag a roddir i "regulatory provision" yn adran 32 o Ddeddf Busnesau Bach, Menter a Chyflogaeth 2015(**1**).

(3) In this regulation, "regulatory provision" has the same meaning as in section 32 of the Small Business, Enterprise and Employment Act 2015(**1**).

Huw Irranca-Davies

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig, un o Weinidogion Cymru
11 Rhagfyr 2024

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, one of the Welsh Ministers
11 December 2024

(**1**) 2015 p. 26.

(**1**) 2015 c. 26.

YR ATODLEN Rheoliad 8

Sancsiynau Sifil

RHAN 1

Cosbau ariannol penodedig, cosbau ariannol amrywiadwy a hysbysiadau cydymffurfio

Gosod cosb ariannol benodedig, cosb ariannol amrywiadwy neu hysbysiad cydymffurfio

1.—(1) Mewn perthynas â throsedd o dan Ran 2 o'r Rheoliadau hyn, caiff rheoleiddiwr, yn ddarostyngedig i is-baragraff (2), drwy hysbysiad osod gofyniad ar berson i—

(a) talu i'r rheoleiddiwr gosb o £200 ("cosb ariannol benodedig"),

(b) talu i'r rheoleiddiwr gosb ariannol o unrhyw swm y mae'r rheoleiddiwr yn ei bennu ("cosb ariannol amrywiadwy"), neu

(c) cymryd unrhyw gamau y mae'r rheoleiddiwr yn eu pennu, o fewn unrhyw gyfnod a bennir ganddo, er mwyn sicrhau nad yw'r drosedd yn parhau neu nad yw'n digwydd eto, neu i sicrhau bod y sefyllfa, cyn belled ag y bo hynny'n bosibl, yn cael ei hadfer i'r hyn y byddai wedi bod pe na bai'r drosedd wedi ei chyflawni ("hysbysiad cydymffurfio").

(2) Cyn gosod gofyniad o dan is-baragraff (1) yn y fath fodd, rhaid i'r rheoleiddiwr fod wedi ei fodloni y tu hwnt i amheuaeth resymol fod y person wedi cyflawni'r drosedd.

(3) Pan osodir cosb ariannol amrywiadwy mewn perthynas â throsedd o dan reoliad 5 (rhwystro swyddogion gorfodaeth a methu â chydymffurfio â'u ceisiadau), ni chaiff swm y gosb fod yn fwy nag uchafswm y ddirwy y gellid ei gosod ar euogfarn am y drosedd honno.

(4) Ni chaniateir gosod gofyniad o dan is-baragraff (1)(a) pan fo cosb ariannol amrywiadwy wedi ei gosod ar berson, neu pan fo hysbysiad cydymffurfio neu hysbysiad stop wedi ei gyflwyno i berson, mewn perthynas â'r un weithred neu anweithred.

(5) Ni chaniateir gosod gofyniad o dan is-baragraff (1)(b) neu (1)(c) pan fo cosb ariannol benodedig wedi ei gosod ar berson mewn perthynas â'r un weithred neu anweithred, neu pan fo'r person wedi ei ryddhau ei hun rhag atebolrwydd am gosb ariannol benodedig mewn perthynas â'r un weithred neu anweithred.

SCHEDULE Regulation 8

Civil Sanctions

PART 1

Fixed monetary penalties, variable monetary penalties and compliance notices

Imposition of a fixed monetary penalty, a variable monetary penalty or a compliance notice

1.—(1) In relation to an offence under Part 2 of these Regulations, a regulator may, subject to sub-paragraph (2), by notice impose a requirement on a person to—

(a) pay the regulator a penalty of £200 (a "fixed monetary penalty"),

(b) pay the regulator a monetary penalty of such amount as the regulator may determine (a "variable monetary penalty"), or

(c) take such steps as the regulator may specify, within such period as it may specify, to secure that the offence does not continue or recur, or to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed (a "compliance notice").

(2) Before so imposing a requirement under sub-paragraph (1), the regulator must be satisfied beyond reasonable doubt that the person has committed the offence.

(3) Where a variable monetary penalty is imposed in relation to an offence under regulation 5 (obstruction of enforcement officers and failure to comply with their requests), the amount of the penalty must not exceed the maximum amount of the fine that could be imposed upon conviction of that offence.

(4) A requirement under sub-paragraph (1)(a) may not be imposed where a variable monetary penalty has been imposed, or a compliance notice or stop notice has been served, on a person in relation to the same act or omission.

(5) A requirement under sub-paragraph (1)(b) or (1)(c) may not be imposed where a fixed monetary penalty has been imposed on a person in relation to the same act or omission, or the person has discharged liability to a fixed monetary penalty in relation to the same act or omission.

Hysbysiad o fwriad

2.—(1) Cyn y caiff rheoleiddiwr osod cosb ariannol benodedig, cosb ariannol amrywiadwy neu hysbysiad cydymffurfio ar berson, rhaid i'r rheoleiddiwr gyflwyno i'r person hwnnw hysbysiad o'r hyn a gynigir ("hysbysiad o fwriad").

(2) Rhaid i'r hysbysiad o fwriad gynnwys—

(a) y sail dros y gosb ariannol benodedig arfaethedig, y gosb ariannol amrywiadwy arfaethedig, neu'r hysbysiad cydymffurfio arfaethedig (yn ôl y digwydd);

(b) yn achos hysbysiad cydymffurfio arfaethedig, ofynion yr hysbysiad;

(c) yn achos cosb ariannol benodedig neu gosb ariannol amrywiadwy, y swm sydd i'w dalu;

(d) gwybodaeth ynghylch—

(i) yr hawl i gyflwyno sylwadau a gwrthwynebiadau o fewn 28 o ddiwrnodau, gan ddechrau â'r diwrnod y daeth yr hysbysiad o fwriad i law;

(ii) ym mha amgylchiadau na chaiff y rheoleiddiwr osod y gosb ariannol benodedig arfaethedig, y gosb ariannol amrywiadwy arfaethedig neu'r hysbysiad cydymffurfio arfaethedig.

(3) Rhaid i hysbysiad o fwriad i osod cosb ariannol benodedig hefyd—

(a) cynnig y cyfle i'r person y cyflwynir yr hysbysiad iddo i'w ryddhau ei hun rhag atebolrwydd am y gosb drwy dalu swm o £100 i'r rheoleiddiwr o fewn 28 o ddiwrnodau, gan ddechrau â'r diwrnod y daw'r hysbysiad i law, a

(b) egluro effaith y rhyddhad hwnnw.

(4) Mae person yn ei ryddhau ei hun rhag atebolrwydd am gosb ariannol benodedig os yw'r person yn talu swm o £100 i'r rheoleiddiwr o fewn y cyfnod o amser a bennir yn is-baragraff (3)(a).

(5) Caiff person y cyflwynir hysbysiad o fwriad iddo, o fewn 28 o ddiwrnodau sy'n dechrau â'r diwrnod y daw'r hysbysiad i law, gyflwyno sylwadau a gwrthwynebiadau i'r rheoleiddiwr mewn perthynas â'r cynnig i osod cosb ariannol benodedig, cosb ariannol amrywiadwy neu hysbysiad cydymffurfio.

(6) Nid yw is-baragraff (5) yn gymwys mewn perthynas â hysbysiad o fwriad i gyflwyno cosb ariannol benodedig os yw'r person yn gwneud taliad yn unol ag is-baragraff (4).

Notice of intent

2.—(1) Before a regulator may impose a fixed monetary penalty, a variable monetary penalty, or a compliance notice on a person, the regulator must serve on that person a notice of what is proposed (a "notice of intent").

(2) The notice of intent must include—

(a) the grounds for the proposed fixed monetary penalty, variable monetary penalty, or compliance notice (as the case may be);

(b) in the case of a proposed compliance notice, the requirements of the notice;

(c) in the case of a fixed monetary penalty or a variable monetary penalty, the amount to be paid;

(d) information as to—

(i) the right to make representations and objections within 28 days, beginning with the day on which the notice of intent was received;

(ii) the circumstances in which the regulator may not impose the proposed fixed monetary penalty, variable monetary penalty or compliance notice.

(3) A notice of intent to impose a fixed monetary penalty must also—

(a) offer the person on whom the notice is served the opportunity to discharge their liability for the penalty by paying the sum of £100 to the regulator within 28 days, beginning with the day on which the notice is received, and

(b) explain the effect of that discharge.

(4) A person's liability for a fixed monetary penalty is discharged if the person pays the sum of £100 to the regulator within the time period specified in sub-paragraph (3)(a).

(5) A person on whom a notice of intent is served may, within 28 days beginning with the day on which the notice is received, make representations and objections to the regulator in relation to the proposed imposition of the fixed monetary penalty, variable monetary penalty or compliance notice.

(6) Sub-paragraph (5) does not apply in relation to a notice of intent to serve a fixed monetary penalty if the person makes a payment in accordance with sub-paragraph (4).

Ymgymeriadau trydydd parti

3.—(1) Caiff person y cyflwynir hysbysiad o fwriad iddo gynnig ymgymeriad o ran camau i'w cymryd gan y person hwnnw (gan gynnwys talu swm o arian) er budd unrhyw drydydd parti yr effeithir arno gan y drosedd ("ymgymeriad trydydd parti").

(2) Caiff y rheoleiddiwr dderbyn neu wrthod unrhyw ymgymeriad trydydd parti o'r fath.

Hysbysiad terfynol

4.—(1) Ar ôl diwedd y cyfnod ar gyfer cyflwyno sylwadau a gwrthwynebiadau ym mharagraff 2(5), rhaid i'r rheoleiddiwr benderfynu pa un ai i—

(a) gosod y gofynion yn yr hysbysiad o fwriad, gydag addasiadau neu hebddynt, neu

(b) gosod unrhyw ofyniad arall y mae gan y rheoleiddiwr y pŵer i'w osod o dan y Rhan hon.

(2) Pan fo'r rheoleiddiwr yn penderfynu gosod gofyniad, rhaid i'r hysbysiad sy'n ei osod (yr "hysbysiad terfynol") gydymffurfio â pharagraff 5 yn achos cosb ariannol benodedig, â pharagraff 6 yn achos cosb ariannol amrywiadwy, neu â pharagraff 7 yn achos hysbysiad cydymffurfio.

(3) Ni chaiff y rheoleiddiwr osod hysbysiad terfynol ar berson pan fo'r rheoleiddiwr wedi ei fodloni na fyddai'r person, oherwydd unrhyw amddiffyniad, yn agored i gael ei euogfarnu o'r drosedd y mae'r hysbysiad yn ymwneud â hi.

(4) Rhaid i'r rheoleiddiwr ystyried unrhyw ymgymeriad trydydd parti y mae wedi ei dderbyn, wrth benderfynu pa un ai i gyflwyno hysbysiad terfynol ai peidio.

Cynnwys hysbysiad terfynol: cosb ariannol benodedig

5. Rhaid i hysbysiad terfynol ar gyfer cosb ariannol benodedig gynnwys gwybodaeth ynghylch—

(a) y sail dros osod y gosb,

(b) y swm sydd i'w dalu,

(c) sut y mae rhaid talu,

(d) unrhyw ddisgowntiau am daliadau cynnar,

(e) y cyfnod y mae rhaid talu o'i fewn, na chaiff fod yn llai na 28 o ddiwrnodau gan ddechrau â'r diwrnod y daeth yr hysbysiad terfynol i law,

(f) hawliau apelio, ac

(g) canlyniadau methu â chydymffurfio â'r hysbysiad (gan gynnwys unrhyw gosbau am daliadau hwyr).

Third-party undertakings

3.—(1) A person on whom a notice of intent is served may offer an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any third-party affected by the offence (a "third-party undertaking").

(2) The regulator may accept or reject any such third-party undertaking.

Final notice

4.—(1) After the end of the period for making representations and objections in paragraph 2(5), the regulator must decide whether—

(a) to impose the requirements in the notice of intent, with or without modifications, or

(b) to impose any other requirement that the regulator has the power to impose under this Part.

(2) Where the regulator decides to impose a requirement, the notice imposing it (the "final notice") must comply with paragraph 5 in the case of a fixed monetary penalty, with paragraph 6 in the case of a variable monetary penalty, or with paragraph 7 in the case of a compliance notice.

(3) The regulator may not impose a final notice on a person where the regulator is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

(4) The regulator must take into account any third-party undertaking that it has accepted, in deciding whether or not to serve a final notice.

Contents of final notice: fixed monetary penalty

5. A final notice for a fixed monetary penalty must include information as to—

(a) the grounds for imposing the penalty,

(b) the amount to be paid,

(c) how payment must be made,

(d) any early payment discounts,

(e) the period within which payment must be made, which must not be less than 28 days beginning with the day on which the final notice was received,

(f) rights of appeal, and

(g) the consequences of failing to comply with the notice (including any late payment penalties).

Cynnwys hysbysiad terfynol: cosb ariannol amrywiadwy

6. Rhaid i hysbysiad terfynol ar gyfer cosb ariannol amrywiadwy gynnwys gwybodaeth ynghylch—

(a) y sail dros osod y gosb,

(b) y swm sydd i'w dalu,

(c) sut y mae rhaid talu,

(d) unrhyw ddisgowntiau am daliadau cynnar,

(e) y cyfnod y mae rhaid talu o'i fewn, na chaiff fod yn llai na 28 o ddiwrnodau gan ddechrau â'r diwrnod y daeth yr hysbysiad terfynol i law,

(f) hawliau apelio, ac

(g) canlyniadau methu â chydymffurfio â'r hysbysiad (gan gynnwys unrhyw gosbau am daliadau hwyr).

Contents of final notice: variable monetary penalty

6. A final notice for a variable monetary penalty must include information as to—

(a) the grounds for imposing the penalty,

(b) the amount to be paid,

(c) how payment must be made,

(d) any early payment discounts,

(e) the period within which payment must be made, which must not be less than 28 days beginning with the day on which the final notice was received,

(f) rights of appeal, and

(g) the consequences of failing to comply with the notice (including any late payment penalties).

Cynnwys hysbysiad terfynol: hysbysiad cydymffurfio

7. Rhaid i hysbysiad terfynol ar gyfer hysbysiad cydymffurfio gynnwys gwybodaeth ynghylch—

(a) y sail dros osod yr hysbysiad,

(b) pa gamau cydymffurfio sy'n ofynnol a'r cyfnod y mae rhaid eu cwblhau o'i fewn,

(c) hawliau apelio, a

(d) canlyniadau methu â chydymffurfio â'r hysbysiad.

Contents of final notice: compliance notice

7. A final notice for a compliance notice must include information as to—

(a) the grounds for imposing the notice,

(b) what compliance is required and the period within which it must be completed,

(c) rights of appeal, and

(d) the consequences of failing to comply with the notice.

Apelau yn erbyn hysbysiad terfynol

8.—(1) Caiff y person sy'n cael yr hysbysiad terfynol apelio yn ei erbyn.

(2) Y seiliau dros apelio yw—

(a) bod y penderfyniad yn seiliedig ar wall ffeithiol,

(b) bod y penderfyniad yn anghywir mewn cyfraith,

(c) yn achos cosb ariannol amrywiadwy, fod swm y gosb yn afresymol,

(d) yn achos hysbysiad cydymffurfio, fod natur y gofyniad yn afresymol, neu

(e) bod y penderfyniad yn afresymol am unrhyw reswm arall.

Appeals against a final notice

8.—(1) The person receiving the final notice may appeal against it.

(2) The grounds for appeal are—

(a) that the decision was based on an error of fact,

(b) that the decision was wrong in law,

(c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable,

(d) in the case of a compliance notice, that the nature of the requirement is unreasonable, or

(e) that the decision was unreasonable for any other reason.

Achosion troseddol: cosbau ariannol penodedig

9.—(1) Os cyflwynir hysbysiad o fwriad i osod cosb ariannol benodedig i unrhyw berson—

(a) ni chaniateir cychwyn unrhyw achos troseddol yn erbyn y person hwnnw mewn cysylltiad â'r weithred neu'r anweithred y mae'r hysbysiad yn ymwneud â hi cyn diwedd y cyfnod y caiff y person ei ryddhau ei hun rhag atebolrwydd am y gosb ariannol benodedig o'i fewn o dan baragraff 2(3), a

(b) os yw'r person yn ei ryddhau ei hun rhag atebolrwydd yn y fath fodd yn unol â pharagraff 2(4), ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o'r drosedd berthnasol mewn perthynas â'r weithred neu'r anweithred honno.

(2) Os gosodir hysbysiad terfynol ar gyfer cosb ariannol benodedig ar berson, ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o'r drosedd berthnasol mewn cysylltiad â'r weithred neu'r anweithred sy'n arwain at y gosb.

Criminal proceedings: fixed monetary penalties

9.—(1) If a notice of intent to impose a fixed monetary penalty is served on any person—

(a) no criminal proceedings may be instituted against that person in respect of the act or omission to which the notice relates before the end of the period in which the person may discharge liability to the fixed monetary penalty under paragraph 2(3), and

(b) if the person so discharges liability in accordance with paragraph 2(4), the person may not at any time be convicted of the relevant offence in relation to that act or omission.

(2) If a final notice for a fixed monetary penalty is imposed on a person, that person may not at any time be convicted of the relevant offence in respect of the act or omission giving rise to the penalty.

Achosion troseddol: cosbau ariannol amrywiadwy a hysbysiadau cydymffurfio

10.—(1) Os yw—

(a) cosb ariannol amrywiadwy neu hysbysiad cydymffurfio yn cael ei gyflwyno i unrhyw berson, neu

(b) ymgymeriad trydydd parti yn cael ei dderbyn oddi wrth unrhyw berson,

ni chaniateir i'r person hwnnw ar unrhyw adeg gael ei euogfarnu o'r drosedd mewn cysylltiad â'r weithred neu'r anweithred sy'n arwain at y gosb ariannol amrywiadwy neu'r ymgymeriad trydydd parti ac eithrio mewn achos y cyfeirir ato yn is-baragraff (2).

(2) Yr achos y cyfeirir ato yn is-baragraff (1) yw achos—

(a) pan fo hysbysiad cydymffurfio yn cael ei osod ar berson neu ymgymeriad trydydd parti yn cael ei dderbyn oddi wrth berson,

(b) pan na fo cosb ariannol amrywiadwy yn cael ei gosod ar y person hwnnw, ac

(c) pan fo'r person hwnnw yn methu â chydymffurfio â'r hysbysiad cydymffurfio neu'r ymgymeriad trydydd parti.

Criminal proceedings: variable monetary penalties and compliance notices

10.—(1) If—

(a) a variable monetary penalty or compliance notice is served on any person, or

(b) a third-party undertaking is accepted from any person,

that person may not at any time be convicted of the offence in respect of the act or omission giving rise to the variable monetary penalty or third-party undertaking except in a case referred to in sub-paragraph (2).

(2) The case referred to in sub-paragraph (1) is a case where—

(a) a compliance notice is imposed on a person or a third-party undertaking is accepted from a person,

(b) no variable monetary penalty is imposed on that person, and

(c) that person fails to comply with the compliance notice or third-party undertaking.

RHAN 2

Hysbysiadau stop

Hysbysiadau stop

11.—(1) Caiff rheoleiddiwr gyflwyno hysbysiad stop i unrhyw berson mewn achos sy'n dod o fewn is-baragraff (3) neu (4).

(2) "Hysbysiad stop" yw hysbysiad sy'n gwahardd person rhag ymgymryd â gweithgaredd a bennir yn yr hysbysiad hyd nes bod y person wedi cymryd y camau a bennir yn yr hysbysiad.

(3) Achos sy'n dod o fewn yr is-baragraff hwn yw achos pan fo—

(a) y person yn cynnal y gweithgaredd;

(b) y rheoleiddiwr yn credu'n rhesymol fod y gweithgaredd fel yr ymgymerir ag ef gan y person hwnnw yn achosi, neu'n peri risg sylweddol o achosi, niwed sylweddol i'r amgylchedd (gan gynnwys iechyd anifeiliaid); ac

(c) y rheoleiddiwr yn credu'n rhesymol fod y gweithgaredd fel yr ymgymerir ag ef gan y person hwnnw yn cynnwys, neu'n debygol o gynnwys, gyflawni trosedd o dan Ran 2 o'r Rheoliadau hyn.

(4) Achos sy'n dod o fewn yr is-baragraff hwn yw achos pan fo'r rheoleiddiwr yn credu'n rhesymol—

(a) bod y person yn debygol o ymgymryd â'r gweithgaredd,

(b) y bydd y gweithgaredd fel y mae'n debygol y bydd y person hwnnw yn ymgymryd ag ef yn achosi, neu'n peri risg sylweddol o achosi, niwed sylweddol i'r amgylchedd (gan gynnwys iechyd anifeiliaid); ac

(c) y bydd y gweithgaredd fel y mae'n debygol y bydd y person hwnnw yn ymgymryd ag ef yn cynnwys, neu y bydd yn debygol o gynnwys, gyflawni trosedd o dan Ran 2 o'r Rheoliadau hyn.

(5) Rhaid i'r camau y cyfeirir atynt yn is-baragraff (2) fod yn gamau i ddileu neu leihau'r niwed neu'r risg o niwed i'r amgylchedd (gan gynnwys iechyd anifeiliaid).

(6) Ni chaniateir cyflwyno hysbysiad stop pan fo cosb ariannol benodedig wedi ei gosod ar berson mewn perthynas â'r un weithred neu anweithred, neu pan fo'r person wedi ei ryddhau ei hun rhag atebolrwydd am gosb ariannol benodedig mewn perthynas â'r un weithred neu anweithred.

PART 2

Stop notices

Stop notices

11.—(1) A regulator may serve a stop notice on any person in a case falling within sub-paragraph (3) or (4).

(2) A "stop notice" is a notice prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.

(3) A case falling within this sub-paragraph is a case where—

(a) the person is carrying out the activity;

(b) the regulator reasonably believes that the activity as carried on by that person is causing, or presents a significant risk of causing, serious harm to the environment (including the health of animals); and

(c) the regulator reasonably believes that the activity as carried on by that person involves, or is likely to involve, the commission of an offence under Part 2 of these Regulations.

(4) A case falling within this sub-paragraph is a case where the regulator reasonably believes that—

(a) the person is likely to carry on the activity,

(b) the activity as likely to be carried on by that person will cause, or will present a significant risk of causing, serious harm to the environment (including the health of animals); and

(c) the activity as likely to be carried on by that person will involve, or will be likely to involve, the commission of an offence under Part 2 of these Regulations.

(5) The steps referred to in sub-paragraph (2) must be steps to remove or reduce the harm or risk of harm to the environment (including the health of animals).

(6) A stop notice may not be served where a fixed monetary penalty has been imposed on a person in relation to the same act or omission, or the person has discharged liability to a fixed monetary penalty in relation to the same act or omission.

Cynnwys hysbysiad stop

12. Rhaid i hysbysiad stop gynnwys gwybodaeth ynghylch—

(a) y sail dros gyflwyno'r hysbysiad,

(b) y camau y mae rhaid i'r person eu cymryd i gydymffurfio â'r hysbysiad stop,

(c) hawliau apelio, a

(d) canlyniadau peidio â chydymffurfio.

Apelau yn erbyn hysbysiadau stop

13.—(1) Caiff y person y cyflwynir hysbysiad stop iddo apelio yn erbyn y penderfyniad i'w gyflwyno.

(2) Y seiliau dros apelio yw—

(a) bod y penderfyniad yn seiliedig ar wall ffeithiol;

(b) bod y penderfyniad yn anghywir mewn cyfraith;

(c) bod y penderfyniad yn afresymol;

(d) bod unrhyw gam a bennir yn yr hysbysiad yn afresymol;

(e) nad yw'r person wedi cyflawni'r drosedd ac na fyddai wedi ei chyflawni pe na bai'r hysbysiad stop wedi ei gyflwyno;

(f) na fyddai'r person, oherwydd unrhyw amddiffyniad, wedi bod yn agored i gael ei euogfarnu o'r drosedd pe na bai'r hysbysiad stop wedi ei gyflwyno.

Tystysgrifau cwblhau

14.—(1) Pan fo'r rheoleiddiwr, ar ôl cyflwyno hysbysiad stop, wedi ei fodloni bod y person wedi cymryd y camau a bennir yn yr hysbysiad, rhaid i'r rheoleiddiwr ddyroddi tystysgrif i'r perwyl hwnnw ("tystysgrif gwblhau").

(2) Mae'r hysbysiad stop yn peidio â chael effaith pan ddyroddir tystysgrif gwblhau.

(3) Caiff y person y cyflwynir yr hysbysiad stop iddo wneud cais i'r rheoleiddiwr am dystysgrif gwblhau ar unrhyw adeg.

(4) Rhaid i'r rheoleiddiwr benderfynu pa un ai i ddyroddi tystysgrif gwblhau, a rhoi hysbysiad ysgrifenedig o'i benderfyniad i'r ceisydd, o fewn 14 o ddiwrnodau i gael y cais.

Contents of a stop notice

12. A stop notice must include information as to—

(a) the grounds for serving the notice,

(b) the steps the person must take to comply with the stop notice,

(c) rights of appeal, and

(d) the consequences of non-compliance.

Appeals against stop notices

13.—(1) The person on whom a stop notice is served may appeal against the decision to serve it.

(2) The grounds of appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable;

(d) that any step specified in the notice is unreasonable;

(e) that the person has not committed the offence and would not have committed it had the stop notice not been served;

(f) that the person would not, by reason of any defence, have been liable to be convicted of the offence had the stop notice not been served.

Completion certificates

14.—(1) Where, after service of a stop notice, the regulator is satisfied that the person has taken the steps specified in the notice, the regulator must issue a certificate to that effect (a "completion certificate").

(2) The stop notice ceases to have effect on the issue of a completion certificate.

(3) The person on whom the stop notice is served may at any time apply to the regulator for a completion certificate.

(4) The regulator must make a decision as to whether to issue a completion certificate, and give written notice of its decision to the applicant, within 14 days of receipt of the application.

Apelau yn erbyn penderfyniad i beidio â dyroddi tystysgrif gwblhau

15. Caiff y person y cyflwynwyd yr hysbysiad stop iddo apelio yn erbyn penderfyniad i beidio â dyroddi tystysgrif gwblhau, yn dilyn cais a wneir o dan baragraff 14(3), ar y seiliau—

(a) bod y penderfyniad yn seiliedig ar wall ffeithiol;

(b) bod y penderfyniad yn anghywir mewn cyfraith;

(c) bod y penderfyniad yn annheg neu'n afresymol.

Appeals against a decision not to issue a completion certificate

15. The person on whom the stop notice was served may appeal against a decision not to issue a completion certificate, following an application made under paragraph 14(3), on the grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unfair or unreasonable.

Digolledіad

16. Rhaid i'r rheoleiddiwr ddigolledu person am golled a ddioddefir o ganlyniad i gyflwyno hysbysiad stop, neu wrthod dyroddi tystysgrif gwblhau, os—

(a) caiff yr hysbysiad stop wedi hynny ei dynnu'n ôl neu ei ddiwygio gan y rheoleiddiwr am fod y penderfyniad i'w gyflwyno yn afresymol, neu am fod unrhyw gam a bennwyd ynddo yn afresymol,

(b) yw'r person yn apelio'n llwyddiannus yn erbyn yr hysbysiad stop a bod y Tribiwnlys Haen Gyntaf yn dyfarnu bod cyflwyno'r hysbysiad yn afresymol, neu

(c) yw'r person yn apelio'n llwyddiannus yn erbyn y penderfyniad i wrthod dyroddi tystysgrif gwblhau a bod y Tribiwnlys Haen Gyntaf yn dyfarnu bod y gwrthodiad yn afresymol.

Compensation

16. The regulator must compensate a person for loss suffered as a result of the service of a stop notice, or the refusal to issue a completion certificate, if—

(a) the stop notice is subsequently withdrawn or amended by the regulator because the decision to serve it was unreasonable, or any step specified in it was unreasonable,

(b) the person successfully appeals against the stop notice and the First-tier Tribunal finds that the service of the notice was unreasonable, or

(c) the person successfully appeals against the refusal to issue a completion certificate and the First-tier Tribunal finds that the refusal was unreasonable.

Apêl yn erbyn penderfyniad digolledіad

17. Caiff person apelio yn erbyn penderfyniad i beidio â dyfarnu digolledіad, neu apelio yn erbyn swm y digolledіad a ddyfarnwyd—

(a) ar y sail bod penderfyniad y rheoleiddiwr yn afresymol;

(b) ar y sail bod y swm a gynigiwyd yn seiliedig ar ffeithiau anghywir.

Appeal against compensation decision

17. A person may appeal against a decision not to award compensation, or the amount of compensation awarded—

(a) on the grounds that the regulator's decision was unreasonable;

(b) on the grounds that the amount offered was based on incorrect facts.

Trosedd

18. Pan na fo person y cyflwynir hysbysiad stop iddo yn cydymffurfio ag ef, mae'r person yn euog o drosedd ac yn agored—

(a) ar euogfarn ddiannod, i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol, neu i'w garcharu am gyfnod nad yw'n hwy na'r terfyn cyffredinol mewn llys ynadon, neu'r ddau, neu

Offence

18. Where a person on whom a stop notice is served does not comply with it, the person is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding level 5 on the standard scale, or imprisonment for a term not exceeding the general limit in a magistrates' court, or both, or

(b) ar euogfarn ar dditiad, i'w garcharu am gyfnod nad yw'n hwy na dwy flynedd, neu i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol, neu'r ddau.

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine not exceeding level 5 on the standard scale, or both.

RHAN 3

Ymgymeriadau gorfodi

Ymgymeriadau gorfodi

19. Caiff rheoleiddiwr dderbyn ymgymeriad gorfodi a roddir gan berson mewn achos pan fo gan y rheoleiddiwr sail resymol dros amau bod y person wedi cyflawni trosedd o dan Ran 2 o'r Rheoliadau hyn.

Cynnwys ymgymeriad gorfodi

20.—(1) Rhaid i ymgymeriad gorfodi bennu—

(a) camau i sicrhau nad yw'r drosedd yn parhau neu'n digwydd eto,

(b) camau (gan gynnwys talu swm o arian) er budd unrhyw berson y mae'r drosedd yn effeithio arno,

(c) camau i sicrhau bod y sefyllfa, cyn belled ag y bo hynny'n bosibl, yn cael ei hadfer i'r hyn y byddai wedi bod pe na bai'r drosedd wedi ei chyflawni, neu

(d) camau o ddisgrifiad rhagnodedig.

(2) Rhaid i'r ymgymeriad gorfodi bennu'r cyfnod y mae rhaid cwblhau'r camau gweithredu o'i fewn.

(3) Rhaid i'r ymgymeriad gorfodi gynnwys—

(a) datganiad bod yr ymgymeriad gorfodi wedi ei wneud yn unol â'r Atodlen hon,

(b) telerau'r ymgymeriad gorfodi, ac

(c) ym mha amgylchiadau yr ystyrir bod person wedi cydymffurfio â'r ymgymeriad gorfodi.

(4) Caniateir amrywio'r ymgymeriad gorfodi, neu estyn y cyfnod y mae rhaid cwblhau'r camau gweithredu o'i fewn, os yw'r ddau barti yn cytuno i hynny yn ysgrifenedig.

PART 3

Enforcement undertakings

Enforcement undertakings

19. A regulator may accept an enforcement undertaking given by a person in a case where the regulator has reasonable grounds to suspect that the person has committed an offence under Part 2 of these Regulations.

Contents of an enforcement undertaking

20.—(1) An enforcement undertaking must specify—

(a) action to secure the offence does not continue or recur,

(b) action (including the payment of a sum of money) to benefit any person affected by the offence,

(c) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed, or

(d) action of a prescribed description.

(2) The enforcement undertaking must specify the period within which the action must be completed.

(3) The enforcement undertaking must include—

(a) a statement that the enforcement undertaking is made in accordance with this Schedule,

(b) the terms of the enforcement undertaking, and

(c) the circumstances in which a person may be regarded as having complied with the enforcement undertaking.

(4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if both parties agree in writing.

Derbyn ymgymeriad gorfodi

21. Os yw rheoleiddiwr wedi derbyn ymgymeriad gorfodi, yna, oni bai bod y person y derbynnir yr ymgymeriad gorfodi oddi wrtho wedi methu â chydymffurfio â'r ymgymeriad gorfodi, neu unrhyw ran ohono—

(a) ni chaniateir euogfarnu'r person hwnnw ar unrhyw adeg o'r drosedd mewn cysylltiad â'r weithred neu'r anweithred y mae'r ymgymeriad gorfodi yn ymwneud â hi, a

(b) ni chaiff y rheoleiddiwr osod cosb ariannol benodedig, cosb ariannol amrywiadwy, hysbysiad cydymffurfio na hysbysiad stop ar y person hwnnw mewn cysylltiad â'r weithred neu'r anweithred honno.

Acceptance of an enforcement undertaking

21. If a regulator has accepted an enforcement undertaking, then, unless the person from whom the enforcement undertaking is accepted has failed to comply with the enforcement undertaking, or any part of it—

(a) that person may not, at any time, be convicted of the offence in respect of the act or omission to which the enforcement undertaking relates, and

(b) the regulator may not impose on that person a fixed monetary penalty, a variable monetary penalty, a compliance notice or a stop notice in respect of that act or omission.

Cyflawni ymgymeriad gorfodi

22.—(1) Os yw rheoleiddiwr sydd wedi derbyn ymgymeriad gorfodi wedi ei fodloni y cydymffurfiwyd â'r ymgymeriad, rhaid iddo ddyroddi tystysgrif i'r perwyl hwnnw ("tystysgrif gyflawni").

(2) Caiff y rheoleiddiwr ei gwneud yn ofynnol i'r person sydd wedi rhoi'r ymgymeriad gorfodi ddarparu gwybodaeth sy'n ddigonol i benderfynu y cydymffurfiwyd â'r ymgymeriad gorfodi.

(3) Caiff y person sydd wedi rhoi'r ymgymeriad gorfodi wneud cais i'r rheoleiddiwr am dystysgrif gyflawni ar unrhyw adeg.

(4) Rhaid i'r rheoleiddiwr benderfynu pa un ai i ddyroddi tystysgrif gyflawni, a rhoi hysbysiad ysgrifenedig o'i benderfyniad i'r ceisydd, o fewn 14 o ddiwrnodau i gael y cais.

Discharge of an enforcement undertaking

22.—(1) If a regulator that has accepted an enforcement undertaking is satisfied that the undertaking has been complied with, it must issue a certificate to that effect (a "discharge certificate").

(2) The regulator may require the person who has given the enforcement undertaking to provide sufficient information to determine that the enforcement undertaking has been complied with.

(3) The person who has given the enforcement undertaking may, at any time, apply to the regulator for a discharge certificate.

(4) The regulator must decide whether to issue a discharge certificate, and give written notice of its decision to the applicant, within 14 days of receipt of the application.

Apelau yn erbyn penderfyniad i beidio â dyroddi tystysgrif gyflawni

23. Caiff y person y rhoddir hysbysiad ysgrifenedig iddo na fydd tystysgrif gyflawni yn cael ei dyroddi, yn dilyn cais a wnaed o dan baragraff 22(3), apelio yn erbyn y penderfyniad hwnnw ar y seiliau—

(a) bod y penderfyniad yn seiliedig ar wall ffeithiol;

(b) bod y penderfyniad yn anghywir mewn cyfraith;

(c) bod y penderfyniad yn annheg neu'n afresymol.

Appeals against a decision not to issue a discharge certificate

23. The person to whom written notice is given that a discharge certificate will not be issued, following an application made under paragraph 22(3), may appeal that decision on the grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unfair or unreasonable.

Gwybodaeth anghywir, gamarweiniol neu anghyflawn

24.—(1) Mae person sydd wedi rhoi gwybodaeth anghywir, gamarweiniol neu anghyflawn mewn perthynas ag ymgymeriad gorfodi i'w ystyried fel pe na bai wedi cydymffurfio â'r ymgymeriad hwnnw.

(2) Caiff rheoleiddiwr drwy hysbysiad ysgrifenedig ddirymu tystysgrif gyflawni a ddyroddwyd ganddo o dan baragraff 22, os y'i dyroddwyd ar sail gwybodaeth anghywir, gamarweiniol neu anghyflawn.

Peidio â chydymffurfio ag ymgymeriad gorfodi

25.—(1) Os na chydymffurfir ag ymgymeriad gorfodi, caiff y rheoleiddiwr a dderbyniodd yr ymgymeriad gorfodi naill ai—

(a) cyflwyno hysbysiad cosb benodedig, hysbysiad cosb amrywiadwy, hysbysiad cydymffurfio neu hysbysiad stop, neu

(b) dwyn achos troseddol.

(2) Os yw person wedi cydymffurfio yn rhannol ond nid yn llwyr ag ymgymeriad gorfodi, rhaid ystyried y cydymffurfio rhannol hwnnw wrth osod unrhyw sancsiwn troseddol neu unrhyw sancsiwn sifil arall ar y person.

(3) Caniateir cychwyn achos troseddol am drosedd y mae ymgymeriad gorfodi yn ymwneud â hi ar unrhyw adeg hyd at ddeuddeg mis o'r dyddiad y mae'r rheoleiddiwr yn hysbysu'r person y mae'n ofynnol iddo gydymffurfio â'r ymgymeriad gorfodi hwnnw am fethiant y person hwnnw i wneud hynny.

Inaccurate, misleading or incomplete information

24.—(1) A person who has given inaccurate, misleading, or incomplete information in relation to an enforcement undertaking is to be taken not to have complied with it.

(2) A regulator may by notice in writing revoke a discharge certificate which it issued under paragraph 22, if it was issued on the basis of inaccurate, misleading, or incomplete information.

Non-compliance with enforcement undertaking

25.—(1) If an enforcement undertaking is not complied with, the regulator that accepted the enforcement undertaking may either—

(a) serve a fixed penalty notice, a variable penalty notice, a compliance notice or a stop notice, or

(b) bring criminal proceedings.

(2) If a person has complied partly but not fully with an enforcement undertaking, that partial compliance must be taken into account in the imposition of any criminal or other civil sanction on the person.

(3) Criminal proceedings for an offence to which an enforcement undertaking relates may be instituted at any time up to twelve months from the date on which the regulator notifies the person required to comply with that enforcement undertaking of that person's failure to do so.

RHAN 4

Cosbau am beidio â chydymffurfio

Cosbau am beidio â chydymffurfio

26.—(1) Os yw person yn methu â chydymffurfio â hysbysiad cydymffurfio neu ymgymeriad trydydd parti, caiff y rheoleiddiwr gyflwyno hysbysiad i'r person hwnnw sy'n gosod cosb ariannol ("cosb am beidio â chydymffurfio") mewn cysylltiad â'r un drosedd.

(2) Rhaid i'r rheoleiddiwr bennu swm y gosb, a rhaid i'r swm hwnnw fod yn ganran o gostau bodloni gweddill gofynion yr hysbysiad cydymffurfio neu'r ymgymeriad trydydd parti.

(3) Rhaid i'r rheoleiddiwr bennu'r ganran gan roi sylw i holl amgylchiadau'r achos, a chaiff y ganran honno fod yn 100%, os yw'n briodol.

PART 4

Non-compliance penalties

Non-compliance penalties

26.—(1) If a person fails to comply with a compliance notice or a third-party undertaking, the regulator may serve a notice on that person imposing a monetary penalty (a "non-compliance penalty") in respect of the same offence.

(2) The amount of the penalty must be determined by the regulator, and must be a percentage of the costs of fulfilling the remaining requirements of the compliance notice or third-party undertaking.

(3) The percentage must be determined by the regulator having regard to all the circumstances of the case and may, if appropriate, be 100%.

(4) Rhaid i'r hysbysiad gynnwys gwybodaeth ynghylch—

(a) y sail dros osod y gosb am beidio â chydymffurfio,

(b) y swm sydd i'w dalu,

(c) sut y caniateir talu,

(d) y cyfnod y mae rhaid talu o'i fewn, na chaiff fod yn llai na 28 o ddiwrnodau gan ddechrau â'r diwrnod y daw'r hysbysiad i law,

(e) hawliau apelio,

(f) canlyniadau methu â thalu o fewn y cyfnod penodedig, ac

(g) unrhyw amgylchiadau pan gaiff y rheoleiddiwr leihau swm y gosb.

(5) Nid yw'r gosb am beidio â chydymffurfio yn daladwy os cydymffurfir â gofynion yr hysbysiad cydymffurfio, neu os bodlonir yr ymgymeriad trydydd parti, cyn y terfyn amser a osodir ar gyfer talu'r gosb am beidio â chydymffurfio.

Apelau yn erbyn cosbau am beidio â chydymffurfio

27.—(1) Caiff y person y cyflwynir iddo'r hysbysiad sy'n gosod y gosb am beidio â chydymffurfio apelio yn ei erbyn.

(2) Y seiliau dros apelio yw—

(a) bod y penderfyniad yn seiliedig ar wall ffeithiol;

(b) bod y penderfyniad i gyflwyno'r hysbysiad yn anghywir mewn cyfraith;

(c) bod y penderfyniad yn annheg neu'n afresymol;

(d) bod swm y gosb yn afresymol.

(4) The notice must include information as to—

(a) the grounds for imposing the non-compliance penalty,

(b) the amount to be paid,

(c) how payment may be made,

(d) the period in which payment must be made, which must not be less than 28 days beginning with the day on which the notice is received,

(e) rights of appeal,

(f) the consequences of failure to make payment in the specified period, and

(g) any circumstances in which the regulator may reduce the amount of the penalty.

(5) The non-compliance penalty is not payable if the requirements of the compliance notice are complied with, or the third-party undertaking is fulfilled, before the time set for payment of the non-compliance penalty.

Appeals against non-compliance penalties

27.—(1) The person on whom the notice imposing the non-compliance penalty is served may appeal against it.

(2) The grounds of appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision to serve the notice was wrong in law;

(c) that the decision was unfair or unreasonable;

(d) that the amount of the penalty was unreasonable.

RHAN 5

Gweinyddu ac apelau

Tynnu hysbysiad yn ôl neu ddiwygio hysbysiad

28. Caiff rheoleiddiwr ar unrhyw adeg yn ysgrifenedig—

(a) tynnu yn ôl hysbysiad sy'n gosod cosb ariannol benodedig, cosb ariannol amrywiadwy neu gosb am beidio â chydymffurfio,

(b) gostwng swm unrhyw gosb a bennir yn yr hysbysiad, neu

(c) tynnu yn ôl hysbysiad cydymffurfio neu hysbysiad stop, neu ddiwygio'r camau a bennir mewn hysbysiad cydymffurfio neu hysbysiad stop.

PART 5

Administration and appeals

Withdrawing or amending a notice

28. A regulator may at any time in writing—

(a) withdraw a notice imposing a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty,

(b) reduce the amount of any penalty specified in the notice, or

(c) withdraw a compliance notice or a stop notice, or amend the steps specified in a compliance notice or a stop notice.

Hysbysiadau adennill cost gorfodaeth

29.—(1) Caiff y rheoleiddiwr gyflwyno hysbysiad i berson y mae hysbysiad stop neu hysbysiad cydymffurfio wedi ei gyflwyno iddo, sy'n ei gwneud yn ofynnol i'r person hwnnw dalu'r costau yr aed iddynt gan y rheoleiddiwr mewn perthynas â'r gofyniad a osodwyd gan yr hysbysiad stop neu'r hysbysiad cydymffurfio ("hysbysiad adennill cost gorfodaeth"), hyd at y dyddiad y cyflwynir yr hysbysiad stop neu'r hysbysiad cydymffurfio.

(2) Mae "costau" yn cynnwys, yn benodol—

(a) costau ymchwilio,

(b) costau gweinyddu, ac

(c) costau cael cyngor arbenigol (gan gynnwys cyngor cyfreithiol).

(3) Rhaid i'r hysbysiad adennill cost gorfodaeth bennu—

(a) sut y caniateir talu,

(b) y swm y mae'n ofynnol ei dalu,

(c) y cyfnod y mae rhaid talu o'i fewn, na chaiff fod yn llai na 28 o ddiwrnodau gan ddechrau â'r diwrnod y daw'r hysbysiad i law,

(d) y sail dros osod yr hysbysiad,

(e) yr hawl i apelio, ac

(f) canlyniadau methu â chydymffurfio â'r hysbysiad o fewn y cyfnod penodedig.

(4) Caiff y person y cyflwynir yr hysbysiad adennill cost gorfodaeth iddo ei gwneud yn ofynnol i'r rheoleiddiwr ddarparu dadansoddiad manwl o'r swm.

(5) Nid yw'r person y mae'n ofynnol iddo dalu costau gan hysbysiad adennill cost gorfodaeth yn agored i dalu unrhyw gostau y mae'r person hwnnw'n dangos yr aeth y rheoleiddiwr iddynt yn ddiangen.

(6) Rhaid i bob rheoleiddiwr gyhoeddi canllawiau ynghylch ei ddefnydd o hysbysiadau adennill cost gorfodaeth.

(7) Rhaid i'r rheoleiddiwr ddiwygio'r canllawiau pan fo hynny'n briodol.

(8) Rhaid i'r rheoleiddiwr roi sylw i'w ganllawiau neu ei ganllawiau diwygiedig a gyhoeddir o dan y paragraff hwn wrth arfer ei swyddogaethau.

Apelau yn erbyn hysbysiadau adennill cost gorfodaeth

30. Caiff y person y mae'n ofynnol iddo dalu costau o dan hysbysiad adennill cost gorfodaeth apelio—

(a) yn erbyn penderfyniad y rheoleiddiwr i osod y gofyniad i dalu costau;

(b) yn erbyn penderfyniad y rheoleiddiwr o ran swm y costau.

Enforcement cost recovery notices

29.—(1) A regulator may serve a notice on a person on whom a stop notice or a compliance notice has been served, requiring that person to pay the costs incurred by the regulator in relation to the requirement imposed by the stop notice or compliance notice (an "enforcement cost recovery notice"), up to the date upon which the stop notice or the compliance notice is served.

(2) "Costs" include, in particular—

(a) investigation costs,

(b) administration costs, and

(c) costs of obtaining expert advice (including legal advice).

(3) The enforcement cost recovery notice must specify—

(a) how payment may be made,

(b) the amount required to be paid,

(c) the period in which payment must be made, which must not be less than 28 days beginning with the day on which the notice is received,

(d) the grounds for imposing the notice,

(e) the right of appeal, and

(f) the consequences of a failure to comply with the notice in the specified period.

(4) The person on whom the enforcement cost recovery notice is served may require the regulator to provide a detailed breakdown of the amount.

(5) The person required to pay costs by an enforcement cost recovery notice is not liable to pay any costs shown by that person to have been unnecessarily incurred by the regulator.

(6) Each regulator must publish guidance about its use of enforcement cost recovery notices.

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

(8) The regulator must have regard to its guidance or revised guidance published under this paragraph in exercising its functions.

Appeals against enforcement cost recovery notices

30. The person required to pay costs under an enforcement cost recovery notice may appeal—

(a) against the decision of the regulator to impose the requirement to pay costs;

(b) against the decision of the regulator as to the amount of the costs.

Y pŵer i adennill taliadau

31. Caiff rheoleiddiwr adennill unrhyw gosb ariannol benodedig, unrhyw gosb ariannol amrywiadwy, unrhyw gosb am beidio â chydymffurfio neu unrhyw gostau a nodir mewn hysbysiad adennill cost gorfodaeth a osodir o dan yr Atodlen hon, ar orchymyn llys, fel pe bai'n daladwy o dan orchymyn llys.

Power to recover payments

31. A regulator may recover any fixed monetary penalty, variable monetary penalty, non-compliance penalty or costs set out in an enforcement cost recovery notice imposed under this Schedule, on the order of a court, as if payable under a court order.

Apelau: darpariaethau cyffredinol

32.—(1) Mae apêl o dan baragraff 8, 13, 15, 17, 23, 27 neu 30 o'r Atodlen hon yn apêl i'r Tribiwnlys Haen Gyntaf.

(2) Mae pob hysbysiad (ac eithrio hysbysiadau stop) wedi ei atal dros dro wrth aros i apêl gael ei phenderfynu neu ei thynnu yn ôl.

(3) Caiff y Tribiwnlys Haen Gyntaf, mewn perthynas â gofyniad sancsiwn sifil a osodir o dan yr Atodlen hon, neu gyflwyno hysbysiad o dan yr Atodlen hon—

(a) gosod y gofyniad neu'r hysbysiad o'r neilltu,

(b) cadarnhau'r gofyniad neu'r hysbysiad,

(c) amrywio'r gofyniad neu'r hysbysiad neu unrhyw ran ohono,

(d) cymryd y camau hynny y gallai'r rheoleiddiwr fod wedi eu cymryd mewn perthynas â'r weithred neu'r anweithred sy'n arwain at y gofyniad neu'r hysbysiad, neu

(e) anfon y penderfyniad o ran pa un ai i gadarnhau'r gofyniad neu'r hysbysiad, neu unrhyw fater sy'n ymwneud â'r penderfyniad hwnnw, at y rheoleiddiwr.

Appeals: general provisions

32.—(1) An appeal under paragraph 8, 13, 15, 17, 23, 27 or 30 of this Schedule is to the First-tier Tribunal.

(2) All notices (other than stop notices) are suspended pending the determination or withdrawal of an appeal.

(3) The First-tier Tribunal may, in relation to a requirement of a civil sanction imposed under this Schedule, or the service of a notice under this Schedule—

(a) set aside the requirement or the notice,

(b) confirm the requirement or the notice,

(c) vary the requirement or the notice or any part of it,

(d) take such steps as the regulator could have taken in relation to the act or omission giving rise to the requirement or the notice, or

(e) remit the decision whether to confirm the requirement or the notice, or any matter relating to that decision, to the regulator.

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