

2022 No. 48 (C. 2)

ENVIRONMENTAL PROTECTION

The Environment Act 2021 (Commencement No. 2 and Saving Provision) Regulations 2022

Made - - - -

17th January 2022

The Secretary of State makes the following Regulations in exercise of the power conferred by sections 147(3) and 148(1) of the Environment Act 2021(a).

Citation and interpretation

1.—(1) These Regulations may be cited as the Environment Act 2021 (Commencement No. 2 and Saving Provision) Regulations 2022.

(2) In these Regulations “the Act” means the Environment Act 2021.

Provisions coming into force on 24th January 2022

2. The following provisions of the Act come into force on 24th January 2022—

- (a) sections 1 to 7 (environmental targets);
- (b) sections 8 to 15 (environmental improvement plans);
- (c) section 16 (environmental monitoring);
- (d) section 25 (guidance on the OEP’s enforcement policy and functions);
- (e) section 27 (co-operation duties of public authorities and the OEP);
- (f) sections 28 to 30 (the OEP’s scrutiny and advice functions);
- (g) sections 31 to 41 (the OEP’s enforcement functions);
- (h) sections 42 and 43 (information);
- (i) section 50 (producer responsibility obligations), so far as relating to England;
- (j) section 60 (hazardous waste: England and Wales), so far as relating to England;
- (k) section 62 (transfrontier shipments of waste);
- (l) section 64 (powers to make charging schemes), so far as relating to the Environment Agency;
- (m) section 86 (water and sewerage undertakers in England: modifying appointments);
- (n) sections 104 to 108 (local nature recovery strategies);
- (o) section 110 (protected site strategies);
- (p) sections 112 and 113 (Habitats Regulations);
- (q) Schedule 4 (producer responsibility obligations), so far as relating to England;

- (r) Schedule 13 (modifying water and sewerage undertakers' appointments: procedure for appeals).

Provisions coming into force on 1st April 2022

3. Section 21 of the Act (reports on international environmental protection legislation) comes into force on 1st April 2022.

Provisions coming into force on 1st May 2022

4. The following provisions of the Act come into force on 1st May 2022—
- (a) section 72 (local air quality management framework);
 - (b) section 73 (smoke control areas: amendments of the Clean Air Act 1993), so far as it relates to Parts 1 and 3 of Schedule 12;
 - (c) Schedule 11 (local air quality management framework);
 - (d) Parts 1 and 3 of Schedule 12 (smoke control in England and Wales)(a).

Provisions coming into force on 30th September 2022

5. The following provisions of the Act come into force on 30th September 2022—
- (a) Part 7 (conservation covenants);
 - (b) Schedule 18 (discharge or modification of obligations under conservation covenants);
 - (c) Schedule 19 (application of Part 7 to Crown land);
 - (d) Schedule 20 (consequential amendments relating to Part 7).

Saving provision

6. Notwithstanding the coming into force of section 50(6) of the Act by virtue of regulation 2(i), which repeals sections 93 to 95 of the Environment Act 1995 as regards England, the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(b) remain in force and have effect as if made under Schedules 4 and 6 to the Environment Act 2021 in so far as they apply to England.

17th January 2022

Rebecca Pow
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force specified provisions of the Environment Act 2021 (c. 30) (“the Act”). These are the second commencement regulations made under the Act.

Regulation 2 brings into force on 24th January 2022 specified sections of the Act. Sections 1 to 8 provide a framework for environmental targets to be set for specified priority areas, fine particulate matter in ambient air, and species abundance. Sections 4 to 7 provide for the process of setting and amending targets and reporting and reviewing progress. Sections 8 to 15 provide for the preparation, implementation and review of environmental improvement plans and setting of interim targets. Section 16 requires the Secretary of State to obtain and publish data for monitoring environmental improvement.

(a) Part 4 of Schedule 12 came into force on 9 November 2021.

(b) S.I. 2007/871 amended by S.I. 2007/3538, 2008/1941, 2010/1159, 2849, 2011/226, 988, 1043, 2012/3082, 2013/755, 182, 1857, 2016/241,696, 738, 1146, 1154, 2018/721, 2019/188, 2020/904, 1540.

Section 25 provides that the Secretary of State may issue guidance to the OEP on enforcement policy and functions. Section 27 requires public authorities to co-operate with the OEP and provide such reasonable assistance as the OEP requests. Sections 28 and 29 provide for OEP monitoring and reporting functions in relation to environmental improvement plans, targets and the implementation of environmental law. Section 30 provides for the OEP to advise Ministers of the Crown. Sections 31 to 41 provide for OEP enforcement and other functions in relation to failures by public authorities to comply with environmental law. Sections 42 and 43 provide for disclosure of information to the OEP and confidentiality of OEP proceedings.

Section 50 and Schedule 4 are commenced so far as they relate to England and provide for the Secretary of State to make regulations about producer responsibility obligations and the enforcement of those regulations. Section 60 is commenced so far as relating to England and amends the Environmental Protection Act 1990 (c. 43) to include powers to make regulations on hazardous waste and makes minor amendments to the Environment Act 1995 relating to hazardous waste. Section 62 amends the Environmental Protection Act 1990 to expand existing powers to regulate international waste shipments and makes minor amendments to the Environment Act 1995 and the Transfrontier Shipment of Waste Regulations 2007 (S.I. 2007/1711). Section 64 amends the Environment Act 1995 (c. 25) in so far as it applies to the Environment Agency to supplement existing charging powers.

Section 86 amends Part 2 of the Water Industry Act 1991 (c. 56) and provides for the modification of appointment conditions of water and sewerage undertakers in England. Sections 104 to 108 provide for the creation of Local Nature Recovery Strategies (LNRSs) in England and set out the process by which LNRSs are prepared, published and reviewed. Section 110 provides for Protected Site Strategies for improving the conservation and management of a protected site by Natural England. Sections 112 and 113 provide powers to amend the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012).

Regulation 3 brings into force on 1st April 2022 section 21 to the Act (reports on international environmental protection legislation).

Regulation 4 brings into force on 1st May 2022 section 72 and Schedule 11 to the Act which amend Part 4 of the Environment Act 1995 (c. 25) to make amended provision for the local air quality management framework for England. Parts 1 and 3 of Schedule 12 and section 73, in so far as it relates to those Parts, are commenced for the purpose of amending the Clean Air Act 1993 (c. 11) to make amended provision about smoke control areas in England and to make minor and consequential amendments.

Regulation 5 brings into force on 30th September 2022 Part 7 (sections 117 to 139) and Schedules 18, 19 and 20 to the Act providing for conservation covenants.

Regulation 6 contains a saving provision for the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. 2007/871), which were principally made under sections 93 to 95 of the Environment Act 1995 (c. 25), which are repealed by section 50(6) of the Act. It provides for the Regulations to remain in force in relation to England despite the repeal of their enabling power, and to have effect as if made under Schedules 4 and 6 to the Act.

An impact assessment has not been published for these Regulations as they have no impact on costs to business, the public or voluntary sectors independent of the provision these Regulations bring into force. A full impact assessment has been published in relation to the Act and copies can be obtained from the website of the Department for Environment, Food and Rural Affairs at www.gov.uk/defra or from the Department for Environment, Food and Rural Affairs at 2 Marsham Street, London, SW1P 4DF, United Kingdom.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Environment Act 2021 (c. 30) have been brought into force by commencement regulations made before the date of these Regulations:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 22 to 24	17th November 2021	2021/1274
Section 26	17th November 2021	2021/1274
Sections 44 to 47	17th November 2021	2021/1274
Schedule 1	17th November 2021	2021/1274

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