



# Environment Act 1995

## 1995 CHAPTER 25

### PART I

#### THE ENVIRONMENT AGENCY AND THE SCOTTISH ENVIRONMENT PROTECTION AGENCY

### CHAPTER III

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS RELATING TO THE NEW AGENCIES

#### *Charging schemes*

#### **41 Power to make schemes imposing charges.**

- (1) Subject to the following provisions of this section and section 42 below—
- (a) in the case of any particular licence under Chapter II of Part II of the 1991 Act (abstraction and impounding), the Agency may require the payment to it of such charges as may from time to time be prescribed;
  - (b) in relation to other environmental licences, there shall be charged by and paid to a new Agency such charges as may from time to time be prescribed; and
  - (c) [<sup>F1</sup>as a means of recovering costs incurred by it in performing functions conferred by regulations made for the purpose of implementing Council Directive [91/689/EEC](#) the Agency may require the payment to it of such charges as may from time to time be prescribed;]

and in this section “prescribed” means specified in, or determined under, a scheme (in this section referred to as a “charging scheme”) made under this section by the new Agency in question.

- (2) As respects environmental licences, charges may be prescribed in respect of—
- (a) the grant or variation of an environmental licence, or any application for, or for a variation of, such a licence;
  - (b) the subsistence of an environmental licence;

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- (c) the transfer (where permitted) of an environmental licence to another person, or any application for such a transfer;
  - (d) the renewal (where permitted) of an environmental licence, or any application for such a renewal;
  - (e) the surrender (where permitted) of an environmental licence, or any application for such a surrender; or
  - (f) any application for the revocation (where permitted) of an environmental licence.
  - [<sup>F2</sup>(g) any other approval, consent, consideration or determination carried out by the Agency relating to any obligations of the United Kingdom under the Community Treaties or any application for such an approval of consent, consideration or determination.]
- [<sup>F3</sup>(2A) But, in relation to a relevant environmental licence, charges may not be prescribed in respect of waste from premises used for agriculture within the meaning of the Agriculture Act 1947.]
- (3) A charging scheme may, for the purposes of subsection (2)(b) above, impose—
    - (a) a single charge in respect of the whole of any relevant licensed period;
    - (b) separate charges in respect of different parts of any such period; or
    - (c) both such a single charge and such separate charges;
 and in this subsection “relevant licensed period” means the period during which an environmental licence is in force or such part of that period as may be prescribed.
  - (4) Without prejudice to subsection (7)(a) below, a charging scheme may, as respects environmental licences, provide for different charges to be payable according to—
    - (a) the description of environmental licence in question;
    - (b) the description of authorised activity in question;
    - (c) the scale on which the authorised activity in question is carried on;
    - (d) the description or amount of the substance to which the authorised activity in question relates;
    - (e) the number of different authorised activities carried on by the same person.
  - (5) A charging scheme—
    - (a) shall specify, in relation to any charge prescribed by the scheme, the description of person who is liable to pay the charge; and
    - (b) may provide that it shall be a condition of an environmental licence of any particular description that any charge prescribed by a charging scheme in relation to an environmental licence of that description is paid in accordance with the scheme.
  - (6) Without prejudice to subsection (5)(b) above, if it appears to a new Agency that any charges due and payable to it in respect of the subsistence of an environmental licence have not been paid, it may, in accordance with the appropriate procedure, suspend or revoke the environmental licence to the extent that it authorises the carrying on of an authorised activity.
  - (7) 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, the charges prescribed by the scheme are to be paid;

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- (c) revoke or amend any previous charging scheme;
  - (d) contain supplemental, incidental, consequential or transitional provision for the purposes of the scheme.
- (8) If and to the extent that a charging scheme relates to licences under Chapter II of Part II of the 1991 Act (abstraction and impounding), the scheme shall have effect subject to any provision made by or under sections 125 to 130 of that Act (exemption from charges, imposition of special charges for spray irrigation, and charges in respect of abstraction from waters of the British Waterways Board).
- (9) A new Agency shall not make a charging scheme unless the provisions of the scheme have been approved by the Secretary of State under section 42 below.
- (10) In this section—
- “the appropriate procedure” means such procedure as may be specified or described in regulations made for the purpose by the Secretary of State;
  - “authorised activity” means any activity to which an environmental licence relates.
  - [<sup>F4</sup>“relevant environmental licence” means any registration mentioned in paragraph (j) of the definition of “environmental licence” which applies in relation to the Agency]
- (11) Any power to make regulations under this section shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment pursuant to a resolution of either House of Parliament.

#### Textual Amendments

- F1** S. 41(1)(c) substituted (E.) (16.7.2005) by [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1(1)(b), **59** (with regs. 59(3), 75) and s. 41(1)(c) substituted (W.) (16.7.2005) by [The Hazardous Waste \(Wales\) Regulations 2005 \(S.I. 2005/1806\)](#), regs. 1(2)(ii), **59(2)** (with regs. 12-17, 71)
- F2** S. 41(2)(g) added (S.) (11.4.2003) by [The Landfill \(Scotland\) Regulations 2003 \(S.S.I. 2003/235\)](#), reg. 21, **Sch. 6 para. 1** (with regs. 4, 6)
- F3** S. 41(2A) inserted (E.W.) (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), regs. 1(2), **3(2)**
- F4** Words in s. 41(10) inserted (E.W.) (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), regs. 1(2), **3(3)**

#### Modifications etc. (not altering text)

- C1** S. 41 applied (with modifications) (2.12.1998) by [S.I. 1998/2746](#), **reg. 16(1)**  
 S. 41: certain functions made exercisable only after consultation with the Assembly (W.) (1.7.1999) by [S.I. 1999/672](#), **art. 5, Sch. 2**
- C2** S. 41 restricted (E.W.) (3.11.2003) by [End-of-Life Vehicles Regulations 2003 \(S.I. 2003/2635\)](#), regs. 1(2)(b), **49(2)** (with regs. 3, 4)
- C3** S. 41 applied (with modifications) by SI 2002/1559, Sch. 4 para. 5(15) (as inserted (E.W.) (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), regs. 1(2), **9(15)**)

#### Commencement Information

- I1** S. 41 wholly in force at 1.4.1996; s. 41 not in force at Royal Assent see s. 125(3); s. 41 in force for specified purposes at 21.9.1995 by [S.I. 1995/1983](#), **art. 3**; s. 41 in force for further specified purposes

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at 1.2.1996 by [S.I. 1996/186, art 2](#); s. 41 in force at 1.4.1996 insofar as not already in force by [S.I. 1996/186, art 3](#)

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