



Environment Act 2021

2021 CHAPTER 30

PART 3

WASTE AND RESOURCE EFFICIENCY

Waste enforcement and regulation

64 Powers to make charging schemes

- (1) The Environment Act 1995 is amended as follows.
- (2) In section 41(1) (powers to make charging schemes) after paragraph (m) insert—
 - “(n) as a means of recovering costs incurred by it in performing functions conferred by regulations made under Schedule 4 or 5 to the Environment Act 2021, the Agency, the Natural Resources Body for Wales or SEPA may require the payment to it of such charges as may from time to time be prescribed;
 - (o) as a means of recovering costs incurred by it in performing functions conferred by the End-of-Life Vehicles (Producer Responsibility) Regulations 2005 ([S.I. 2005/263](#)), the Agency, the Natural Resources Body for Wales or SEPA may require the payment to it of such charges as may from time to time be prescribed;
 - (p) as a means of recovering costs incurred by it in performing functions conferred by the Waste Electrical and Electronic Equipment Regulations 2013 ([S.I. 2013/3113](#)), the Agency, the Natural Resources Body for Wales or SEPA may require the payment to it of such charges as may from time to time be prescribed;
 - (q) as a means of recovering costs incurred by it in performing functions relating to section 33(1) of the Environmental Protection Act 1990, the Agency or the Natural Resources Body for Wales may require the payment to it of such charges as may from time to time be prescribed;
 - (r) as a means of recovering costs incurred by it in performing functions relating to regulation 12(1) of the Environmental Permitting (England

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and Wales) Regulations 2016 (S.I. 2016/1154) in relation to a regulated facility which is a waste operation (within the meaning of those Regulations), the Agency or the Natural Resources Body for Wales may require the payment to it of such charges as may from time to time be prescribed.”.

- (3) In section 56(1) (interpretation)—
- (a) in the definition of “environmental licence”, in the application of Part 1 of the Act in relation to an appropriate agency—
 - (i) in paragraph (j) for the words from “WEEE” to the end substitute “waste operation (within the meaning of those Regulations)”;
 - (ii) omit paragraphs (l) to (o);
 - (b) in the definition of “environmental licence”, in the application of Part 1 of the Act in relation to the Scottish Environment Protection Agency, omit paragraphs (l) to (o).
- (4) Until the repeal of section 93 of the Environment Act 1995 (“the 1995 Act”) by section 50 of this Act is fully in force, section 41(1)(n) of the 1995 Act has effect as if the reference to Schedule 4 to this Act included a reference to section 93 of the 1995 Act.

Commencement Information

- I1** S. 64 not in force at Royal Assent, see s. 147(3)-(5)
- I2** S. 64 in force at 24.1.2022 for specified purposes by S.I. 2022/48, reg. 2(1)
- I3** S. 64 in force at 7.3.2022 for specified purposes for W. by S.I. 2022/223, regs. 1(2), 2(c)
- I4** S. 64 in force at 9.11.2022 for specified purposes for S. by S.S.I. 2022/305, reg. 2(b)

65 Waste charging: Northern Ireland

- (1) In the Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)), after Article 76 insert—

“Charging schemes

76A Power to make charging schemes

- (1) As a means of recovering costs incurred by it in performing any functions mentioned in paragraph (2), the Department may require the payment to it of such charges as may be specified in or determined under a scheme made by the Department under this Article (referred to in this Article as a “charging scheme”).
- (2) The functions referred to in paragraph (1) are—
- (a) functions related to—
 - (i) Article 4(1); or
 - (ii) regulation 18(1) of the Waste Management Licensing Regulations (Northern Ireland) 2003;
 - (b) functions conferred by regulations made under Article 5G;
 - (c) functions conferred by regulations made under Schedule 4 or 5 to the Environment Act 2021;

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- (d) functions conferred by the End-of-Life Vehicles Regulations 2003;
 - (e) functions conferred by the End-of-Life Vehicles (Producer Responsibility) Regulations 2005;
 - (f) functions conferred by the Waste Batteries and Accumulators Regulations 2009;
 - (g) functions conferred by the Waste Electrical and Electronic Equipment Regulations 2013;
 - (h) functions in connection with the regulation of the importation or exportation of waste or the transit of waste for export.
- (3) In sub-paragraph (h) of paragraph (2) “importation”, “exportation”, “transit of waste for export” and “waste” have the meaning they have in section 141 of the Environmental Protection Act 1990.
- (4) A charging scheme must specify, in relation to any charge prescribed by the scheme, the description of person who is liable to pay the charge.
- (5) A charging scheme may—
- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
 - (b) provide for the times at which, and the manner in which, charges are to be paid;
 - (c) revoke or amend any previous charging scheme;
 - (d) contain supplemental, incidental, consequential or transitional provision for the purposes of the scheme.
- (6) Before making a charging scheme the Department must consult such persons as appear to the Department to be appropriate.
- (7) The Department must, when it makes or amends a charging scheme—
- (a) lay a copy of the scheme or amendments before the Assembly, and
 - (b) publish the scheme or the amendments.”
- (2) Until the repeal of Article 3 of the Producer Responsibility Obligations (Northern Ireland) Order 1998 (S.I. 1998/1762 (N.I. 16)) (“the 1998 Order”) by section 50 of this Act is fully in force, Article 76A(2)(c) of the Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)) has effect as if the reference to Schedule 4 to this Act included a reference to Article 3 of the 1998 Order.
- (3) The Waste Management Licensing Regulations (Northern Ireland) 2003 (S.R. (N.I.) 2003 No. 493) are amended as follows.
- (4) In regulation 17 (exemptions from waste management licensing), in paragraph (4)—
- (a) in sub-paragraph (b) for “and the fee (if any) required under regulation 18(12) have” substitute “has”;
 - (b) after sub-paragraph (b) insert “; and
 - (c) any fee required under regulation 20B has been paid.”
- (5) In regulation 18 (registration in connection with exempt activities)—
- (a) in paragraph (3)(d) for “a payment of any fee in respect of each place where any such exempt activity is being carried on” substitute “payment, in respect of each place where any such exempt activity is being carried on, of any fee that may be required under regulation 20B”;

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- (b) in paragraph (9) for “and 47” substitute “, 47 and 49 to 52”;
 - (c) in paragraph (11)(b) for “specified in accordance with paragraph (12)” substitute “required under regulation 20B”;
 - (d) omit paragraph (12).
- (6) After regulation 20A insert—

“20B Fees and charges for registration in connection with exempt activities

- (1) There are to be charged by and paid to the Department—
 - (a) in respect of applications for registration, and
 - (b) in respect of the subsistence of registrations,
 such fees and charges as may be provided for by a scheme under paragraph (2) (but this is subject to regulations 18(4A) and 19(2)).
- (2) The Department may make, and from time to time revise, a scheme (“a charging scheme”) specifying—
 - (a) fees in respect of applications for registration, payable to the Department, by the applicant, in respect of each place to which an application relates;
 - (b) charges in respect of the subsistence of registrations, payable to the Department by persons to whom registrations have been issued.
- (3) The Department must, when it makes or amends a charging scheme—
 - (a) lay a copy of the scheme or amendments before the Assembly, and
 - (b) publish the scheme or the amendments.
- (4) A charging scheme may in particular—
 - (a) provide for fees or charges payable in respect of applications or the subsistence of registrations to differ according to the activities to which the applications or registrations relate (including by providing for no fee or charge in the case of some activities);
 - (b) provide for reductions of fees where conditions specified in the scheme are met;
 - (c) provide for the times at which, and the manner in which, payments of fees or charges are to be made;
 - (d) make such incidental, supplementary and transitional provision as appears to the Department to be appropriate.
- (5) If it appears to the Department that a person to whom a registration has been issued has failed to pay a charge due in respect of the subsistence of the registration, the Department may, by notice in writing served on that person, revoke the registration.
- (6) In this regulation—
 - (a) “registration” means registration under regulation 18;
 - (b) any reference to an application for registration includes an application for renewal of a registration.”

Commencement Information

I5 S. 65 not in force at Royal Assent, see [s. 147\(6\)](#)

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16 S. 65 in force at 28.2.2022 by S.R. 2022/54, art. 2(1)(k)

66 Enforcement powers

Schedule 10 amends legislation about enforcement powers in relation to waste and other environmental matters.

Commencement Information

17 S. 66 in force at 9.1.2022, see s. 147(2)(h)

67 Enforcement powers: Northern Ireland

(1) Article 27 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)) (power to give directions) is amended as follows.

(2) In paragraph (2) omit the words from “with a view” to the end.

(3) After paragraph (2) insert—

“(2A) The Department may by notice—

- (a) direct a registered carrier to collect controlled waste which is being kept in or on specified land and deliver it to a specified person on specified terms;
- (b) direct any person who—
 - (i) is keeping controlled waste in or on any land, or
 - (ii) owns or occupies land in or on which controlled waste is being kept,

to facilitate collection of the waste by a specified registered carrier to whom a direction in respect of the waste is given under subparagraph (a).”

(4) In paragraph (3) for “paragraph (1) or (2)” substitute “this Article”.

(5) In paragraph (4), for “of treating or disposing of” substitute “in relation to”.

(6) After paragraph (4) insert—

“(4A) A direction under paragraph (2A)(b) may require the person to whom it is given—

- (a) to pay to the specified registered carrier the reasonable costs of collecting and delivering the waste;
- (b) to pay to the specified person to whom the waste is delivered (“P”) the reasonable costs incurred by P in relation to the waste (including any costs P is required by a direction under this Article to pay to another person).”

(7) In paragraph (5) for “paragraph (1) or (2)” substitute “this Article”.

(8) In paragraph (6) for “paragraph (1) or (2)” substitute “this Article”.

(9) In paragraph (7) for the words from “, where” to the end substitute “pay any costs mentioned in paragraph (4) or (4A).”

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(10) For paragraph (8) substitute—

“(8) In this Article—

“specified” means specified in a direction under this Article;

“registered carrier” means a person registered under Article 39 as a carrier of controlled waste.”

Commencement Information

I8 S. 67 not in force at Royal Assent, see [s. 147\(6\)](#)

I9 S. 67 in force at 28.2.2022 by [S.R. 2022/54](#), [art. 2\(1\)\(l\)](#)

68 Littering enforcement

(1) Part 4 of the Environmental Protection Act 1990 is amended as follows.

(2) In Section 88 (fixed penalty notices for leaving litter), for subsection (11) substitute—

“(11) The appropriate person may by regulations provide that—

(a) an authorised officer of a litter authority must meet such conditions as may be prescribed in the regulations;

(b) if an authorised officer of a litter authority fails to meet any such condition, the authority must revoke the officer’s authorisation.

(12) Regulations under subsection (11) may make different provision for different cases.

(13) Before making regulations under subsection (11), the appropriate person must consult such persons as the appropriate person thinks appropriate.”

(3) After section 88A insert—

“88B Guidance on littering enforcement in England and Wales

(1) The appropriate person may issue guidance to litter authorities on the exercise of littering enforcement functions by those authorities and authorised officers of those authorities.

(2) A litter authority must have regard to that guidance when exercising any of its littering enforcement functions.

(3) The appropriate person may revise any guidance issued under this section at any time.

(4) Before issuing guidance, or revised guidance, under this section the appropriate person must consult such persons as the appropriate person thinks appropriate.

(5) The Secretary of State must lay before Parliament and publish guidance, and any revised guidance, issued by the Secretary of State under this section.

(6) The Welsh Ministers must lay before Senedd Cymru and publish guidance, and any revised guidance, issued by the Welsh Ministers under this section.

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(7) In this section—

“authorised officer”, in relation to a litter authority, means a person who is an authorised officer in relation to that authority for the purposes of—

- (a) section 88 (fixed penalty notices for littering, see subsection (10) of that section),
- (b) section 88A (fixed penalty notices for littering from vehicles in England, see subsection (4) of that section), or
- (c) Schedule 3A (distribution of free printed matter, see paragraph 8 of that Schedule);

“littering enforcement function” means—

- (a) any function of a litter authority, or of an authorised officer of that authority, conferred by or under sections 87 to 88A or Schedule 3A, or
- (b) any function exercised for purposes connected with any of those sections or that Schedule.”

(4) In section 98(1A) (definition of appropriate person), in paragraph (b) for “National Assembly for Wales” substitute “Welsh Ministers”.

Commencement Information

110 S. 68 not in force at Royal Assent, see [s. 147\(3\)\(4\)](#)

111 S. 68 in force at 1.4.2023 for E. by [S.I. 2023/381](#), [reg. 2\(a\)](#)

69 Fixed penalty notices

(1) The Environmental Protection Act 1990 is amended as follows.

(2) In section 33ZA (fixed penalty notices relating to depositing, treatment or disposal of waste: England)—

- (a) in subsection (10), for the words from “the period” to the end substitute “a period specified by the authority.”;
- (b) after that subsection insert—

“(10A) The Secretary of State may by regulations substitute different amounts for the amounts for the time being specified in subsections (9) and (10).”

(3) In section 33ZB (fixed penalty notices relating to depositing, treatment or disposal of waste: Wales)—

- (a) in subsection (10), for the words from “the period” to the end substitute “a period specified by the authority.”;
- (b) after that subsection insert—

“(10A) The Welsh Ministers may by regulations substitute different amounts for the amounts for the time being specified in subsections (9) and (10).”

(4) In section 34ZA (fixed penalty notices relating to transfer of household waste: England)—

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(a) in subsection (9), for the words from “within” to the end substitute “before the end of a period specified by the authority.”;

(b) after that subsection insert—

“(9A) The Secretary of State may by regulations substitute different amounts for the amounts for the time being specified in subsections (7)(b), (8) and (9).”

(5) In section 34ZB (fixed penalty notices relating to transfer of household waste: Wales)

(a) in subsection (8), for the words from “the period” to the end substitute “a period specified by the authority.”;

(b) after that subsection insert—

“(8A) The Welsh Ministers may by regulations substitute different amounts for the amounts for the time being specified in subsections (7) and (8).”

Commencement Information

I12 S. 69 not in force at Royal Assent, see [s. 147\(3\)\(4\)](#)

I13 S. 69(1) in force at 1.4.2023 for specified purposes by [S.I. 2023/381](#), [reg. 2\(b\)](#)

I14 S. 69(2)(4) in force at 1.4.2023 by [S.I. 2023/381](#), [reg. 2\(b\)](#)

70 Regulation of polluting activities

In Schedule 1 to the Pollution Prevention and Control Act 1999, in paragraph 4 (permits)—

(a) the existing text becomes sub-paragraph (1);

(b) after that sub-paragraph insert—

“(2) In relation to England and Wales, imposing such a prohibition in relation to an activity except where the carrying on of the activity meets conditions determined by the regulators in accordance with the regulations.”

Commencement Information

I15 S. 70 in force at 9.1.2022, see [s. 147\(2\)\(i\)](#)

71 Waste regulation: amendment of Northern Ireland Order

(1) In Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997 ([S.I. 1997/2778 \(N.I. 19\)](#)), in the definition of “the Department”, for “the Department of the Environment” substitute “the Department of Agriculture, Environment and Rural Affairs”.

(2) To the extent that immediately before the commencement of this section a reference in that Order to “the Department” was to be read as being or including a reference to a department other than the Department of Agriculture, Environment and Rural Affairs

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(by virtue of Article 9(1) of the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. (N.I.) 2016 No. 76) or otherwise), it is to continue to be so read.

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Commencement Information

- I16** S. 71 not in force at Royal Assent, see **s. 147(6)**
I17 S. 71 in force at 28.2.2022 by S.R. 2022/54, **art. 2(1)(m)**

Changes to legislation:

There are currently no known outstanding effects for the Environment Act 2021, Cross Heading: Waste enforcement and regulation.