



# Environment Act 1995

## 1995 CHAPTER 25

### PART V

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

##### *Waste*

#### **93 Producer responsibility: general.**

<sup>[F1]</sup>(1) For the purpose of promoting or securing an increase in the re-use, recovery or recycling of products or materials, the Secretary of State may by regulations make provision for imposing producer responsibility obligations on such persons, and in respect of such products or materials, as may be prescribed.

(2) The power of the Secretary of State to make regulations shall be exercisable only after consultation with bodies or persons appearing to him to be representative of bodies or persons whose interests are, or are likely to be, substantially affected by the regulations which he proposes to make.

(3) Except in the case of regulations for the implementation of—

(a) any <sup>[F2]</sup>retained EU obligations], or

(b) any international agreement to which the United Kingdom is for the time being a party,

the power to make regulations shall be exercisable only where the Secretary of State, after such consultation as is required by subsection (2) above, is satisfied as to the matters specified in subsection (6) below.

(4) The powers conferred by subsection (1) above shall also be exercisable, in a case falling within paragraph (a) or (b) of subsection (3) above, for the purpose of sustaining at least a minimum level of (rather than promoting or securing an increase in) re-use, recovery or recycling of products or materials.

(5) In making regulations by virtue of paragraph (a) or (b) of subsection (3) above, the Secretary of State shall have regard to the matters specified in subsection (6) below;

*Status: Point in time view as at 28/04/2022. This version of this provision has been superseded.*

*Changes to legislation: Environment Act 1995, Section 93 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

and in its application in relation to the power conferred by virtue of subsection (4) above, subsection (6) below shall have effect as if—

- (a) any reference to an increase in the re-use, recovery or recycling of products or materials were a reference to the sustaining of at least a minimum level of re-use, recovery or recycling of the products or materials in question, and
- (b) any reference to the production of environmental or economic benefits included a reference to the sustaining of at least a minimum level of any such existing benefits,

and any reference in this section or section 94 below to securing or achieving any such benefits shall accordingly include a reference to sustaining at least a minimum level of any such existing benefits.

(6) The matters mentioned in subsections (3) and (5) above are—

- (a) that the proposed exercise of the power would be likely to result in an increase in the re-use, recovery or recycling of the products or materials in question;
- (b) that any such increase would produce environmental or economic benefits;
- (c) that those benefits are significant as against the likely costs resulting from the imposition of the proposed producer responsibility obligation;
- (d) that the burdens imposed on businesses by the regulations are the minimum necessary to secure those benefits; and
- (e) that those burdens are imposed on persons most able to make a contribution to the achievement of the relevant targets—
  - (i) having regard to the desirability of acting fairly between persons who manufacture, process, distribute or supply products or materials; and
  - (ii) taking account of the need to ensure that the proposed producer responsibility obligation is so framed as to be effective in achieving the purposes for which it is to be imposed;

but nothing in sub-paragraph (i) of paragraph (e) above shall be taken to prevent regulations imposing a producer responsibility obligation on any class or description of person to the exclusion of any others.

(7) The Secretary of State shall have a duty to exercise the power to make regulations in the manner which he considers best calculated to secure that the exercise does not have the effect of restricting, distorting or preventing competition or, if it is likely to have any such effect, that the effect is no greater than is necessary for achieving the environmental or economic benefits mentioned in subsection (6) above.

(8) In this section—

“prescribed” means prescribed in regulations;

“product” and “material” include a reference to any product or material (as the case may be) at a time when it becomes, or has become, waste;

“producer responsibility obligation” means the steps which are required to be taken by relevant persons of the classes or descriptions to which the regulations in question apply in order to secure attainment of the targets specified or described in the regulations;

“recovery”, in relation to products or materials, includes—

- (a) composting, or any other form of transformation by biological processes, of products or materials; or
- (b) the obtaining, by any means, of energy from products or materials;

“regulations” means regulations under this section;

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“relevant persons”, in the case of any regulations or any producer responsibility obligation, means persons of the class or description to which the producer responsibility obligation imposed by the regulations applies;

“relevant targets” means the targets specified or described in the regulations imposing the producer responsibility obligation in question;

and regulations may prescribe, in relation to prescribed products or materials, activities, or the activities, which are to be regarded for the purposes of this section and sections 94 and 95 below or any regulations as re-use, recovery or recycling of those products or materials.

- (9) The power to make regulations shall be exercisable by statutory instrument.
- (10) Subject to the following provisions of this section, a statutory instrument containing regulations shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (11) Subsection (10) above shall not apply to a statutory instrument by reason only that it contains regulations varying any relevant targets.
- (12) A statutory instrument which, by virtue of subsection (11) above, is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F1** Ss. 93-95 repealed (24.1.2022 for E., 7.3.2022 for W.) by [Environment Act 2021 \(c. 30\)](#), **ss. 50(6)(a)**, [147\(3\)\(6\)](#) (with [s. 144](#)); [S.I. 2022/48](#), **reg. 2(i)** (with [reg. 6](#)); [S.I. 2022/223](#), [regs. 1\(2\)](#), **2(a)**
- F2** Words in [s. 93\(3\)\(a\)](#) substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), [regs. 1\(1\)](#), **3(10)**; [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)

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