



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2010 Rhif 1820 (Cy.177)

2010 No. 1820 (W.177)

AMGYLCHEDD, CYMRU

ENVIRONMENT, WALES

**TRIBIWNLYSOEDD AC YMCHWILIADAU,
CYMRU**

**TRIBUNALS AND INQUIRIES,
WALES**

Rheoliadau Sancsiynau Sifil
Amgylcheddol (Diwygiadau
Amrywiol) (Cymru) 2010

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

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn, sy'n gymwys yng Nghymru, yn diwygio—

These Regulations, which apply in Wales, amend—

Rheoliadau Llaidd (Ei Ddefnyddio mewn Amaethyddiaeth) 1989 (O.S. 1989/1263)

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

Rheoliadau Diogelu'r Amgylchedd (Gwaredu Biffenylau Polychlorinedig a Sylweddau Peryglus Eraill) (Cymru a Lloegr) 2000 (O.S. 2000/1043)

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

Rheoliadau Gwastraff Peryglus (Cymru) 2005 (O.S. 2005/1806 (Cy.138))

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

Rheoliadau Rhwymedigaethau Cyfrifoldeb Cynhyrchwyr (Gwastraff Deunydd Pacio) 2007 (O.S. 2007/871)

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

Mae'r diwygiadau'n caniatáu i Asiantaeth yr Amgylchedd osod sancsiynau sifil penodedig mewn perthynas â rhai thoriadau o'r Rheoliadau hynny. Y sancsiynau yw'r rhai a ganiateir o dan Rhan 3 o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008.

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.

Paratowyd asesiad effaith ar gyfer y Rheoliadau hyn. Mae copi ar gael gan Lywodraeth Cynulliad Cymru, Parc Cathays, Caerdydd CF10 3NQ.

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

2010 Rhif 1820 (Cy.177)

AMGYLCHEDD, CYMRU

**TRIBIWNLYSOEDD AC YMCHWILIADAU,
CYMRU**

**Rheoliadau Sancsiynau Sifil
Amgylcheddol (Diwygiadau
Amrywiol) (Cymru) 2010**

Wedi'u gwneud 14 Gorffennaf 2010

Yn dod i rym 15 Gorffennaf 2010

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddir gan—

adrannau 93, 94 a 95 o Ddeddf yr Amgylchedd 1995(1);

adran 62 o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008(2); ac

adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(3). (Mae Gweinidogion Cymru wedi'u dynodi (4) at ddibenion y Ddeddf honno o ran mesurau sy'n ymwneud ag atal, lleihau a dileu llygredd a achosir gan wastraff a rheoli deunydd pacio a gwastraff deunydd pacio, o ran llygrynnau organig parhaus, sylweddau, paratoadau a chemegau peryglus, o ran mesurau sy'n ymwneud ag adnoddau dŵr, ac o ran mesurau sy'n ymwneud â rheoleiddio a rheoli defnyddio llaid carthion mewn amaethyddiaeth).

(1) 1995 p.25. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adrannau 93 i 95 cyn belled ag sy'n arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru yn rhinwedd Erthygl 2 o O.S. 1999/672 ac Atodlen 1 iddo. Yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p.32) a pharagraffau 26 a 30 o Atodlen 11 iddi, mae'r swyddogaethau hynny wedi'u breinio bellach yng Ngweinidogion Cymru. Diwygiwyd adran 94 o Ddeddf yr Amgylchedd 1995 gan O.S. 2000/311, erthyglau 28(1) a (2) ac O.S. 2004/1261, rheoliad 5 ac Atodlen 2, paragraffau 7(1) a (2).

(2) 2008 p.13.

(3) 1972 p.68.

(4) Dynodwyd Cynulliad Cenedlaethol Cymru mewn perthynas â'r materion hyn gan O.S. 2005/850, O.S. 2007/1349 ac O.S. 2000/2812. Yn rhinwedd adran 162 a pharagraff 28(1) a 30 o atodlen 11 i Ddeddf Llywodraeth Cymru 2006 mae'r pwerau a roddwyd i Gynulliad Cenedlaethol Cymru yn rhinwedd y dynodiadau hyn wedi'u breinio bellach yng Ngweinidogion Cymru.

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).

(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.

Yn unol ag adran 93(2) o Ddeddf yr Amgylchedd 1995 mae Gweinidogion Cymru wedi ymgynghori â'r cyrff a'r personau hynny y mae'n ymddangos eu bod yn cynrychioli cyrff neu bersonau y mae'r Rheoliadau hyn yn effeithio'n sylweddol arnynt; mae Gweinidogion Cymru wedi'u bodloni, yn unol ag adran 93(3) o'r Ddeddf honno, o ran y materion a bennir yn adran 93(6) o'r Ddeddf honno; ac mae Gweinidogion Cymru yn arfer y pŵer hwn yn y modd y bennir ei fod yn orau i sicrhau nad yw'n arwain at gyfyngu, aflunio neu atal cystadleuaeth yn unol ag adran 93(7) o'r Ddeddf honno.

Yn unol ag adran 66 o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008 mae Gweinidogion Cymru wedi'u bodloni y bydd Asiantaeth yr Amgylchedd yn gweithredu yn unol â'r egwyddorion y cyfeirir atynt yn adran 5(2) o'r Ddeddf honno wrth arfer y pwerau yn y Rheoliadau hyn.

Mae drafft o'r rheoliadau hyn wedi'i osod gerbron Cynulliad Cenedlaethol Cymru ac wedi'i gymeradwyo drwy benderfyniad ganddo yn unol ag adran 62 o Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008 ac adran 93(10) o Ddeddf yr Amgylchedd 1995(1).

Enwi, cymhwyso a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Sancsiynau Sifil Amgylcheddol (Diwygiadau Amrywiol) (Cymru) 2010; maent yn gymwys o ran Cymru a deuant i rym ar 15 Gorffennaf 2010.

Diwygio Rheoliadau Llaidd (Ei Ddefnyddio mewn Amaethyddiaeth) 1989

2. Diwygir Rheoliadau Llaidd (Ei Ddefnyddio mewn Amaethyddiaeth 1989 (2) drwy fewnosod y canlynol ar ôl rheoliad 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.

(1) 1995 Yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 a pharagraff 34 o Atodlen 11 iddi, mae adran 93(10) yn gymwys i'r modd y mae Gweinidogion Cymru yn arfer y swyddogaeth o wneud is-ddeddfwriaeth, fel petai'r cyfeiriad yn y ddarpariaeth honno at Ddau Dŵ'r Senedd yn gyfeiriad at Gynulliad Cenedlaethol Cymru.

(2) O.S. 1989/1263; offerynnau diwygio perthnasol yw O.S. 1990/880, O.S. 1996/593, O.S. 2000/656, ac O.S. 2010/1159.

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(1).

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 (2) 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.

(1) 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.

(2) 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.

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(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.

(4) This regulation applies only in Wales."

**Diwygio Rheoliadau Diogelu'r Amgylchedd
(Gwaredu Biffenylau Polychlorinedig a Sylweddau
Peryglus Eraill) (Cymru a Lloegr) 2000**

3. Diwygir Rheoliadau Diogelu'r Amgylchedd (Gwaredu Biffenylau Polychlorinedig a Sylweddau Peryglus Eraill) (Cymru a Lloegr) 2000(1) drwy fewnosod y canlynol ar ôl rheoliad 13A—

"Civil sanctions

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.

(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(1) are amended by inserting the following after regulation 13A—

"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.

(1) O.S. 2000/1043, a ddiwygiwyd gan O.S. 2000/3359, ac O.S. 2010/1159. Ceir offerynnau diwygio eraill ond nid oes un yn berthnasol.

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

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
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 Wales."

Diwygio Rheoliadau Gwastraff Peryglus (Cymru) 2005

4. Diwygir Rheoliadau Gwastraff Peryglus (Cymru) 2005(1) drwy fewnosod y canlynol ar ôl rheoliad 65–

"Sanctiynau sifil

65A.–(1) Caiff Asiantaeth yr Amgylchedd osod cosb ariannol newidiol, hysbysiad adfer, hysbysiad cydymffurfio neu hysbysiad stop, neu dderbyn ymgymeriad gorfodi, o ran tramgwydd o dan reoliad 68 neu o dan reoliad 65 am fethu â chydymffurfio â darpariaeth (ac eithrio rheoliad 68) yn y Tabl canlynol o sanctiynau sifil, fel y nodir yn y Tabl hwnnw, fel pe bai'n dramgwydd o dan ddarpariaeth a bennir mewn perthynas â'r sanctiwn hwnnw yn Atodlen 5 i Orchymyn Sanctiynau Sifil Amgylcheddol (Cymru) 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 Wales."

Amendment to the Hazardous Waste (Wales) Regulations 2005

4. The Hazardous Waste (Wales) Regulations 2005(1) 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.

(1) O.S. 2005/1806 (Cy.138); offerynnau diwygio perthnasol yw O.S. 2007/3538, ac O.S. 2009/2861 (Cy.250).

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

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
regulation 20	Yes	Yes	Yes	Yes	Yes
regulation 22	Yes	No	No	No	Yes
regulation 34	Yes	No	Yes	No	Yes
regulation 35	Yes	No	Yes	No	Yes
regulation 36	Yes	No	Yes	No	Yes
regulation 37	Yes	No	Yes	No	Yes
regulation 38	Yes	No	Yes	No	Yes
regulation 39	Yes	No	Yes	No	Yes
regulation 40	Yes	No	Yes	No	Yes
regulation 41	Yes	No	Yes	No	Yes
regulation 42	Yes	No	Yes	No	Yes
regulation 43	Yes	No	Yes	No	Yes
regulation 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) Mae i'r termau a ddefnyddir yn y rheoliad hwn yr un ystyr ag yn y Gorchymyn hwnnw.

(3) Mae darpariaethau'r Gorchymyn hwnnw'n gymwys mewn perthynas â'r sanctsiynau hynny fel pe baent yn ddarpariaethau yn y Rheoliadau hyn."

Diwygio Rheoliadau Rhwymedigaethau Cyfrifoldeb Cynhyrchwyr (Gwastraff Deunydd Pacio) 2007

5. Diwygir Rheoliadau Rhwymedigaethau Cyfrifoldeb Cynhyrchwyr (Gwastraff Deunydd Pacio) 2007(1) drwy fewnosod y canlynol ar ol rheoliad 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 those Regulations.

(4) This regulation applies only in Wales."

(1) O.S. 2007/871, a ddiwygiwyd gan O.S. 2010/1159; ceir offerynnau diwygio eraill ond nid oes un yn berthnasol.

(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(1) 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.

(4) This regulation applies only in Wales."

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

Jane Davidson

Y Gweinidog dros yr Amgylchedd, Cynaliwyddedd a
Thai, un o Weinidogion Cymru

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

14 Gorffennaf 2010

14 July 2010

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