

*Status:* This version of this cross heading contains provisions that are prospective.

*Changes to legislation:* There are currently no known outstanding effects for the Environment (Wales) Act 2016, Cross Heading: Discretionary requirements: procedure. (See end of Document for details)

PROSPECTIVE

## SCHEDULE 1 **E+W**

### CHARGES FOR CARRIER BAGS: CIVIL SANCTIONS

#### *Discretionary requirements: procedure*

- 5 (1) Carrier bag regulations that make provision under paragraph 4 must secure that—
- (a) where an administrator proposes to impose a discretionary requirement on a person, the administrator must serve on that person a notice of what is proposed (a “notice of intent”) that complies with sub-paragraph (2),
  - (b) that person may make written representations and objections to the administrator in relation to the proposed imposition of the discretionary requirement,
  - (c) after the end of the period for making such representations and objections, the administrator must decide whether to—
    - (i) impose the discretionary requirement, with or without modifications, or
    - (ii) impose any other discretionary requirement that the administrator has power to impose under paragraph 4,
  - (d) where the administrator decides to impose a discretionary requirement, the notice imposing it (the “final notice”) complies with sub-paragraph (4), and
  - (e) the person on whom a discretionary requirement is imposed may appeal against the decision to impose it.
- (2) To comply with this sub-paragraph, the notice of intent must include information as to—
- (a) the grounds for the proposal to impose the discretionary requirement,
  - (b) the right to make representations and objections,
  - (c) the circumstances in which the administrator may not impose the discretionary requirement,
  - (d) the period within which representations and objections may be made, which may not be less than the period of 28 days beginning with the day on which the notice of intent is received.
- (3) Provision pursuant to sub-paragraph (1)(c) must include provision for circumstances in which the administrator may not decide to impose a fixed monetary penalty.
- (4) To comply with this sub-paragraph, the final notice referred to in sub-paragraph (1) (d) must include information as to—
- (a) the grounds for imposing the discretionary requirement,
  - (b) where the discretionary requirement is a variable monetary penalty—
    - (i) how payment may be made,
    - (ii) the period within which payment must be made, and
    - (iii) any early payment discounts or late payment penalties,
  - (c) rights of appeal, and
  - (d) the consequences of non-compliance.

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- (5) Provision pursuant to sub-paragraph (1)(e) must secure that the grounds on which a person may appeal against a decision of the administrator include the following—
- (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 non-monetary discretionary requirement, that the nature of the requirement is unreasonable;
  - (e) that the decision was unreasonable for any other reason.

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