



# Environment Act 2021

## 2021 CHAPTER 30

### PART 8

#### MISCELLANEOUS AND GENERAL PROVISIONS

##### *General provisions*

#### **142 Consequential provision**

- (1) The Secretary of State may by regulations make provision that is consequential on this Act or regulations under this Act.
- (2) The Welsh Ministers may by regulations make provision that is consequential on—
  - (a) a provision within section 147(4) (provisions to be commenced by Welsh Ministers), or
  - (b) regulations under this Act made by the Welsh Ministers.
- (3) The Scottish Ministers may by regulations make provision that is consequential on—
  - (a) a provision within section 147(5) (provisions to be commenced by Scottish Ministers), or
  - (b) regulations under this Act made by the Scottish Ministers.
- (4) The Department of Agriculture, Environment and Rural Affairs in Northern Ireland may by regulations make provision that is consequential on—
  - (a) a provision within section 147(6) (provisions to be commenced by the Department), or
  - (b) regulations under this Act made by that Department.
- (5) The Department for the Economy in Northern Ireland may by regulations make provision that is consequential on regulations under this Act made by that Department.
- (6) Regulations under this section may amend or repeal provision made by or under any legislation (whenever passed or made).

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- (7) Regulations under this section are subject to the affirmative procedure if they amend or repeal any provision of—
  - (a) an Act of Parliament,
  - (b) a Measure or Act of Senedd Cymru,
  - (c) an Act of the Scottish Parliament, [<sup>F1</sup>or]
  - (d) Northern Ireland legislation, <sup>F2</sup>...
  - <sup>F2</sup>(e) .....
- (8) Regulations under this section to which subsection (7) does not apply are subject to the negative procedure.
- (9) Regulations under this section—
  - (a) made by the Welsh Ministers, may contain only provision which, if contained in an Act of Senedd Cymru, would be within the legislative competence of the Senedd;
  - (b) made by the Scottish Ministers, may contain only provision which, if contained in an Act of the Scottish Parliament, would be within the legislative competence of the Parliament;
  - (c) made by a Northern Ireland department, may contain only provision which, if contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Assembly and would not require the Secretary of State’s consent.
- (10) Regulations under this section made by the Secretary of State may not contain provision that could be contained in regulations under this section—
  - (a) made by the Welsh Ministers, unless the Welsh Ministers consent;
  - (b) made by the Scottish Ministers, unless the Scottish Ministers consent;
  - (c) made by a Northern Ireland department, unless the department consents.

**Textual Amendments**

**F1** Word in s. 142(7)(c) inserted (29.6.2023) by [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), s. 22(1)(d), [Sch. 3 para. 7\(a\)](#)

**F2** S. 142(7)(e) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), s. 22(1)(d), [Sch. 3 para. 7\(b\)](#)

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**Commencement Information**

**II** S. 142 in force at Royal Assent, see [s. 147\(1\)\(b\)](#)

**143 Regulations**

- (1) A power to make regulations under any provision of this Act includes power to make—
  - (a) supplementary, incidental, transitional or saving provision;
  - (b) different provision for different purposes or areas.
- (2) Subsection (1) does not apply to regulations under section 147 or 148.
- (3) Regulations under this Act made by—
  - (a) the Secretary of State, or
  - (b) the Welsh Ministers,

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are to be made by statutory instrument.

- (4) A power of a Northern Ireland department to make regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (5) Where regulations under this Act made or to be made by the Secretary of State—
  - (a) are subject to the negative procedure, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) are subject to the affirmative procedure, they may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Where regulations under this Act made or to be made by the Welsh Ministers—
  - (a) are subject to the negative procedure, the statutory instrument containing them is subject to annulment in pursuance of a resolution of Senedd Cymru;
  - (b) are subject to the affirmative procedure, they may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru.
- (7) Where regulations under this Act made or to be made by a Northern Ireland Department—
  - (a) are subject to the negative procedure, they are subject to negative resolution within the meaning given by section 41(6) of the [Interpretation Act \(Northern Ireland\) 1954 \(c. 33 \(N.I.\)\)](#) ;
  - (b) are subject to the affirmative procedure, they may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.
- (8) See sections 28 and 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)) for the meaning of “the negative procedure” and “the affirmative procedure” in relation to regulations under this Act made or to be made by the Scottish Ministers.
- (9) Any provision that may be made by regulations under this Act subject to the negative procedure may be made by regulations subject to the affirmative procedure.

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**Commencement Information**

**I2** S. 143 in force at Royal Assent, see [s. 147\(1\)\(b\)](#)

**144 Crown application**

- (1) This Act binds the Crown, subject to subsection (2).
- (2) An amendment or repeal made by this Act binds the Crown to the same extent as the provision amended or repealed.

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**Commencement Information**

**I3** S. 144 in force at Royal Assent, see [s. 147\(1\)\(b\)](#)

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## 145 Financial provisions

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred under or by virtue of this Act by the Secretary of State, and
- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

### Commencement Information

**I4** S. 145 in force at Royal Assent, see [s. 147\(1\)\(b\)](#)

## 146 Extent

- (1) In Part 1 of this Act (environmental governance)—
  - (a) the following provisions extend to England and Wales—
    - (i) Chapter 1 (improving the natural environment), except for sections 17 to 20;
    - (ii) section 28 (monitoring and reporting on environmental improvement plans and targets);
  - (b) sections 17 to 19 (policy statement on environmental principles) extend to England and Wales and Scotland;
  - (c) the remaining provisions extend to England and Wales, Scotland and Northern Ireland.
- (2) Part 2 of this Act (environmental governance: Northern Ireland) extends to Northern Ireland, except that—
  - (a) in Part 1 of Schedule 3, paragraphs 16 and 17(7) extend to England and Wales, Scotland and Northern Ireland;
  - (b) an amendment or repeal made by Part 2 of Schedule 3 has the same extent as the provision amended or repealed.
- (3) In Part 3 of this Act (waste and resource efficiency)—
  - (a) the following provisions extend to England and Wales, Scotland and Northern Ireland—
    - (i) section 50 and Schedule 4 (producer responsibility obligations);
    - (ii) section 51 and Schedule 5 (producer responsibility for disposal costs);
    - (iii) section 52 and Schedule 6 (resource efficiency information);
    - (iv) section 53 and Schedule 7 (resource efficiency requirements);
    - (v) section 63 (procedure for regulations under the Environmental Protection Act 1990);
  - (b) the following provisions extend to England and Wales and Northern Ireland—
    - (i) section 54 and Schedule 8 (deposit schemes);
    - (ii) sections 55 and Schedule 9 (charges for single use items);
  - (c) the following provisions extend to England and Wales—
    - (i) section 60 (hazardous waste);
    - (ii) section 66 and Schedule 10 (enforcement powers);
    - (iii) section 68 (littering enforcement);

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- (d) section 71 (waste regulation: amendment of Northern Ireland Order) extends to Northern Ireland;
  - (e) an amendment or repeal has the same extent as the provision amended or repealed, except where contained in a provision for which a different extent is provided by this subsection.
- (4) In Part 4 of this Act (air quality and environmental recall)—
- (a) section 73 and Schedule 12 (smoke control areas) extend to England and Wales;
  - (b) sections 74 to 77 (recall of motor vehicles) extend to England and Wales, Scotland and Northern Ireland;
  - (c) an amendment or repeal has the same extent as the provision amended or repealed, except where contained in a provision for which a different extent is provided by this subsection.
- (5) In Part 5 of this Act (water)—
- (a) section 84 (report on elimination of discharges from storm overflows) extends to England and Wales;
  - (b) sections 89 and 93 (water quality) extend to England and Wales, Scotland and Northern Ireland;
  - (c) section 90 (water quality - powers of Welsh Ministers) extends to England and Wales;
  - (d) section 91 (water quality - powers of Northern Ireland Department) extends to Northern Ireland;
  - (e) section 92 (Solway Tweed river basin district) extends to England and Wales and Scotland;
  - (f) an amendment or repeal has the same extent as the provision amended or repealed.
- (6) Part 6 of this Act (nature and biodiversity) extends to England and Wales, except that—
- (a) the amendments made by Schedule 15 (biodiversity gain in nationally significant infrastructure projects) have the same extent as the provisions amended, and
  - (b) section 116 and Schedule 17 (use of forest risk commodities in commercial activity) extend to England and Wales, Scotland and Northern Ireland.
- (7) Part 7 of this Act (conservation covenants) extends to England and Wales.
- (8) This Part (miscellaneous and general provisions) extends to England and Wales, Scotland and Northern Ireland.

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**Commencement Information**

**15** S. 146 in force at Royal Assent, see [s. 147\(1\)\(b\)](#)

**147 Commencement**

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
- (a) section 63 (procedure for regulations under the Environmental Protection Act 1990);

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- (b) this Part of this Act (miscellaneous and general provisions), except section 140 and Schedule 21 so far as relating to powers of a Northern Ireland department to make regulations under paragraph 2 of that Schedule.
- (2) The following provisions of this Act come into force at the end of the period of 2 months beginning with the day on which this Act is passed—
- (a) section 51 and Schedule 5 (producer responsibility for disposal costs) so far as relating to England and Wales and Scotland;
  - (b) section 52 and Schedule 6 (resource efficiency information) so far as relating to England and Wales and Scotland;
  - (c) section 53 and Schedule 7 (resource efficiency requirements) so far as relating to England and Wales and Scotland;
  - (d) section 54 and Schedule 8 (deposit schemes) so far as relating to England and Wales;
  - (e) section 55 and Schedule 9 (charges for single use items) so far as relating to England and Wales;
  - (f) section 56 (carrier bag charge) so far as relating to England and Wales;
  - (g) section 58 (electronic waste tracking);
  - (h) section 66 and Schedule 10 (enforcement powers);
  - (i) section 70 (regulation of polluting activities);
  - (j) section 80 (storm overflows) and section 84 (report on elimination of discharges from storm overflows);
  - (k) section 88 (water abstraction in England);
  - (l) section 89 (water quality), except so far as relating to legislation within section 89(2)(d) to (f) and any regulations modifying that legislation made under or by virtue of the European Union (Withdrawal) Act 2018;
  - (m) sections 90, 92 and 93 (water quality);
  - (n) section 97 (disclosure of HMRC information).
- (3) The following provisions of this Act come into force on such day as the Secretary of State may by regulations appoint —
- (a) Part 1 (environmental governance);
  - (b) section 50 and Schedule 4 (producer responsibility obligations), so far as relating to England;
  - (c) section 57 (separate collection of waste);
  - (d) section 60 (hazardous waste), so far as relating to England;
  - (e) section 62 (transfrontier shipments of waste);
  - (f) section 64 (charging powers), so far as relating to the Environment Agency;
  - (g) section 68 (littering enforcement), so far as relating to England;
  - (h) in section 69 (fixed penalty notices), subsections (2) and (4) and subsection (1) so far as relating to those subsections;
  - (i) section 72 and Schedule 11 (local air quality management framework);
  - (j) Parts 1 and 3 of Schedule 12 (smoke control areas) and section 73 so far as relating to those Parts;
  - (k) sections 74 to 77 (recall of motor vehicles);
  - (l) sections 78 and 79 (water management plans etc), so far as relating to undertakers whose areas are wholly or mainly in England;
  - (m) sections 81 and 82 (reporting and monitoring duties relating to discharges from storm overflows etc);

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- (n) section 83 (reduction of adverse impacts of storm overflows);
  - (o) sections 85 and 87 (amendments to Water Industry Act 1991), so far as relating to undertakers whose areas are wholly or mainly in England and licensees using the systems of such undertakers;
  - (p) section 86 and Schedule 13 (appointment of water and sewerage undertakers in England);
  - (q) section 94 (valuation of other land in drainage districts: England);
  - (r) section 96 (valuation of agricultural land in drainage districts), so far as relating to internal drainage districts which are wholly or mainly in England;
  - (s) Part 6 (nature and biodiversity);
  - (t) Part 7 (conservation covenants).
- (4) The following provisions of this Act come into force on such day as the Welsh Ministers may by regulations appoint—
- (a) section 50 and Schedule 4 (producer responsibility obligations), so far as relating to Wales;
  - (b) section 60 (hazardous waste), so far as relating to Wales;
  - (c) section 64 (charging powers), so far as relating to the Natural Resources Body for Wales;
  - (d) section 68 (littering enforcement), so far as relating to Wales;
  - (e) in section 69 (fixed penalty notices), subsections (3) and (5) and subsection (1) so far as relating to those subsections;
  - (f) Part 2 of Schedule 12 (smoke control areas) and section 73 so far as relating to that Part;
  - (g) sections 78 and 79 (water management plans etc), so far as relating to undertakers whose areas are wholly or mainly in Wales;
  - (h) sections 85 and 87 (amendments to Water Industry Act 1991), so far as relating to undertakers whose areas are wholly or mainly in Wales and licensees using the systems of such undertakers;
  - (i) section 95 (valuation of other land in drainage districts: Wales);
  - (j) section 96 (valuation of agricultural land in drainage districts), so far as relating to internal drainage districts which are wholly or mainly in Wales.
- (5) The following provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint—
- (a) section 50 and Schedule 4 (producer responsibility obligations), so far as relating to Scotland;
  - (b) section 64 (charging powers), so far as relating to the Scottish Environment Protection Agency.
- (6) The following provisions of this Act come into force on such day as the Department of Agriculture, Environment and Rural Affairs in Northern Ireland may by order appoint—
- (a) Part 2 (environmental governance: Northern Ireland);
  - (b) section 50 and Schedule 4 (producer responsibility obligations), so far as relating to Northern Ireland;
  - (c) section 51 and Schedule 5 (producer responsibility for disposal costs) so far as relating to Northern Ireland;
  - (d) section 52 and Schedule 6 (resource efficiency information) so far as relating to Northern Ireland;

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- (e) section 53 and Schedule 7 (resource efficiency requirements) so far as relating to Northern Ireland;
  - (f) section 54 and Schedule 8 (deposit schemes) so far as relating to Northern Ireland;
  - (g) section 55 and Schedule 9 (charges for single use items), so far as relating to Northern Ireland;
  - (h) section 56 (carrier bag charge) so far as relating to Northern Ireland;
  - (i) section 59 (electronic waste tracking: Northern Ireland);
  - (j) section 61 (hazardous waste: Northern Ireland);
  - (k) section 65 (waste charging: Northern Ireland);
  - (l) section 67 (enforcement powers: Northern Ireland);
  - (m) section 71 (waste regulation: amendment of Northern Ireland Order);
  - (n) section 89 (water quality: powers of Secretary of State), so far as relating to legislation within section 89(2)(d) to (f) and any regulations modifying that legislation made under or by virtue of the European Union (Withdrawal) Act 2018;
  - (o) section 91 (water quality: powers of Northern Ireland Department);
  - (p) section 140 and Schedule 21 (amendment of REACH legislation) so far as relating to powers of a Northern Ireland department to make regulations under paragraph 2 of that Schedule.
- (7) An order under subsection (6) may not appoint a day for the coming into force of the following provisions of Schedule 3 (OEP’s Northern Ireland functions), unless the Secretary of State consents—
- (a) paragraphs 16 and 17(7);
  - (b) Part 2.
- (8) The power to make an order under subsection (6) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (9) An order under subsection (6) may not be made unless a draft of the order has been laid before and approved by a resolution of the Northern Ireland Assembly.
- (10) A power to make regulations or an order under this section includes power to appoint different days for different purposes or areas.

**Commencement Information**

**16** S. 147 in force at Royal Assent, see s. 147(1)(b)

**148 Transitional or saving provision**

- (1) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (2) The Welsh Ministers may by regulations make transitional or saving provision in connection with the coming into force of any provision within section 147(4) (provisions to be commenced by Welsh Ministers).



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- (3) The Scottish Ministers may by regulations make transitional or saving provision in connection with the coming into force of any provision within section 147(5) (provisions to be commenced by Scottish Ministers).
- (4) The Department of Agriculture, Environment and Rural Affairs in Northern Ireland may by regulations make transitional or saving provision in connection with the coming into force of any provision within section 147(6) (provisions to be commenced by Department).
- (5) Regulations under this section—
  - (a) made by the Welsh Ministers, may contain only provision which, if contained in an Act of Senedd Cymru, would be within the legislative competence of the Senedd;
  - (b) made by the Scottish Ministers, may contain only provision which, if contained in an Act of the Scottish Parliament, would be within the legislative competence of that Parliament;
  - (c) made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, may contain only provision which, if contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Assembly and would not require the Secretary of State’s consent.
- (6) Regulations under this section made by the Secretary of State may not contain provision that could be contained in regulations under this section—
  - (a) made by the Welsh Ministers, unless the Welsh Ministers consent;
  - (b) made by the Scottish Ministers, unless the Scottish Ministers consent;
  - (c) made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, unless the Department consents.
- (7) Any provision which could be made by regulations under this section made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland may be made by an order made by the Department under section 147.
- (8) A power to make regulations or an order under this section includes power to make different provision for different purposes or areas.

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**Commencement Information**

**I7** S. 148 in force at Royal Assent, see [s. 147\(1\)\(b\)](#)

**149 Short title**

This Act may be cited as the Environment Act 2021.

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**Commencement Information**

**I8** S. 149 in force at Royal Assent, see [s. 147\(1\)\(b\)](#)

**Changes to legislation:**

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