

Polluters to face unlimited penalties under new legislation

14 August 2023

The Government has announced that it will be scrapping the £250,000 limit on civil penalties (variable money penalties) that **environmental** regulators the Environment Agency and Natural England can impose on those that pollute the environment under the Environmental Civil Sanctions (England) Order 2010 (and other relevant legislation). The regulators have powers to fine companies directly through civil sanctions, instead of criminal prosecution, but currently this is capped at £250,000. The introduction of the new legislation was made following a **Defra consultation** in April 2023.

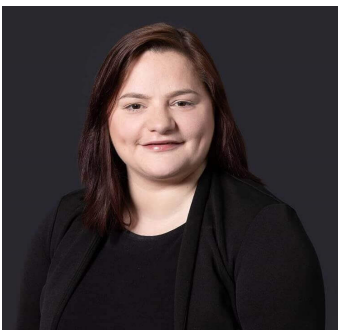
The use of variable monetary penalties is also to be extended for use by the Environment Agency for offences under the Environmental Permitting (England and Wales) Regulations 2016. The amendments are currently going through parliament and are due to come into force on 1 December 2023.

These sanctions allow regulators a quicker method for enforcement in place of the previous approach, which often resulted in expensive and lengthy criminal prosecutions. The more serious cases are still likely to continue through to criminal proceedings. Offences can include failing to comply with permits and notices, making false/misleading statements or being intentionally deceptive in relation to the various requirements under the regulations.

Defra has said the size of the penalties will be subject to the sentencing guidelines, taking into account the extent of the pollution, degree of responsibility and harm, as well as the size of the company in question and their ability to pay.

Future penalties and fines will be invested into the Water Restoration Fund, which will help to improve water quality and support local groups and schemes that help protect England's waterways.

Contact



Daisy May Coster-Hollis

Senior Associate

daisymay.coster-hollis@brownejacobson.com

+44 (0)330 045 2370

Kim Roberts

Associate

kim.roberts@brownejacobson.com

+44 (0)330 045 2185

Related expertise

Services

Criminal compliance and
regulatory

Environmental

Estates and rural services

Environmental claims