



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART VIII

#### MISCELLANEOUS

##### *Other controls on substances, articles or waste*

**141 Power to [<sup>F1</sup>regulate] the importation or exportation of waste [<sup>F2</sup>or the transit of waste for export].**

[<sup>F3</sup>(1) The Secretary of State may, by regulations, make provision for, about or connected with the regulation of the importation or exportation of waste or the transit of waste for export.

(1A) Provision that may be made in regulations under this section includes provision prohibiting or restricting—

- (a) the importation of waste;
- (b) the landing and unloading of waste in the United Kingdom;
- (c) the exportation of waste;
- (d) the loading of waste for exportation;
- (e) the transit of waste for export.

(1B) The provision that may be made by virtue of subsection (1A) includes provision which relates to—

- (a) the intended final destination of waste, or
- (b) the countries or territories it is intended to pass through before reaching that destination.]

(2) Regulations under this section may make different provision for different descriptions of waste or waste of any description in different circumstances.

[<sup>F4</sup>(3) Regulations under this section may confer functions on the Secretary of State or a waste regulation authority, including functions—

- (a) involving the exercise of a discretion;

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(b) relating to enforcement.]

<sup>F5</sup>(4) .....

(5) Regulations under this section may—

<sup>F6</sup>(a) .....

[<sup>F7</sup>(aa) provide for the Secretary of State to issue general directions as to the exercise by waste regulation authorities of their functions in connection with the regulation of the importation or exportation of waste or the transit of waste for export;]

(b) impose or provide for the imposition of prohibitions either absolutely or only if conditions or procedures <sup>F8</sup>... are not complied with;

[<sup>F9</sup>(ba) provide for the charging by waste regulation authorities of fees or charges payable by persons involved in the importation or exportation of waste or the transit of waste for export;

(bb) provide that such fees or charges may be used by waste regulation authorities to meet costs incurred in exercising their functions in connection with the regulation of those activities;]

(c) impose duties to be complied with before, on or after any importation or exportation of waste by persons who are, or are to be, consignors, consignees, carriers or holders of the waste or any waste derived from it;

(d) confer powers corresponding<sup>F10</sup>, with or without modifications, to section 108(4) of the Environment Act 1995 (powers of entry and seizure) on persons authorised by the Secretary of State or a waste regulation authority;]

(e) provide for appeals to the Secretary of State from determinations made by [<sup>F11</sup>waste regulation authorities];

(f) provide for the keeping by the Secretary of State, waste regulation authorities and waste collection authorities of public registers of information relating to the importation and exportation of waste and for the transmission of such information between any of those persons;

[<sup>F12</sup>(fa) make provision authorising the disclosure of information by Officers of Revenue and Customs to waste regulation authorities;

(fb) confer, on persons designated as general customs officials under section 3(1) of the Borders, Citizenship and Immigration Act 2009, functions relating to the seizure and detention of waste that has arrived at, or entered into, the United Kingdom or is to leave the United Kingdom;]

(g) create offences, subject to the limitation that no offence shall be punishable with imprisonment for more than two years or punishable on summary conviction with imprisonment for more than [<sup>F13</sup>the prescribed term] or a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, [<sup>F14</sup>exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence.][<sup>F14</sup>—

(i) exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence, or

(ii) if there is no maximum penalty for the original offence, exceeding one-tenth of the greater of £5,000 or level 4 on the standard scale.]

[<sup>F15</sup>(h) make provision for, about or connected with the imposition of civil sanctions.]

[<sup>F16</sup>(5A) In subsection (5)(g), “the prescribed term” means—

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- (a) in relation to England and Wales, where the offence is a summary offence, 51 weeks;
- (b) in relation to England and Wales, where the offence is triable either way, [<sup>F17</sup>the general limit in a magistrates' court];
- (c) in relation to Scotland and Northern Ireland, six months.]

[<sup>F18</sup>(5AA) Regulations under this section that—

- (a) make provision for a summary offence under the law of England and Wales to be punishable with imprisonment for more than 6 months (“the relevant provision”), and
- (b) are made—
  - (i) on or after 2 May 2022, but
  - (ii) before the day on which section 281(5) of the Criminal Justice Act 2003 comes into force,

must also provide that, in relation to an offence committed before the day referred to in paragraph (b)(ii), any reference in the relevant provision to a term of imprisonment of more than 6 months is to be read as a reference to a term of imprisonment of 6 months.]

[<sup>F19</sup>(5B) For the purposes of this section “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices and enforcement undertakings).

(5C) The regulations may make provision for, about or connected with the imposition of a sanction of that kind whether or not—

- (a) the conduct in respect of which the sanction is imposed constitutes an offence, or
- (b) the person imposing it is a regulator for the purposes of Part 3 of the Regulatory Enforcement and Sanctions Act 2008.

(5D) Regulations under this section may make provision in relation to any area of sea or seabed or its subsoil within the seaward limits of—

- (a) the area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (designation of continental shelf), or
- (b) the area designated by Order in Council under section 41(3) of the Marine and Coastal Access Act 2009 (designation of exclusive economic zone).

(5E) Regulations under this section may make consequential, supplementary, incidental, transitional or saving provision, including provision amending, repealing or revoking primary legislation or [<sup>F20</sup>assimilated direct] legislation.]

(6) In this section—

“the environment” means land, water and air or any of them;

[<sup>F21</sup>“exportation”, in relation to waste, means causing it to leave the United Kingdom;]

“harm” includes offence to any of man’s senses;

[<sup>F21</sup>“importation”, in relation to waste, means causing it to arrive at, or enter into, the United Kingdom;]

[<sup>F21</sup>“primary legislation” means—

- (a) an Act of Parliament,
- (b) a Measure or Act of Senedd Cymru,

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- (c) an Act of the Scottish Parliament, or  
(d) Northern Ireland legislation;]

[<sup>F21</sup>“transit of waste for export” means the transportation or keeping of waste, that has arrived at, or has entered, the United Kingdom, for the purpose of facilitating its leaving the United Kingdom;]

“waste”, “waste collection authority”, and “waste regulation authority” have the same meaning as in Part II; and

“the United Kingdom” includes its territorial sea.

- (7) In the application of this section to Northern Ireland and the territorial sea of the United Kingdom adjacent to Northern Ireland “waste regulation authority” means [<sup>F22</sup>the Department of the Environment for Northern Ireland].

### Textual Amendments

- F1** Word in s. 141 heading substituted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(2)(a), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F2** Words in s. 141 heading inserted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(2)(b), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F3** S. 141(1)-(1B) substituted for s. 141(1) (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(3), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F4** S. 141(3) substituted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(4), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F5** S. 141(4) omitted (24.1.2022) by virtue of Environment Act 2021 (c. 30), ss. 62(5), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F6** S. 141(5)(a) omitted (24.1.2022) by virtue of Environment Act 2021 (c. 30), ss. 62(6)(a), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F7** S. 141(5)(aa) inserted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(6)(b), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F8** Words in s. 141(5)(b) omitted (24.1.2022) by virtue of Environment Act 2021 (c. 30), ss. 62(6)(c), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F9** S. 141(5)(ba)(bb) inserted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(6)(d), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F10** Words in s. 141(5)(d) substituted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(6)(e), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F11** Words in s. 141(5)(e) substituted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(6)(f), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F12** S. 141(5)(fa)(fb) inserted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(6)(g), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F13** Words in s. 141(5)(g) substituted (2.5.2022) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 27 para. 6(2) (with s. 283(7)); S.I. 2022/500, reg. 3(b)(ii)
- F14** Words in s. 141(5)(g) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 3 para. 16(3) (with reg. 5(1))
- F15** S. 141(5)(h) inserted (24.1.2022) by Environment Act 2021 (c. 30), ss. 62(6)(h), 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F16** S. 141(5A) inserted (2.5.2022) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 27 para. 6(3) (with s. 283(7)); S.I. 2022/500, reg. 3(b)(ii)
- F17** Words in s. 141(5A)(b) substituted (14.7.2022) by Judicial Review and Courts Act 2022 (c. 35), s. 51(4), Sch. 2 para. 17; S.I. 2022/816, regs. 1(2), 3(d)
- F18** S. 141(5AA) inserted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 7(2)

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- F19** S. 141(5B)-(5E) inserted (24.1.2022) by Environment Act 2021 (c. 30), **ss. 62(7)**, 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F20** Words in s. 141(5E) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 29(7)**
- F21** Words in s. 141(6) inserted (24.1.2022) by Environment Act 2021 (c. 30), **ss. 62(8)**, 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F22** Words in s. 141(7) substituted (N.I.) (27.11.2003 save for specified purposes and otherwise in accordance with art. 3 of the commencing S.R.) by S.I. 1997/2778 (N.I. 19), art. 83(1), Sch. 5 para. 5; S.R. 2003/489, **art. 2**, Sch.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)