



Environmental Protection Act 1990

1990 CHAPTER 43

PART I

INTEGRATED POLLUTION CONTROL AND AIR POLLUTION CONTROL BY LOCAL AUTHORITIES

Preliminary

4 Discharge and scope of functions.

- ^{F1}(1) This section determines the authority by whom the functions conferred or imposed by this Part otherwise than on the Secretary of State are exercisable and the purposes for which they are exercisable.
- (2) Those functions, in their application to prescribed processes designated for central control, shall be functions of [^{F2}the appropriate Agency], and shall be exercisable for the purpose of preventing or minimising pollution of the environment due to the release of substances into any environmental medium.
- (3) Subject to subsection (4) below, those functions, in their application to prescribed processes designated for local control, shall be functions of—
- ^{F3}(a) in the case of a prescribed process carried on (or to be carried on) by means of a mobile plant, where the person carrying on the process has his principal place of business—
- (i) in England and Wales, the local authority in whose area that place of business is;
 - (ii) in Scotland, SEPA;
- (b) in any other cases, where the prescribed processes are (or are to be) carried on—
- (i) in England and Wales, the local authority in whose area they are (or are to be) carried on;
 - (ii) in Scotland, SEPA;]

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and the functions applicable to such processes shall be exercisable for the purpose of preventing or minimising pollution of the environment due to the release of substances into the air (but not into any other environmental medium).

- (4) The Secretary of State may, as respects the functions under this Part being exercised by a local authority specified in the direction, direct that those functions shall be exercised instead by [^{F4}the Environment Agency] while the direction remains in force or during a period specified in the direction.
- ^{F5}[(4A) In England and Wales, a local authority, in exercising the functions conferred or imposed on it under this Part by virtue of subsection (3) above, shall have regard to the strategy for the time being published pursuant to section 80 of the Environment Act 1995.]
- (5) A transfer of functions under subsection (4) above to [^{F6}the Environment Agency] does not make them exercisable by [^{F6}that Agency] for the purpose of preventing or minimising pollution of the environment due to releases of substances into any other environmental medium than the air.
- (6) A direction under subsection (4) above may transfer those functions as exercisable in relation to all or any description of prescribed processes carried on by all or any description of persons (a “general direction”) or in relation to a prescribed process carried on by a specified person (a “specific direction”).
- (7) A direction under subsection (4) above may include such saving and transitional provisions as the Secretary of State considers necessary or expedient.
- (8) The Secretary of State, on giving or withdrawing a direction under subsection (4) above, shall—
- (a) in the case of a general direction—
 - (i) forthwith serve notice of it on [^{F7}the Environment Agency] and on the local enforcing authorities affected by the direction; and
 - (ii) cause notice of it to be published as soon as practicable in the London Gazette ^{F8}. . . and in at least one newspaper circulating in the area of each authority affected by the direction;
 - (b) in the case of a specific direction—
 - (i) forthwith serve notice of it on [^{F7}the Environment Agency], the local enforcing authority and the person carrying on or appearing to the Secretary of State to be carrying on the process affected, and
 - (ii) cause notice of it to be published as soon as practicable in the London Gazette ^{F8}. . . and in at least one newspaper circulating in the authority’s area;

and any such notice shall specify the date at which the direction is to take (or took) effect and (where appropriate) its duration.
- ^{F9}[(8A) The requirements of sub-paragraph (ii) of paragraph (a) or, as the case may be, of paragraph (b) of subsection (8) above shall not apply in any case where, in the opinion of the Secretary of State, the publication of notice in accordance with that sub-paragraph would be contrary to the interests of national security.
- (8B) Subsections (4) to (8A) above shall not apply to Scotland.]
- ^{F10}[(9) It shall be the duty of local authorities to follow such developments in technology and techniques for preventing or reducing pollution of the environment due to releases of

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substances from prescribed processes as concern releases into the air of substances from prescribed processes designated for local control.]

(10) It shall be the duty of [^{F11}the Environment Agency, SEPA] and the local enforcing authorities to give effect to any directions given to them under any provision of this Part.

(11) In this Part “local authority” means, subject to subsection (12) below—

(a) in Greater London, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;

(b) [^{F12}in England ^{F12} . . .], outside Greater London, a district council and the Council of the Isles of Scilly; ^{F13} . . .

^{F14}[(bb) in Wales, a county council or county borough council;]

^{F13}(c)

(12) Where, by an order under section 2 of the ^{M1}Public Health (Control of Disease) Act 1984, a port health authority has been constituted for any port health district, the port health authority shall have by virtue of this subsection, as respects its district, the functions conferred or imposed by this Part and no such order shall be made assigning those functions; and “local authority” and “area” shall be construed accordingly.]

Textual Amendments

- F1** Ss. 1-28 repealed (1.4.2015 for S. for the repeal of ss. 1-19, 22-28) by [Pollution Prevention and Control Act 1999 \(c. 24\)](#), s. 7(3), [Sch. 3](#) (with s. 7(7)); S.S.I. 2015/74, art. 2(2)(b)
- F2** Words in s. 4(2) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(2\)](#)(with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F3** S. 4(3)(a)(b) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(3\)](#)(with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F4** Words in s. 4(4) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(4\)](#)(with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F5** S. 4(4A) inserted (23.12.1997) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(5\)](#) (with ss. 7(6), 115); S.I. 1997/3044, [art.2](#)
- F6** Words in s. 4(5) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(6\)\(a\)\(b\)](#)(with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F7** Words in s. 4(8) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(7\)\(a\)](#)(with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F8** Words in s. 4(8) repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), Sch. 22 para. 46(7)(b), [Sch. 24](#) (with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F9** S. 4(8A)(8B) inserted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(8\)](#)(with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F10** S. 4(9) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(9\)](#)(with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F11** Words in s. 4(10) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 46\(10\)](#)(with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)
- F12** S. 4(11)(b): words 'In England and Wales' inserted and words 'and Wales' repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), [Sch. 22 para. 46\(11\)\(a\)](#), [Sch. 24](#) (with ss. 7(6), 115); S.I. 1996/186, [art. 3](#) words 'In England' expressed to be inserted (1.4.1996) by [1994 c. 19](#), s. 22(3), [Sch. 9 para. 17\(1\)](#) (with s. 54(7), [Sch. 17 paras. 22, 23\(2\)](#)); S.I. 1996/396, art. 3, Sch. 1 (which insertion by [1994 c. 19](#) falls (*prosp.*) by reason of the repeal of [1994 c. 19](#), [Sch. 9 para. 17\(1\)](#) by [1999 c. 24](#), s. 6(2), [Sch. 3](#))
- F13** S. 4(11)(c) and the word immediately preceding it repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), [Sch. 22 para. 46\(11\)\(b\)](#), [Sch. 24](#) (with ss. 7(6), 115); S.I. 1996/186, [art. 3](#)

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F14 S. 4(11)(bb) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 19 para. 17(1)** (with s. 54(7), Sch. 17 paras. 22, 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

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