WELSH 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(**1**);

section 62 of the Regulatory Enforcement and Sanctions Act 2008(**2**); and

section 2(2) of the European Communities Act 1972(**3**). (The Welsh Ministers are designated(**4**) 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.

(**1**) 1995 c. 25. The functions of the Secretary of State under sections 93 to 95, so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by virtue of Article 2 and Schedule 1 to S.I. 1999/672. By virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32), those functions are now vested in the Welsh Ministers. Section 94 of the Environment Act 1995 was amended by S.I. 2000/311, articles 28(1) and (2), and S.I. 2004/1261, regulation 5 and Schedule 2, paragraphs 7(1) and (2).

(**2**) 2008 c. 13.

(**3**) 1972 c. 68.

(**4**) S.I. 2005/850, S.I. 2007/1349, and S.I. 2000/2812 designated the National Assembly for Wales in relation to these matters. By virtue of section 162 of, and paragraphs 28(1) and 30 of Schedule 11 to the Government of Wales Act 2006, the powers conferred upon the National Assembly for Wales as a result of these designations are now vested in the Welsh Ministers.

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(**5**).

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 (**6**) 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

Provision of these Regulations	*Fixed monetary penalty*	*Variable monetary penalty*	*Restoration notice*	*Compliance notice*	*Stop notice*	*Enforcement undertaking*
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(1)	No	Yes	No	Yes	No	Yes
regulation 7(1)	No	Yes	No	Yes	No	Yes
regulation 7(2)	Yes	Yes	No	Yes	No	Yes
regulation 8(3)(a)	No	Yes	No	No	Yes	Yes
regulation 8(3)(b)	No	Yes	Yes	No	Yes	Yes
regulation 8(4)	No	Yes	Yes	No	Yes	Yes

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

(**5**) 1995. By virtue of section 162 of, and paragraph 34 of Schedule 11 to, the Government of ofWales 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.

(**6**) S.I. 1989/1263; relevant amending instruments are S.I. 1990/880, S.I. 1996/593, S.I. 2000/656, and S.I. 2010/1159.

(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(**7**) 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

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

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

(**7**) S.I. 2000/1043, amended by S.I. 2000/3359, and S.I. 2010/1159. There are other amending instruments but none are relevant.