
STATUTORY INSTRUMENTS

2022 No. 1266 (C. 100)

ENVIRONMENTAL PROTECTION

**The Environment Act 2021 (Commencement No. 5
and Transitional Provisions) Regulations 2022**

Made - - - - 30th November 2022

The Secretary of State makes the following Regulations in exercise of the power conferred by sections 147(3) and 148(1) of the Environment Act 2021⁽¹⁾.

Citation and interpretation

1.—(1) These Regulations may be cited as the Environment Act 2021 (Commencement No. 5 and Transitional Provisions) Regulations 2022.

(2) In these Regulations—

“the Act” means the Environment Act 2021;

“the 1967 Act” means the Forestry Act 1967⁽²⁾.

Provisions coming into force on 1st January 2023

2. The following provisions of the Act come into force on 1st January 2023—

- (a) section 102 (general duty to conserve and enhance biodiversity);
- (b) section 103 (biodiversity reports);
- (c) section 114 (controlling the felling of trees in England);
- (d) Schedule 16 (controlling the felling of trees in England).

Transitional provisions

3.—(1) Section 17A(1B) (power of Commissioners to require restocking notice after unauthorised felling) of the 1967 Act, as inserted by paragraph 3 of Schedule 16 to the Act, applies in respect of a restocking notice served under section 17A(1) of the 1967 Act by the Commissioners⁽³⁾ on or after 1st January 2023, notwithstanding that one or more matters causing the Commissioners

(1) 2021 c. 30.

(2) 1967 c. 10 (“the 1967 Act”).

(3) See section 1(1) and (1A) of the 1967 Act for the definition of “the Commissioners” and “appropriate forestry authority” respectively. Subsection (1A) was inserted by S.I. 2013/755 and amended by S.S.I. 2019/734.

to apprehend that an offence has been committed under section 17 of the 1967 Act may have arisen before that date.

(2) Section 24(6) (notice to require compliance with conditions or directions) of the 1967 Act, as inserted by paragraph 4 of Schedule 16 to the Act, applies in respect of a notice given under section 24(2) of the 1967 Act by the Commissioners on or after 1st January 2023, notwithstanding that one or more matters giving rise to the default to which the notice relates may have arisen before that date.

(3) Section 24A (further notice under section 24 for next estate or interest holders) of the 1967 Act, as inserted by paragraph 5(2) of Schedule 16 to the Act, applies in respect of a notice served under section 24(2) of the 1967 Act by the Commissioners on or after 1st January 2023, notwithstanding that one or more matters giving rise to the default to which the notice relates may have arisen before that date.

(4) Section 24B (restocking orders after conviction under section 24 in England) of the 1967 Act, as inserted by paragraph 6 of Schedule 16 to the Act, applies where a person has been convicted of an offence committed under section 24(4) in England in respect of a notice given under section 24(2) on or after 1st January 2023, notwithstanding that the matters giving rise to that notice and conviction may have arisen before that date.

Trudy Harrison
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

30th November 2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force provisions of the Environment Act 2021 (c. 30) (“the Act”). These are the fifth commencement regulations made by the Secretary of State under the Act.

Regulation 2 brings into force on 1st January 2023 specified sections of the Act.

Section 102 makes amendments to section 40 of the Natural Environment and Rural Communities Act 2006 (c. 16). Section 40 places a duty on public authorities to have regard to the conservation of biodiversity when delivering their functions. The revisions to section 40 strengthen the requirement for public authorities, to assess how they can take action to conserve and enhance biodiversity, and then take these actions.

Section 103 inserts a new section 40A to the Natural Environment and Rural Communities Act 2006, which requires local authorities and local planning authorities, excluding parish councils, to produce biodiversity reports detailing the action they have taken under the biodiversity objective set out in section 102. It defines, at a high level, the content of the biodiversity reports and their frequency. Additionally, it creates a power for the Secretary of State to designate other public authorities that are required to report, and to specify quantitative data to be included in the reports.

Section 114 introduces Schedule 16, which makes amendments to Part 2 of the Forestry Act 1967 (c. 10) strengthening enforcement in relation to controlling the felling of trees. These amendments enable the Commissioners to create a local land charge, where illegal felling has taken place or a felling licence has not been complied with, to give a further enforcement notice on the land where the land ownership has changed during the enforcement period, and amends the provisions in relation to the service of documents as to who can be served with a document and who can be required to provide information. In addition, the amendments enable the court to make a restocking order upon conviction for a section 24 offence (non-compliance with an Enforcement Notice) and to impose an unlimited fine for the offence committed in England under section 17 for felling without a licence.

An impact assessment has not been published for these Regulations as they have no impact on cost to business, the public or voluntary sectors independent of the provisions these Regulations bring into force. A full impact assessment has been published in relation to the Act and copies can be obtained from the website of the Department for Environment, Food and Rural Affairs at www.gov.uk/defra or from the Department for Environment, Food and Rural Affairs at 2 Marsham Steet, London, SW1P 4DF, United Kingdom.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Environment Act 2021 (c. 30) have been brought into force by commencement regulations and orders made before the date of these Regulations:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 7	24th January 2022	S.I. 2022/48 (C. 2)
Sections 8 to 15	24th January 2022	S.I. 2022/48 (C. 2)
Section 16	24th January 2022	S.I. 2022/48 (C. 2)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 17 and 18	10th May 2022	S.I. 2022/518 (C. 21)
Section 19	10th May 2022 (partially)	S.I. 2022/518 (C. 21)
Section 20	10th May 2022	S.I. 2022/518 (C. 21)
Section 21	1st April 2022	S.I. 2022/48 (C. 2)
Sections 22 to 24	17th November 2021	S.I. 2021/1274 (C. 72)
Section 25	24th January 2022	S.I. 2022/48 (C. 2)
Section 26	17th November 2021	S.I. 2021/1274 (C. 72)
Section 27	24th January 2022	S.I. 2022/48 (C. 2)
Sections 28 to 30	24th January 2022	S.I. 2022/48 (C. 2)
Sections 31 to 41	24th January 2022	S.I. 2022/48 (C. 2)
Sections 42 and 43	24th January 2022	S.I. 2022/48 (C. 2)
Sections 44 to 47	17th November 2021	S.I. 2021/1274 (C. 72)
Section 48	25th July 2022	S.R. 2022 No. 54 (C. 5)
Section 49	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 50	24th January 2022 (partially)	S.I. 2022/48 (C. 2)
	28th February 2022 (partially)	S.R. 2022 No. 54 (C. 5)
	7th March 2022 (partially)	S.I. 2022/223 (W. 71) (C. 10)
	9th November 2022 (for all remaining purposes)	S.S.I. 2022/305 (C. 18)
Section 51	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Section 52	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Section 53	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Section 54	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Section 55	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Section 56	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Section 59	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 60	24th January 2022 (partially)	S.I. 2022/48 (C. 2)
	7th March 2022 (for all remaining purposes)	S.I. 2022/223 (W. 71) (C. 10)
Section 61	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 62	24th January 2022	S.I. 2022/48 (C. 2)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 64	24th January 2022 (partially)	S.I. 2022/48 (C. 2)
	7th March 2022 (partially)	S.I. 2022/223 (W. 71) (C. 10)
	9th November 2022 (partially)	S.S.I. 2022/305 (C. 18)
Section 65	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 67	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 71	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 72	1st May 2022	S.I. 2022/48 (C. 2)
Section 73	1st May 2022 (partially)	S.I. 2022/48 (C. 2)
Section 85	10th May 2022 (partially)	S.I. 2022/518 (C. 21)
Section 86	24th January 2022	S.I. 2022/48 (C. 2)
Section 87	10th May 2022 (partially)	S.I. 2022/518 (C. 21)
Section 89	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Section 91	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 94	29th September 2022	S.I. 2022/988 (C. 75)
Section 96	29th September 2022 (partially)	S.I. 2022/988 (C. 75)
Sections 104 to 108	24th January 2022	S.I. 2022/48 (C. 2)
Section 109	30th September 2022	S.I. 2022/518 (C. 21)
Section 110	24th January 2022	S.I. 2022/48 (C. 2)
Section 111	30th September 2022	S.I. 2022/518 (C. 21)
Sections 112 and 113	24th January 2022	S.I. 2022/48 (C. 2)
Section 116	30th September 2022 (partially)	S.I. 2022/518 (C. 21)
Part 7	30th September 2022	S.I. 2022/48 (C. 2)
Section 140	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 1	17th November 2021	S.I. 2021/1274 (C. 72)
Schedule 2	25th July 2022 (partially)	S.R. 2022 No. 54 (C. 5)
Schedule 3	28th February 2022	S.R. 2022 No. 54 (C. 5)
Schedule 4	24th January 2022 (partially)	S.I. 2022/48 (C. 2)
	28th February 2022 (partially)	S.R. 2022 No. 54 (C. 5)
	7th March 2022 (partially)	S.I. 2022/223 (W. 71) (C. 10)
	9th November 2022 (for all remaining purposes)	S.S.I. 2022/305 (C. 18)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 5	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 6	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 7	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 8	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 9	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 11	1st May 2022	S.I. 2022/48 (C. 2)
Schedule 12, Part 1	1st May 2022	S.I. 2022/48 (C. 2)
Schedule 12, Part 3	1st May 2022	S.I. 2022/48 (C. 2)
Schedule 13	24th January 2022	S.I. 2022/48 (C. 2)
Schedule 17	30th September 2022 (partially)	S.I. 2022/518 (C. 21)
Schedule 18	30th September 2022	S.I. 2022/48 (C. 2)
Schedule 19	30th September 2022	S.I. 2022/48 (C. 2)
Schedule 20	30th September 2022	S.I. 2022/48 (C. 2)
Schedule 21	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)