Draft Regulations laid before Parliament under section 62 of the Regulatory Enforcement and Sanctions Act 2008 and section 93(10) of the Environment Act 1995, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

ENVIRONMENTAL PROTECTION, ENGLAND TRIBUNALS AND INQUIRIES, ENGLAND

The Environmental Civil Sanctions (Miscellaneous Amendments) (England) Regulations 2010

Made - - - -	***
Coming into force - -	*6th April 2010*

The Secretary of State makes the following Regulations in exercise of the powers conferred by—

section 62 of the Regulatory Enforcement and Sanctions Act 2008(**1**);

sections 92 and 219(2) of the Water Resources Act 1991(**2**);

sections 93, 94 and 95 of the Environment Act 1995(**3**) (in accordance with section 93(2) of that Act the Secretary of State has 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 Secretary of State is satisfied, pursuant to section 93(3) of that Act, as to the matters specified in section 93(6) of that Act; and the Secretary of State exercises 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);

section 2(2) of the European Communities Act 1972(**4**) (the Secretary of State is designated 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(**5**), measures relating to the prevention, reduction and elimination of pollution caused by waste (**6**) and in relation to the environment)(**7**).

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

(**1**) 2008 c. 13.
(**2**) 1991 c. 57.
(**3**) 1995 c. 25.
(**4**) 1972 c. 68.
(**5**) S. I. 1996/266.
(**6**) S. I. 1992/2870.
(**7**) S. I. 2008/301.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 62 of the Regulatory Enforcement and Sanctions Act 2008 and section 93(10) of the Environment Act 1995.

Citation application and commencement

1. These Regulations may be cited as the Environmental Civil Sanctions (Miscellaneous Amendments) (England) Regulations 2010; they apply in England and come into force on 6th April 2010.

Amendment to the Sludge (Use in Agriculture) Regulations 1989

2. The Sludge (Use in Agriculture) Regulations 1989 (**8**) are amended by inserting the following after regulation 9—

"**Civil sanctions**

10.—(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 (England) 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.

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

(**8**) S. I. 1989/1263; relevant amending instruments are S.I. 1990/880 and 1996/593.

(4) This regulation applies only in England.".

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(**9**) are amended by inserting the following after regulation 13—

"**Civil sanctions**

13A.—(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 (England) 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.

(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 England.".

Amendment to the Control of Pollution (Oil Storage) (England) Regulations 2001

4. The Control of Pollution (Oil Storage) (England) Regulations 2001(**10**) are amended by adding after regulation 9—

(**9**) S. I. 2000/1043 to which there are amendments not relevant to these Regulations.
(**10**) S. I. 2001/2954 to which there are amendments not relevant to these Regulations.

"**Civil sanctions**

10.—(1) The Environment Agency may impose a fixed monetary penalty, variable monetary penalty, restoration notice or stop notice, or accept an enforcement undertaking, in relation to an offence under regulation 9 as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (England) Order 2010.

(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 Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003

5. The Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003(**11**) are amended by inserting the following after regulation 9—

"**Civil sanctions**

9A.—(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 9(4) as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (England) Order 2010.

(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 England.".

Amendment to the Hazardous Waste (England and Wales) Regulations 2005

6. The Hazardous Waste (England and Wales) Regulations 2005(**12**) 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 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 (England) Order 2010.

Table of civil sanctions

Offence under these Regulations	*Variable monetary penalty*	*Restoration notice*	*Compliance notice*	*Stop notice*	*Enforcement undertaking*
regulation 19	Yes	Yes	Yes	Yes	Yes

(**11**) S. I. 2003/164 to which there are amendments not relevant to these Regulations..
(**12**) S. I. 2005/894; relevant amending instruments are S. I. 2007/3476, S. I. 2007/3538 and S. I. 2009/507.

Offence under these Regulations	*Variable monetary penalty*	*Restoration notice*	*Compliance notice*	*Stop notice*	*Enforcement undertaking*
regulation 20	Yes	Yes	Yes	Yes	Yes
regulation 22	Yes	No	No	No	Yes
regulation 34	Yes	No	Yes	No	Yes
regulations 35 to 44	Yes	No	Yes	No	Yes
regulation 46 and Schedule 7	Yes	No	Yes	No	Yes
regulation 47	Yes	No	Yes	No	Yes
regulation 48	Yes	No	Yes	No	Yes
regulation 49	Yes	No	Yes	No	Yes
regulation 50	Yes	No	Yes	No	Yes
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.

(4) This regulation applies only in England.".

Amendment to the Environmental Impact Assessment (Agriculture) (England) (No. 2) Regulations 2006

7. The Environmental Impact Assessment (Agriculture) (England) (No. 2) Regulations 2006(**13**) are amended by inserting the following after regulation 30—

"**Civil sanctions**

30A.—(1) Natural England 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 (England) Order 2010.

(**13**) S. I. 2006/2522 to which there are amendments not relevant to these Regulations.