



# Environment Act 2021

## 2021 CHAPTER 30

### PART 3

#### WASTE AND RESOURCE EFFICIENCY

##### *Managing waste*

#### **62 Transfrontier shipments of waste**

- (1) Section 141 of the Environmental Protection Act 1990 (power to prohibit or restrict the importation or exportation of waste) is amended in accordance with subsections (2) to (8).
- (2) In the heading—
- (a) for “prohibit or restrict” substitute “regulate”;
  - (b) after “waste” insert “or the transit of waste for export”.
- (3) For subsection (1) substitute—
- “(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

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for the Environment Act 2021, Section 62. (See end of Document for details)*

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- (b) the countries or territories it is intended to pass through before reaching that destination.”
- (4) For subsection (3) substitute—
  - “(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;
    - (b) relating to enforcement.”
- (5) Omit subsection (4).
- (6) In subsection (5)—
  - (a) omit paragraph (a);
  - (b) after that paragraph insert—
    - “(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;”;
  - (c) in paragraph (b) omit “prescribed in or under the regulations”;
  - (d) after paragraph (b) insert—
    - “(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;”;
  - (e) in paragraph (d), for the words from “to” to the end substitute “, 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;”;
  - (f) in paragraph (e), for “authorities under the regulations” substitute “waste regulation authorities”;
  - (g) after paragraph (f) insert—
    - “(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;”;
  - (h) after paragraph (g) insert—
    - “(h) make provision for, about or connected with the imposition of civil sanctions.”
- (7) After subsection (5A) insert—
  - “(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

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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 retained direct EU legislation.”

(8) In subsection (6), at the appropriate places insert—

““exportation”, in relation to waste, means causing it to leave the United Kingdom;”;

““importation”, in relation to waste, means causing it to arrive at, or enter into, the United Kingdom;”;

““primary legislation” means—

- (a) an Act of Parliament,
- (b) a Measure or Act of Senedd Cymru,
- (c) an Act of the Scottish Parliament, or
- (d) Northern Ireland legislation;”;

““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;”.

(9) In section 160A(2) of the Environmental Protection Act 1990 (regulations and orders) (as inserted by section 63), in the Table, at the appropriate place insert—

“section 141 (imports, exports and transit of waste)

regulations that—

- (a) confer powers of entry, seizure or detention in circumstances where there is no such power under existing regulations under section 141,
- (b) provide for the charging of fees or charges that are not chargeable under existing regulations under that section,
- (c) provide for conduct to be a criminal offence which is not a criminal offence under existing regulations under that section,
- (d) increase the maximum penalty for a criminal offence under existing regulations under that section,

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- (e) provide for conduct to be subject to a civil sanction (within the meaning given by section 141(5B)) which is not subject to a civil sanction under existing regulations under that section, or
- (f) amend, repeal or revoke a provision contained in primary legislation (within the meaning given by section 141(6)) or retained direct principal EU legislation.”

(10) In section 41 of the Environment Act 1995 (power to make schemes imposing charges)

(a) in subsection (1), for paragraph (d) substitute—

“(d) as a means of recovering costs incurred by it in performing functions in connection with the regulation of the importation or exportation of waste or the transit of waste for export, 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;”;

(b) after subsection (1) insert—

“(1A) In paragraph (d) of subsection (1) “importation”, “exportation”, “transit of waste for export” and “waste” have the meaning they have in section 141 of the Environmental Protection Act 1990.”

(11) In regulation 46 of the Transfrontier Shipment of Waste Regulations 2007 ([S.I. 2007/1711](#)), omit paragraph (1).

#### **Commencement Information**

**I1** S. 62 not in force at Royal Assent, see [s. 147\(3\)](#)

**I2** S. 62 in force at 24.1.2022 by [S.I. 2022/48](#), [reg. 2\(k\)](#)

**Changes to legislation:**

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