
STATUTORY INSTRUMENTS

2010 No. 1820 (W.177)

**ENVIRONMENT, WALES
TRIBUNALS AND INQUIRIES, WALES**

**The Environmental Civil Sanctions (Miscellaneous
Amendments) (Wales) Regulations 2010**

Made - - - - 14 July 2010
Coming into force - - 15 July 2010

The Welsh Ministers make the following Regulations in exercise of the powers conferred by—

sections 93, 94 and 95 of the Environment Act 1995(a);

section 62 of the Regulatory Enforcement and Sanctions Act 2008(b); and

section 2(2) of the European Communities Act 1972(c). (The Welsh Ministers are designated(d) for the purposes of that Act in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste and the management of packaging and packaging waste, in relation to persistent organic pollutants, dangerous substances, preparations and chemicals, and in relation to measures relating to the regulation and control of the use of sewage sludge in agriculture).

In accordance with section 93(2) of the Environment Act 1995 the Welsh Ministers have consulted such bodies and persons appearing to be representative of bodies or persons whose interests are, or are likely to be substantially affected by these Regulations; the Welsh Ministers are satisfied, pursuant to section 93(3) of that Act, as to the matters specified in section 93(6) of that Act; and the Welsh Ministers exercise this power in the manner considered best calculated to secure that it does not have the effect of restricting, distorting or preventing competition in accordance with section 93(7) of that Act.

In accordance with section 66 of the Regulatory Enforcement and Sanctions Act 2008 the Welsh Ministers are satisfied that the Environment Agency will act in accordance with the principles referred to in section 5(2) of that Act in exercising the powers in these Regulations.

A draft of these Regulations has been laid before, and approved by a resolution of the National Assembly for Wales in accordance with section 62 of the Regulatory Enforcement and Sanctions Act 2008 and section 93(10) of the Environment Act 1995(e).

(e) 1995. By virtue of section 162 of, and paragraph 34 of Schedule 11 to, the Government of Wales Act 2006, section 93(10) applies to the Welsh Ministers' exercise of the function of making subordinate legislation as if the reference in that provision to each House of Parliament were a reference to the National Assembly for Wales.

Title, application and commencement

1. The title of these Regulations is the Environmental Civil Sanctions (Miscellaneous Amendments) (Wales) Regulations 2010; they apply in relation to Wales and come into force on 15 July 2010.

Amendment to the Sludge (Use in Agriculture) Regulations 1989

2. The Sludge (Use in Agriculture) Regulations 1989 (f) are amended by inserting the following after regulation 10—

“Civil sanctions, Wales

11.—(1) The Environment Agency may impose a fixed monetary penalty, variable monetary penalty, restoration notice, compliance notice or stop notice, or accept an enforcement undertaking, in relation to an offence under regulation 9 for contravening a provision in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (Wales) Order 2010.

Table of civil sanctions

| <i>Provision of these Regulations</i> | <i>Fixed monetary penalty</i> | <i>Variable monetary penalty</i> | <i>Restoration notice</i> | <i>Compliance notice</i> | <i>Stop notice</i> | <i>Enforcement undertaking</i> |
|---------------------------------------|-------------------------------|----------------------------------|---------------------------|--------------------------|--------------------|--------------------------------|
| regulation 3 | No | Yes | Yes | Yes | Yes | Yes |
| regulation 4 | Yes | Yes | No | No | Yes | Yes |
| regulation 5 | Yes | Yes | No | No | No | Yes |
| regulation 6 | No | Yes | No | Yes | No | Yes |
| regulation 7 | No | Yes | No | Yes | No | Yes |
| regulation 7 | Yes | Yes | No | Yes | No | Yes |
| regulation 8(a) | No | Yes | No | No | Yes | Yes |
| regulation 8(b) | No | Yes | Yes | No | Yes | Yes |
| regulation 8 | No | Yes | Yes | No | Yes | Yes |

(2) The terms used in this regulation have the same meaning as in that Order.

(3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.

(4) This regulation applies only in Wales.”

Amendment to the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000

3. The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000(g) are amended by inserting the following after regulation

“Civil sanctions, Wales

13B.—(1) The Environment Agency may impose a fixed monetary penalty, variable monetary penalty or compliance notice, or accept an enforcement undertaking, in relation to an offence specified in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (Wales) Order 2010.

Table of civil sanctions

| | <i>Offence under these Regulations</i> | <i>Fixed monetary penalty</i> | <i>Variable monetary penalty</i> | <i>Compliance notice</i> | <i>Enforcement undertaking</i> |
|------------------------------|--|---------------------------------------|--|------------------------------|------------------------------------|
| regulation 13(1) | Yes | Yes | Yes | Yes | Yes |
| regulation 13(2) (a) | Yes | Yes | Yes | Yes | Yes |
| regulation 13(2) (b) | Yes | Yes | No | Yes | Yes |
| regulation 13(2) (c)(i) | Yes | Yes | No | Yes | Yes |
| regulation 13(2) (c)(ii) | Yes | Yes | No | Yes | Yes |
| regulation 13(2) (c)(iii) | Yes | Yes | No | Yes | Yes |
| regulation 13(3) | Yes | Yes | No | Yes | Yes |
| regulation 13(4) (a) | No | Yes | No | No | No |
| regulation 13(4) (b) | No | Yes | No | No | No |
| regulation 13(4) (c) | No | Yes | No | No | No |

(2) The terms used in this regulation have the same meaning as in that Order.

(3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.

(4) This regulation applies only in Wales.”

Amendment to the Hazardous Waste (Wales) Regulations 2005

4. The Hazardous Waste (Wales) Regulations 2005(h) are amended by inserting the following after regulation 65—

“Civil sanctions

65A.—(1) The Environment Agency may impose a variable monetary penalty, restoration notice, compliance notice or stop notice, or accept an enforcement undertaking, in relation to an offence under regulation 68 or under regulation 65 for a failure to comply with a provision (other than regulation 68) in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (Wales) Order 2010.

Table of civil sanctions

| | <i>Offence under these Regulations</i> | <i>Variable monetary penalty</i> | <i>Restoration notice</i> | <i>Compliance notice</i> | <i>Stop notice</i> | <i>Enforcement undertaking</i> |
|------------------------------------|--|--|-------------------------------|------------------------------|------------------------|------------------------------------|
| regulation 19 | Yes | Yes | Yes | Yes | Yes | Yes |
| regulation 20 | Yes | Yes | Yes | Yes | Yes | Yes |
| regulation 22 | Yes | No | No | No | Yes | Yes |
| regulation 34 | Yes | No | Yes | No | Yes | Yes |
| regulation 35 | Yes | No | Yes | No | Yes | Yes |
| regulation 36 | Yes | No | Yes | No | Yes | Yes |
| regulation 37 | Yes | No | Yes | No | Yes | Yes |
| regulation 38 | Yes | No | Yes | No | Yes | Yes |
| regulation 39 | Yes | No | Yes | No | Yes | Yes |
| regulation 40 | Yes | No | Yes | No | Yes | Yes |
| regulation 41 | Yes | No | Yes | No | Yes | Yes |
| regulation 42 | Yes | No | Yes | No | Yes | Yes |
| regulation 43 | Yes | No | Yes | No | Yes | Yes |
| regulation 44 | Yes | No | Yes | No | Yes | Yes |
| regulation 46 and Schedule 7 | Yes | No | Yes | No | Yes | Yes |
| regulation 47 | Yes | No | Yes | No | Yes | Yes |
| regulation 48 | Yes | No | Yes | No | Yes | Yes |
| regulation 49 | Yes | No | Yes | No | Yes | Yes |
| regulation 50 | Yes | No | Yes | No | Yes | Yes |

(h) S.I. 2005/1806 (W.138); relevant amending instruments are S.I. 2007/3538 and S.I. 2009/2861 (W.250).

| | <i>Offence under these Regulations</i> | <i>Variable monetary penalty</i> | <i>Restoration notice</i> | <i>Compliance notice</i> | <i>Stop notice</i> | <i>Enforcement undertaking</i> |
|---------------|--|--|-------------------------------|------------------------------|------------------------|------------------------------------|
| regulation 51 | Yes | No | Yes | No | Yes | |
| regulation 53 | Yes | No | No | No | Yes | |
| regulation 54 | Yes | No | No | No | Yes | |
| regulation 55 | Yes | No | No | No | No | |
| regulation 62 | Yes | Yes | Yes | Yes | No | |
| regulation 68 | Yes | No | No | No | No | |

(2) The terms used in this regulation have the same meaning as in that Order.

(3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.”

Amendment to the Producer Responsibility Obligations (Packaging Waste) Regulations 2007

5. The Producer Responsibility Obligations (Packaging Waste) Regulations 2007(i) are amended by inserting the following after regulation 40A—

“Civil sanctions, Wales

40B.—(1) The Environment Agency may impose a fixed monetary penalty or variable monetary penalty, or accept an enforcement undertaking, in relation to an offence specified in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (Wales) Order 2010.

Table of civil sanctions

| | <i>Offence under these Regulations</i> | <i>Fixed monetary penalty</i> | <i>Variable monetary penalty</i> | <i>Enforcement undertaking</i> |
|---------------------|--|---------------------------------------|--|------------------------------------|
| regulation 40(1)(a) | Yes | | Yes | Yes |
| regulation 40(1)(b) | No | | Yes | Yes |
| regulation 40(1)(c) | Yes | | No | No |
| regulation 40(3) | No | | Yes | Yes |
| regulation 40(7) | No | | Yes | No |
| regulation 40(8)(a) | No | | Yes | Yes |
| regulation 40(8)(b) | Yes | | No | No |

(2) The terms used in this regulation have the same meaning as in that Order.

(3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.

(i) S.I. 2007/871, amended by S.I. 2010/1159; there are other amending instruments but none are relevant.

*Status: This is the original version (as it was originally made). Wales
Statutory Instruments are not carried in their revised form on this site.*

(4) This regulation applies only in Wales.”

14 July 2010

Jane Davidson
Minister for Environment, Sustainability and
Housing, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in Wales, amend—

the Sludge (Use in Agriculture) Regulations 1989 (S.I. [1989/1263](#))

the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000 (S.I. [2000/1043](#))

the Hazardous Waste (Wales) Regulations 2005 (S.I. [2005/1806](#) (W.138))

the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. [2007/871](#))

The amendments permit the Environment Agency to impose specified civil sanctions in relation to certain breaches of those Regulations. The sanctions are those permitted under Part 3 of the Regulatory Enforcement and Sanctions Act 2008.

An impact assessment has been prepared for these Regulations. A copy can be obtained from the Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.