

STATUTORY INSTRUMENTS

2019 No. 458

The Environment (Amendment etc.) (EU Exit) Regulations 2019

PART 2

Amendment of primary legislation

The Environmental Protection Act 1990

2.—(1) The Environmental Protection Act 1990 ^{M1} is amended as follows.

(2) In section 7—

(a) in subsection (2)(b), for “obligations of the United Kingdom under the EU Treaties” substitute “retained EU obligations”;

(b) for subsection (12)(b) substitute—
“(b) retained EU law;”.

(3) In section 19(3), omit “the EU Treaties or”.

(4) In section 113(5), for “the implementation of Council Directive [90/220/EEC](#)” substitute “retained EU law which implemented Directive [2001/18/EC](#) of the European Parliament and of the Council ^{M2}”.

(5) In section 116(2)—

(a) after “Secretary of State of” insert “ a function under retained EU law or ”;

(b) omit “the EU Treaties or”.

(6) Omit section 140(4)(a).

(7) In section 142(2)(a), after “State” insert “ or in the United Kingdom ”.

(8) In section 156—

(a) in the heading, for “EU and other” substitute “ retained EU obligations and ”;

(b) in subsection (1)(a), for “EU obligation” substitute “ retained EU obligation ”.

Commencement Information

I1 Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1(1)

Marginal Citations

M1 [1990 c. 43](#).

M2 OJ No L 106, 17.4.2001, p. 1, as last amended by Commission Directive (EU) 2018/350 (OJ No L 67, 9.3.2018, p. 30).

The Environment Act 1995

- 3.—(1) The Environment Act 1995 ^{M3} is amended as follows.
- (2) In section 40 ^{M4}—
- (a) in subsection (2)—
- (i) in the opening words, omit “for the implementation of”;
- (ii) for paragraph (a) substitute—
- “(a) for securing that any retained EU obligation is met, or”;
- (iii) in paragraph (b), at the beginning insert “ for the implementation of”;
- (b) in subsection (4)—
- (i) in the opening words, omit “for the implementation of”;
- (ii) for paragraph (a) substitute—
- “(a) for securing that any retained EU obligation is met, or”;
- (iii) in paragraph (b), at the beginning insert “ for the implementation of”.
- (3) In section 41 ^{M5}—
- (a) in subsection (1)—
- (i) paragraph (c) is omitted (as it applies in relation to England and as it applies in relation to Wales);
- (ii) after paragraph (c) insert—
- “(ca) as a means of recovering costs incurred by it in performing functions conferred by the Hazardous Waste (England and Wales) Regulations 2005, the Agency may require the payment to it of such charges as may from time to time be prescribed;
- (cb) as a means of recovering costs incurred by it in performing functions conferred by the Hazardous Waste (Wales) Regulations 2005, the Natural Resources Body for Wales may require the payment to it of such charges as may from time to time be prescribed;”;
- (iii) in paragraph (f) as it applies to England and Wales, for the words from “regulations made for the purposes of” to “(as amended from time to time)” substitute “ retained EU law which implemented Council Directive 2006/117/Euratom on the supervision and control of shipments of radioactive waste and spent fuel (as it had effect immediately before [^{F1}IP completion day]) ”;
- (iv) in paragraph (g), for the words from “regulations made for the purpose of” to “as amended from time to time,” substitute “ retained EU law which implemented Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators (as it had effect immediately before [^{F2}IP completion day]) ”;
- (v) after paragraph (k) insert—
- “(l) as a means of recovering costs incurred by it in performing functions conferred by Regulation (EC) No 1005/2009 on substances that deplete the ozone layer, 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;
- (m) as a means of recovering costs incurred by it in performing functions conferred by Regulation (EU) No 517/2014 on fluorinated greenhouse

- gases and repealing Regulation (EC) No 842/2006, 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) in subsection (2)(g), for “obligations of the United Kingdom under the EU Treaties” substitute “retained EU obligation”.
- (4) In section 41A(1)^{M6}, for paragraph (a) substitute—
- “**(a)** as a means of recovering costs incurred by it in performing functions conferred under or by virtue of—
- (i) the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I. 2005/925)^{M7};
- (ii) the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 (S.I. 2010/1996)^{M8};
- (iii) the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038)^{M9}.”
- (5) In section 56(1)^{M10}—
- (a) in the definition of “environmental licence” in relation to an appropriate agency—
- (i) in paragraph (aa)(i), for “regulations made for the purpose of implementing the EU ETS Directive” substitute “the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I. 2005/925) and the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038)”;
- (ii) in paragraph (h), for “any provision which gives effect in England and Wales to” substitute “retained EU law which, in England and Wales, implemented”;
- (b) in the definition of “environmental licence” in relation to SEPA, in paragraph (ja), for the words from “or accumulators to” to the end, substitute “(including accumulators) as defined in regulation 2 of those Regulations, and where those batteries have been collected in accordance with Article 8 of Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators”;
- (c) omit the definition of “the EU ETS Directive”.
- (6) In section 80(2)—
- (a) in the opening words, omit “implementing”;
- (b) for paragraph (a) substitute—
- “**(a)** securing that any retained EU obligation is met, or”;
- (c) in paragraph (b), at the beginning insert “the implementation of”.
- (7) In section 85(5)—
- (a) in the opening words, omit “for the implementation of”;
- (b) for paragraph (a) substitute—
- “**(a)** for securing that any retained EU obligation is met, or”;
- (c) in paragraph (b), at the beginning insert “for the implementation of”.
- (8) In section 86(8)—
- (a) in the opening words, omit “for the implementation of”;
- (b) for paragraph (a) substitute—
- “**(a)** for securing that any retained EU obligation is met, or”;
- (c) in paragraph (b), at the beginning insert “for the implementation of”.

- (9) In section 87(1)(b)—
- (a) omit “, implementing”;
 - (b) for sub-paragraph (i) substitute—
 - “(i) securing that any retained EU obligation is met, or”;
 - (c) in sub-paragraph (ii), at the beginning insert “ the implementation of any ”.
- (10) In section 93(3)(a), for “obligations of the United Kingdom under the EU Treaties” substitute “retained EU obligations ”.
- (11) In section 94(2)(a)(i), for “obligations of the United Kingdom under the EU Treaties” substitute “ retained EU obligations ”.
- (12) In section 108(15)^{M11}—
- (a) in the definition of “pollution control functions” in relation to the Agency, the Natural Resources Body for Wales or SEPA, for paragraph (m) substitute—
 - “EU-derived domestic legislation (as defined by section 2 of the European Union (Withdrawal) Act 2018) to the extent that it relates to pollution;”;
 - (b) in the definition of “pollution control functions” in relation to a local enforcing authority, for paragraph (c) substitute—
 - “by or under EU-derived domestic legislation (as defined by section 2 of the European Union (Withdrawal) Act 2018) to the extent that it relates to pollution;”.
- (13) In section 111(5)^{M12}, for the definition of “relevant regulations” substitute—
- ““relevant regulations” means—
- (a) the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I. 2005/925);
 - (b) the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 (S.I. 2010/1966);
 - (c) the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038).”.
- (14) In section 122—
- (a) for subsection (3) substitute—
 - “(3) Subsections (4) and (5) apply to any direction which is—
 - (a) given to—
 - (i) the Agency or SEPA under any provision of this Act or any other enactment, or
 - (ii) any other body or person under any provision of this Act, and
 - (b) to any extent given—
 - (i) before [^{F3}IP completion day], for the implementation of any obligation of the United Kingdom under the EU Treaties, or
 - (ii) for securing that any retained EU obligation is met.”;
 - (b) in subsection (4), for the words from “the obligations mentioned” to “continue to be implemented” substitute “ any relevant retained EU obligation continues to be met ”.

F1 Words in [reg. 3\(3\)\(a\)\(iii\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), [12\(2\)\(a\)](#)

F2 Words in [reg. 3\(3\)\(a\)\(iv\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), [12\(2\)\(a\)](#)

- F3** Words in [reg. 3\(14\)\(a\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), [regs. 1\(3\)](#), [12\(2\)\(b\)](#)

Commencement Information

- I2** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

- M3** [1995 c. 25](#).
- M4** Section 40(2) and (4) was amended by [S.I. 2011/1043](#).
- M5** In section 41, subsection (1)(c) was amended for England and Wales by [S.I. 2005/894](#), 2005/1806, 2011/988, 2013/755, 2018/942; subsection (1)(f) was amended for England and Wales by [S.I. 2008/3087](#), 2013/755; subsection (1)(g) was amended by [S.I. 2009/890](#), 2011/2911, 2013/755; subsection (1)(k) was inserted by [S.I. 2017/1200](#); subsection (2)(g) was amended for Scotland by [S.S.I. 2003/235](#) and [S.I. 2011/1043](#).
- M6** Section 41A(1) was inserted by [S.I. 2005/925](#) and amended by [S.I. 2012/2788](#), 2013/1821 and 3135.
- M7** [S.I. 2005/925](#), revoked with savings by [S.I. 2012/3038](#).
- M8** [S.I. 2010/1996](#), revoked with savings by [S.I. 2012/3038](#).
- M9** [S.I. 2012/3038](#), to which there are amendments not relevant to these Regulations.
- M10** Section 56(1) was amended by [S.I. 2011/988](#), 2012/2788, 2013/755, 2016/475 and [S.S.I. 2009/247](#); there are other amending instruments but none is relevant.
- M11** Section 108(15) was amended by [S.I. 2013/755](#); there are other amending instruments but none is relevant.
- M12** Section 111(5) was amended by [S.I. 2012/2788](#); there are other amending instruments but none is relevant.

The Pollution Prevention and Control Act 1999

- 4.—(1) Schedule 1 to the Pollution Prevention and Control Act 1999^{M13} is amended as follows.
- (2) For paragraph 3(b) substitute—
- “(b) directions given for the purposes of the implementation of—
- (i) any retained EU obligations, or
- (ii) any obligations under an international agreement to which the United Kingdom is a party;”.
- (3) In paragraph 20—
- (a) for sub-paragraph (1)(b) substitute—
- “(b) any provision (not being provision within any of paragraphs 1 to 19 or paragraph (a) above) that might be made by an Act of Parliament in connection with the relevant directives, other than provision—
- (i) imposing or increasing taxation;
- (ii) taking effect from a date earlier than that of the making of the instrument containing the provision;
- (iii) conferring any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for any court or tribunal.”.
- (b) in sub-paragraph (2)—
- (i) omit paragraph (c);

(ii) [F4 after paragraph (c) insert—

- “(d) Council Directive [87/217/EEC](#) on the prevention and reduction of environmental pollution by asbestos ^{M14};
- (e) European Parliament and Council Directive [94/63/EC](#) on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations ^{M15};
- (f) Council Directive [1999/31/EC](#) on the landfill of waste ^{M16}, as last amended by Directive 2011/97/EU ^{M17};
- (g) Directive [2000/53/EC](#) of the European Parliament and of the Council on end-of life vehicles ^{M18}, as last amended by Directive (EU) 2017/2096 ^{M19};
- (h) Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy ^{M20};
- (i) Directive [2001/81/EC](#) of the European Parliament and of the Council on national emission ceilings for certain atmospheric pollutants ^{M21};
- (j) Directive [2003/35/EC](#) of the European Parliament and of the Council providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment ^{M22};
- (k) Directive [2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries ^{M23};
- (l) Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators ^{M24}, as last amended by Directive 2013/56/EU ^{M25};
- (m) Directive [2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration ^{M26};
- (n) Directive [2008/98/EC](#) of the European Parliament and of the Council on waste ^{M27}, as last amended by Regulation (EU) 2017/997 ^{M28};
- (o) Directive [2009/31/EC](#) of the European Parliament and of the Council on the geological storage of carbon dioxide ^{M29};
- (p) Directive [2009/126/EC](#) of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations ^{M30};
- (q) Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) ^{M31};
- (r) Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) ^{M32}, as it had effect immediately before 4th July 2018;
- (s) Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency ^{M33};
- (t) Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation ^{M34};

- (u) Directive 2015/2193/EU of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants^{M35}.”.]

[^{F5}(iii) after paragraph (c) insert—

- “(d) Council [Directive 87/217/EEC](#) on the prevention and reduction of environmental pollution by asbestos;
- (e) Council [Directive 91/271/EEC](#) concerning urban waste water treatment;
- (f) Council [Directive 91/676/EEC](#) concerning the protection of waters against pollution caused by nitrates from agricultural sources;
- (g) European Parliament and Council [Directive 94/62/EC](#) on packaging and packaging waste;
- (h) European Parliament and Council [Directive 94/63/EC](#) on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations;
- (i) Council [Directive 96/59/EC](#) on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT);
- (j) Council [Directive 1999/31/EC](#) on the landfill of waste;
- (k) [Directive 2000/14/EC](#) of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors;
- (l) [Directive 2000/53/EC](#) of the European Parliament and of the Council on end-of life vehicles;
- (m) [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy;
- (n) [Directive 2002/49/EC](#) of the European Parliament and of the Council relating to the assessment and management of environmental noise;
- (o) [Directive 2003/35/EC](#) of the European Parliament and of the Council providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment;
- (p) [Directive 2004/35/CE](#) of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage;
- (q) [Directive 2005/64/EC](#) of the European Parliament and of the Council on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability;
- (r) [Directive 2006/7/EC](#) of the European Parliament and of the Council concerning the management of bathing water quality;
- (s) [Directive 2006/21/EC](#) of the European Parliament and of the Council on the management of waste from extractive industries;
- (t) [Directive 2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators;
- (u) [Directive 2006/118/EC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration;
- (v) [Directive 2008/50/EC](#) of the European Parliament and of the Council on ambient air quality and cleaner air for Europe;

- (w) [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste;
 - (x) [Directive 2008/105/EC](#) of the European Parliament and of the Council on environmental quality standards in the field of water policy;
 - (y) [Directive 2009/31/EC](#) of the European Parliament and of the Council on the geological storage of carbon dioxide;
 - (z) Commission [Directive 2009/90/EC](#) laying down, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status;
 - (aa) [Directive 2009/126/EC](#) of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations;
 - (bb) [Directive 2010/75/EU](#) of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast);
 - (cc) [Directive 2012/19/EU](#) of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (recast);
 - (dd) [Directive 2012/27/EU](#) of the European Parliament and of the Council on energy efficiency;
 - (ee) Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation;
 - (ff) Commission Directive (EU) 2015/996 establishing common noise assessment methods according to [Directive 2002/49/EC](#) of the European Parliament and of the Council;
 - (gg) [Directive 2015/2193/EU](#) of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants;
 - (hh) Directive (EU) 2016/2284 of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants; and
 - (ii) Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment”]
- (c) after sub-paragraph (2) insert—
- “(2A) In sub-paragraph (1)(b)(iii), the reference to provision conferring any power to legislate does not include provision—
- (a) amending or extending a power to legislate conferred other than under this paragraph;
 - (b) giving directions as to matters of administration.”.

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| F4 | Reg. 4(3)(b)(ii) revoked (E.W.) (31.12.2020 immediately before IP completion day) by The Environment (Amendment etc.) (EU Exit) (Amendment) (England and Wales) Regulations 2020 (S.I. 2020/603) , regs. 1, 2(3)(a) |
| F5 | Reg. 4(3)(b)(iii) inserted (E.W.) (31.12.2020 immediately before IP completion day) by The Environment (Amendment etc.) (EU Exit) (Amendment) (England and Wales) Regulations 2020 (S.I. 2020/603) , regs. 1, 2(3)(b) |

Commencement Information

- I3** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1(1)

Marginal Citations

- M13** [1999 c. 24](#).
- M14** OJ No L 85, 28.3.1987, p. 40, as last amended by Decision (EU) 2018/853 (OJ No L 150, 14.6.2018, p. 155).
- M15** OJ No L 365, 31.12.1994, p. 24, as last amended by Decision (EU) 2018/853 (OJ No L 150, 14.6.2018, p. 155).
- M16** OJ No L 182, 16.7.1999, p. 1.
- M17** OJ No L 328, 10.12.2011, p. 49.
- M18** OJ No L 269, 21.10.2000, p. 34.
- M19** OJ No L 299, 16.11.2017, p. 24.
- M20** OJ No L 327, 22.12.2000, p. 1, as last amended by Directive 2014/101/EU (OJ No L 311, 31.10.2014, p. 32).
- M21** OJ No L 309, 27.11.2001, p. 22, as last amended by Directive (EU) 2016/2284 (OJ No L 344, 17.12.2016, p. 1).
- M22** OJ No L 156, 25.6.2003, p. 17, as last amended by Directive (EU) 2016/2284 (OJ No L 344, 17.12.2016, p. 1).
- M23** OJ No L 102, 11.4.2006, p. 15, as amended by Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p. 14).
- M24** OJ No L 266, 26.9.2006, p. 1.
- M25** OJ No L 329, 10.12.2013, p. 5.
- M26** OJ No L 372, 27.12.2006, p. 19, as amended by Directive 2014/80/EU (OJ No L 182, 21.6.2014, p. 52).
- M27** OJ No L 312, 22.11.2008, p. 3.
- M28** OJ No L 150, 14.6.2017, p. 1.
- M29** OJ No L 140, 5.6.2009, p. 114, as last amended by Decision (EU) 2018/853 (OJ No L 150, 14.6.2018, p. 155).
- M30** OJ No L 285, 31.10.2009, p. 36, as amended by Directive 2014/99/EU (OJ No L 304, 23.10.2014, p. 89).
- M31** OJ No L 334, 17.12.2010, p. 17, as corrected by Corrigendum to Directive 2010/75/EU (OJ No L 158, 19.6.2012, p. 25).
- M32** OJ No L 197, 24.7.2012, p. 38.
- M33** OJ No L 315, 14.11.2012, p. 1, as last amended by Directive (EU) 2018/844 (OJ No L 156, 19.6.2018, p. 75).
- M34** OJ No L 13, 17.1.2014, p. 1, as corrected by Corrigendum to Directive 2013/59/Euratom (OJ No L 72, 17.3.2016, p. 69).
- M35** OJ No L 313, 28.11.2015, p. 1.

Changes to legislation:

There are currently no known outstanding effects for the The Environment (Amendment etc.) (EU Exit) Regulations 2019, PART 2.