



Public Health (Wales) Act 2017

2017 anaw 2

PART 9

MISCELLANEOUS AND GENERAL

Food hygiene rating offences: fixed penalty receipts

119 Fixed penalty receipts for food hygiene rating offences

In section 22 of the Food Hygiene Rating (Wales) Act 2013 (anaw 2), for subsection (1) substitute—

“(1) A food authority may use its fixed penalty receipts only for the purpose of its functions relating to the enforcement of the provisions of this Act and regulations made under it.”

Commencement Information

II S. 119 in force at 4.10.2017 by S.I. 2017/949, art. 2(c)

General

120 Offences by bodies corporate etc.

- (1) This section applies where an offence under this Act is committed by—
 - (a) a body corporate;
 - (b) a partnership;
 - (c) an unincorporated association other than a partnership.
- (2) If the offence is proved to have been committed by, or with the consent or connivance of, or to be attributable to neglect on the part of—

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- (a) a senior officer of the body corporate or partnership or unincorporated association, or
 - (b) any person purporting to act in a capacity mentioned in paragraph (a),
- that senior officer or person (as well as the body corporate, partnership or association) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) In this section, “senior officer” means—
- (a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body corporate;
 - (b) in relation to a partnership, a partner in the partnership;
 - (c) in relation to an unincorporated association other than a partnership, any officer of the association or any member of its governing body.
- (4) In subsection (3)(a), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (5) In this section and sections 121 and 122, “partnership” means—
- (a) a partnership within the Partnership Act 1890 (c.39), or
 - (b) a limited partnership registered under the Limited Partnerships Act 1907 (c.24).

121 Offences committed by partnerships and other unincorporated associations

- (1) Proceedings for an offence under this Act alleged to have been committed by a partnership are to be brought in the name of the partnership (and not in that of any of the partners).
- (2) Proceedings for an offence under this Act alleged to have been committed by an unincorporated association other than a partnership are to be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate.
- (4) Section 33 of the Criminal Justice Act 1925 (c.86) and Schedule 3 to the Magistrates' Courts Act 1980 (c.43) apply in proceedings for an offence brought against a partnership or an unincorporated association as they apply in relation to a body corporate.

122 Giving notices

- (1) This section applies where a provision of this Act or of regulations made under it requires or authorises a person to give notice to another person (“P”).
- (2) The notice must be in writing.
- (3) The notice may be given to P in any one of the following ways—
 - (a) by delivering it to P;
 - (b) by leaving it at or posting it to any address specified by P as an address for giving notices, or (if P has not specified an address for this purpose) by leaving it at or posting it to P's usual address;
 - (c) if the conditions in subsection (4) are met, by sending it to P electronically.
- (4) The conditions are—

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- (a) that P has indicated to the person by whom the notice is sent a willingness to receive it electronically, and has provided that person with an address suitable for that purpose, and
 - (b) that the notice is sent to that address.
- (5) P's usual address, for the purpose of subsection (3)(b), is—
- (a) if P is a body corporate, the address of the registered or principal office of the body;
 - (b) if P is acting in his or her capacity as a partner in a partnership, the address of the principal office of the partnership;
 - (c) if P is a local authority, the principal office of the local authority;
 - (d) in any other case, the last known residence or place of business of P.
- (6) A fixed penalty notice given under section 27 or 49 may not be given to P by sending it electronically.
- (7) The reference in subsection (3)(a) to delivering a notice to P is—
- (a) if P is a body corporate, a reference to delivering it to the secretary or clerk of that body;
 - (b) if P is a partnership, a reference to delivering it to a partner or a person having control or management of the partnership business.
- (8) A notice that is given to P by leaving it at a place in accordance with subsection (3)(b) is to be treated as having been given at the time at which it was left at that place.

123 Regulations

- (1) A power to make regulations under this Act—
- (a) is exercisable by statutory instrument;
 - (b) includes power to make different provision for different purposes;
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales—
- (a) regulations made under section 6(5), 10(6), 11(5), 13, 15, 16, 17(3), 28(7) or 50(2) or paragraph 6 or 9 of Schedule 1;
 - (b) regulations made under section 60, 62, 63, 66(10), 69(8), 70(3)(a) or (c), 93 or 94(1);
 - (c) regulations made under section 108 or 110(2);
 - (d) regulations made under section 125 that amend or repeal any provision of an Act of Parliament or a Measure or Act of the National Assembly for Wales.
- (3) Any other statutory instrument containing regulations made under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

124 Interpretation

- (1) Except as otherwise expressly provided, in this Act—
- “local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales;

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“regulations” (*“rheoliadau”*) means regulations made by the Welsh Ministers;

“specified” (*“a bennir”* and *“penodedig”*), in relation to provision made in regulations, means specified in the regulations.

- (2) In this Act, references to the occupier of premises, so far as applicable in relation to any vehicle, are to the person who appears to be in charge of the vehicle, and “unoccupied” is to be construed accordingly.

125 Power to make consequential and transitional etc. provision

- (1) If the Welsh Ministers consider it necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act, they may by regulations make—
- (a) any supplementary, incidental or consequential provision;
 - (b) any transitional, transitory or saving provision.
- (2) Regulations under this section may (among other things) amend, repeal or revoke any enactment.
- (3) In this section, “enactment” means an enactment, whenever enacted or made, comprised in or made under—
- (a) an Act of Parliament;
 - (b) a Measure or Act of the National Assembly for Wales.

126 Coming into force

- (1) The following provisions come into force on the day on which this Act receives Royal Assent—
- (a) section 1;
 - (b) sections 120 to 125;
 - (c) this section;
 - (d) section 127.
- (2) The other provisions of this Act come into force on such day as the Welsh Ministers may appoint by order made by statutory instrument.
- (3) An order under subsection (2) may—
- (a) appoint different days for different purposes;
 - (b) make transitional, transitory or saving provision in connection with the coming into force of a provision of this Act.

127 Short title

The short title of this Act is the Public Health (Wales) Act 2017.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/949, art. 3 by [S.I. 2017/967 art. 2](#)