



Environmental Protection Act 1990

1990 CHAPTER 43

PART VIII

MISCELLANEOUS

Other controls on substances, articles or waste

140 Power to prohibit or restrict the importation, use, supply or storage of injurious substances or articles.

- (1) The Secretary of State may by regulations prohibit or restrict—
 - (a) the importation into and the landing and unloading in the United Kingdom,
 - (b) the use for any purpose,
 - (c) the supply for any purpose, and
 - (d) the storage,of any specified substance or article if he considers it appropriate to do so for the purpose of preventing the substance or article from causing pollution of the environment or harm to human health or to the health of animals or plants.
- (2) Any such prohibition or restriction may apply—
 - (a) in all, or only in specified, areas;
 - (b) in all, or only in specified, circumstances or if conditions imposed by the regulations are not complied with; and
 - (c) to all, or only to specified descriptions of, persons.
- (3) Regulations under this section may—
 - (a) confer on the Secretary of State power to direct that any substance or article whose use, supply or storage is prohibited or restricted is to be treated as waste or controlled waste of any description and in relation to any such substance or article—
 - (i) to apply, with or without modification, specified provisions of Part II; or

Status: Point in time view as at 01/01/2024.

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- (ii) to direct that it be disposed of or treated in accordance with the direction;
 - (b) confer on the Secretary of State power, where a substance or article has been imported, landed or unloaded in contravention of a prohibition or restriction imposed under subsection (1)(a) above, to require that the substance or article be disposed of or treated in or removed from the United Kingdom;
 - (c) confer powers corresponding to those conferred by [^{F1}section 108 of the Environment Act 1995] on persons authorised for any purpose of the regulations by the Secretary of State or any local or other authority; and
 - (d) include such other incidental and supplemental, and such transitional provisions, as the Secretary of State considers appropriate.
- (4) The Secretary of State may, by regulations under this section, direct that, for the purposes of any power conferred on him under subsection (3)(b) above, any prohibition or restriction on the importation into or the landing and unloading in the United Kingdom imposed—
- ^{F2}(a)
 - (b) by or under any enactment,
- shall be treated as imposed under subsection (1)(a) above and any power conferred on him under subsection (3)(b) above shall be exercisable accordingly.
- ^{F3}(5)
- (6) Subject to subsection (7) below, it shall be the duty of the Secretary of State before he makes any regulations under this section other than regulations under subsection (4) above—
- ^{F4}(a)
 - (b) ^{F5}... to publish in the London Gazette and, if the regulations apply in Scotland or Northern Ireland, the Edinburgh Gazette or, as the case may be, Belfast Gazette and in any other publication which he considers appropriate, a notice indicating the effect of the proposed regulations and specifying—
 - (i) the date on which it is proposed that the regulations will come into force;
 - (ii) a place where a draft of the proposed regulations may be inspected free of charge by members of the public during office hours; and
 - (iii) a period of not less than fourteen days, beginning with the date on which the notice is first published, during which representations in writing may be made to the Secretary of State about the proposed regulations; and
 - (c) to consider any representations which are made to him in accordance with the notice.
- (7) The Secretary of State may make regulations under this section in relation to any substance or article without observing the requirements of subsection (6) above where it appears to him that there is an imminent risk, if those requirements are observed, that serious pollution of the environment will be caused.
- (8) The Secretary of State may, after performing the duty imposed on him by subsection (6) above with respect to any proposed regulations, make the regulations either—
- (a) in the form of the draft mentioned in subsection (6)(b) above, or
 - (b) in that form with such modifications as he considers appropriate;

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but the Secretary of State shall not make any regulations incorporating modifications unless he is of opinion that it is appropriate for the requirements of subsection (6) above to be disregarded.

- (9) Regulations under this section may provide that a person who contravenes or fails to comply with a specified provision of the regulations or causes or permits another person to contravene or fail to comply with a specified provision of the regulations commits an offence and may prescribe the maximum penalty for the offence.
- (10) No offence under the regulations shall be made punishable with imprisonment for more than two years or punishable on summary conviction with a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, ^{F6}exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence.]^{F6}—
- (a) exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence, or
- (b) if there is no maximum penalty for the original offence, exceeding one-tenth of the greater of £5,000 or level 4 on the standard scale.]
- (11) In this section—

^{F7}“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;]

“the environment” means the air, water and land, or any of those media, and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground;

“specified” means specified in the regulations; and

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour and it includes mixtures of substances.

Textual Amendments

- F1** Words in s. 140(3)(c) substituted (E.W.S.) (6.5.1999) by [S.I. 1999/1108, reg. 2](#)
- F2** [S. 140\(4\)\(a\)](#) omitted (31.12.2020) by virtue of [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), [2\(6\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F3** [S. 140\(5\)](#) repealed (22.7.2012) by [The Advisory Committee on Hazardous Substances \(Abolition\) Order 2012 \(S.I. 2012/1923\)](#), art. 1(2), [Sch.](#)
- F4** [S. 140\(6\)\(a\)](#) repealed (22.7.2012) by [The Advisory Committee on Hazardous Substances \(Abolition\) Order 2012 \(S.I. 2012/1923\)](#), art. 1(2), [Sch.](#)
- F5** Words in [s. 140\(6\)\(b\)](#) repealed (22.7.2012) by [The Advisory Committee on Hazardous Substances \(Abolition\) Order 2012 \(S.I. 2012/1923\)](#), art. 1(2), [Sch.](#)
- F6** Words in [s. 140\(10\)](#) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 3 para. 16\(2\)](#) (with reg. 5(1))
- F7** Words in [s. 140\(11\)](#) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 40\(9\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.

Modifications etc. (not altering text)

- C1** [S. 140](#) extended (with modifications) (19.2.1999) by [S.I. 1999/396, reg. 2](#)

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