The Environmental Sanctions (Miscellaneous Amendments) (England and Wales) Regulations 2010

Made - - - - ***

Coming into force - - 6th April 2010

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, make the following Regulation in exercise of the powers conferred by—

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

sections 93 to 95 of the Environment Act 1995;

section 2(2) of the European Communities Act 1972(b) (the Secretary of State and the Welsh Ministers are designated(c) for the purposes of that Act in relation to the environment).

A draft of this instrument has been approved by a resolution of each House of Parliament and by the National Assembly for Wales pursuant to section 62 of the Regulatory Enforcement and Sanctions Act 2008.

Citation and commencement

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

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

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

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(a) 2008 c. 13.
(b) 1972 c. 68.
(c) 2008 c. 301.
(d) S.I. 2006/2522.
Civil sanctions

30A.—(1) This regulation permits Natural England to impose the civil sanctions set out in the Environmental Civil Sanctions Order 2010 in relation to offences under these Regulations.

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

(3) Natural England may impose a fixed monetary penalty, variable penalty notice, compliance notice or stop notice, or accept an enforcement undertaking for the offences in the following table as indicated in the table.

Table of civil sanctions

<table>
<thead>
<tr>
<th>Offence under these Regulations</th>
<th>Fixed monetary penalty</th>
<th>Variable monetary penalty</th>
<th>Restorerion notice</th>
<th>Compliance notice</th>
<th>Stop notice</th>
<th>Enforcement undertaking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation 22(1)</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Regulation 23(1)</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>regulation 24(1)</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>regulation 26(1)</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>regulation 30(8)</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

(4) The provisions in relation to those sanctions (including appeals procedures) are the same as in the 2010 Order.”.

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

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

Civil sanctions

40A.—(1) This regulation permits the Agency to impose the civil sanctions set out in the Environmental Civil Sanctions Order 2010 in relation to offences under these Regulations.

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

(3) The Environment Agency may impose a fixed monetary penalty or variable penalty notice, or accept an enforcement undertaking for the offences in the following table as indicated in the table.

Table of civil sanctions

<table>
<thead>
<tr>
<th>Offence under these Regulations</th>
<th>Fixed monetary penalty</th>
<th>Variable monetary penalty</th>
<th>Enforcement undertaking</th>
</tr>
</thead>
<tbody>
<tr>
<td>regulation 40(1)(a)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>regulation 40(1)(b)</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>regulation 40(1)(c)</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>regulation 40(3)</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>regulation 40(7)</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

(a) S.I. 2007/871.
(4) The provisions in relation to those sanctions (including appeals procedures) are the same as in the 2010 Order.

(5) This regulation extends to England and Wales.”.

Amendment to the Nitrate Pollution Prevention Regulations 2008

4. The Nitrate Pollution Prevention Regulations 2008(a) are amended by inserting the following after regulation 48—

“Civil sanctions

48A.—(1) This regulation permits the Agency to impose the civil sanctions set out in the Environmental Civil Sanctions Order 2010 in relation to an offence under these Regulations.

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

(3) The Environment Agency may impose a fixed monetary penalty, variable penalty notice, compliance notice or stop notice, or accept an enforcement undertaking for any offence in these Regulations.

(4) The provisions in relation to those sanctions (including appeals procedures) are the same as in the 2010 Order.”.

Name
Parliamentary Under Secretary of State

Date Department for Environment Food and Rural Affairs

Name
One of the Welsh Ministers

EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations amend—

the Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006;
the Producer Responsibility Obligations (Packaging Waste) Regulations 2007;
the Nitrate Pollution Prevention Regulations 2008.

They permit Natural England and the Environment Agency to impose civil sanctions in relation to breaches of those Regulations. The sanctions are those permitted under the Regulatory Enforcement and Sanctions Act 2008.

(a) S.I. 2008/2349
A full impact assessment has been prepared and placed in the libraries of both Houses of Parliament. It is available at www.gov.uk.