
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008. It permits the Environment Agency and Natural England to impose civil sanctions in relation to the offences specified in Schedule 5 to the Order.

The civil sanctions are fixed monetary penalties, variable monetary penalties, compliance notices, restoration notices and stop notices, and enforcement undertakings (article 3).

The Order makes provision for the procedure relating to fixed monetary penalties (Schedule 1), variable monetary penalties, compliance notices, restoration notices and third party undertakings (Schedule 2), stop notices (Schedule 3) and enforcement undertakings (Schedule 4).

It permits the regulator to serve a non-compliance notice imposing a penalty in the event of non-compliance with a compliance notice, restoration notice or third party undertaking (article 7).

Under article 8 the regulator may serve an enforcement cost recovery notice in relation to investigation and administration costs incurred by the regulator, and the costs of the regulator in obtaining expert advice.

Article 10 sets out the appeal mechanism. Appeals are to the First-tier Tribunal.

Articles 11 to 13 provide that guidance must be prepared and consulted on relating to the use of civil sanctions, and article 14 provides for publication of information on enforcement action taken by the regulator.

Article 15 provides powers of entry for persons authorised by Natural England in relation to this Order (persons authorised by the Environment Agency have powers of entry under the [Environment Act 1995 \(c. 25\)](#)).

A full impact assessment has been prepared and placed in the libraries of both Houses of Parliament. It is available at www.defra.gov.uk.