

The Environment Agency in England and Wales will start using new enforcement powers, called civil sanctions, from 4 January 2011.

Civil sanctions give the environmental regulators a wider range of options to use against a business committing certain environmental offences, as alternatives to prosecution and criminal penalties of fines and imprisonment.

They allow the Environment Agency to take action that is proportionate to the offence and the offender, and reflect the fact that most offences committed by businesses are unintentional.

The Environment Agency will still be able to use criminal punishments for serious offences.

The government believes civil sanctions will make environmental law enforcement more flexible and effective for both regulators and businesses.

Environment Civil Sanction Orders came into force in England on 6 April 2010 and in Wales on 15 July 2010.

Natural England will also be able to use the new civil sanctions at a later date.

What are the main civil sanctions?

The new civil sanctions the environmental regulator can use against a business committing certain environmental offences include:

Compliance notice – written notice to take steps to ensure that an offence does not continue or recur.

Restoration notice – written notice to restore harm caused by non-compliance.

Enforcement undertaking – voluntary agreement by business to take corrective action to make up for non-compliance.

Fixed monetary penalty – a low level penalty for minor offences fixed at £100 for an individual and £300 for a company.

Variable monetary penalty – a monetary penalty for more serious offences with a maximum of £250,000.

Stop notice – written notice to stop an activity which is causing harm.

What offences can civil sanctions be used for?

Civil sanctions have been introduced for a limited number of offences. Initially they will cover offences relating to harm to water resources, hazardous waste and packaging waste.

Other offences, including those covered by the Environmental Permitting regime, will be added by future legislation. The Orders specify which civil sanctions can be used for which offences.

Procedures for using civil sanctions

These vary from sanction to sanction. In most cases:

- 1.The regulator issues a notice of intent to impose the sanction.
- 2.The offender can make objections.
- 3.The offender can appeal against a civil sanction to an independent tribunal.
- 4.Subject to the appeal, the offender must pay the penalty.

How will civil sanctions be enforced?

Again this depends on which sanction is applied.

Legal action will be taken against anyone not paying monetary penalties.

Anyone not complying with restoration notices or stop notices will usually be prosecuted.

In some cases, the regulator may recover costs of investigation or legal advice.