



# Environment Act 2021

## 2021 CHAPTER 30

### PART 3

#### WASTE AND RESOURCE EFFICIENCY

##### *Managing waste*

#### **58 Electronic waste tracking: Great Britain**

- (1) The Environmental Protection Act 1990 is amended in accordance with subsections (2) and (3).
- (2) After section 34C insert—

##### *“Electronic waste tracking*

#### **34CA Electronic waste tracking**

- (1) The relevant national authority may by regulations make provision for the purpose of tracking relevant waste, including provision about the establishment of an electronic system (“the system”) for that purpose.
- (2) The regulations may impose requirements on relevant waste controllers, or a waste regulation authority, to take specified steps to secure the entry into the system of specified information about, or which is relevant to the tracking or regulation of, specified relevant waste.
- (3) The information which may be specified includes information about—
  - (a) the processing, movement or transfer to another person of relevant waste or waste processing products;
  - (b) persons to whom relevant waste or waste processing products have been transferred;

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- (c) the carrying out of any activity by relevant waste controllers in relation to, or in connection with, relevant waste or waste processing products;
  - (d) relevant waste controllers.
- (4) The regulations may impose requirements on relevant waste controllers to take specified steps to enable physical identification of specified relevant waste or waste processing products.
- (5) The regulations may allow relevant waste controllers, or a waste regulation authority, to make arrangements for other persons to discharge their obligations under the regulations, and may impose requirements on such persons in connection with such arrangements.
- (6) The regulations must provide for an exemption for digitally excluded persons from any requirement that would involve the use of electronic communications or the keeping of electronic records, but may impose alternative requirements on those persons that do not involve either.
- (7) The regulations may designate a person to establish, operate or maintain the system and may confer functions on such a person.
- (8) The regulations may make provision about how information held on the system is to be used including provision—
  - (a) about who may access the information;
  - (b) permitting, or requiring, the disclosure, publication or transfer to another electronic system of such information;
  - (c) imposing requirements on persons who obtain such information not to further disclose it.
- (9) The regulations may impose fees or charges, payable to a person designated by, or in accordance with, the regulations, on persons subject to any requirement imposed by the regulations.
- (10) The amount of such fees or charges may reflect the costs of establishing, operating or maintaining the system and any other costs incurred in connection with the tracking of relevant waste by a person designated to establish, operate or maintain the system.
- (11) The relevant national authority may provide grants or loans to a person designated to establish, operate or maintain the system.
- (12) In this section—
  - “digitally excluded person” means a person—
    - (a) who is a practising member of a religious society or order whose beliefs are incompatible with using electronic communications or keeping electronic records, or
    - (b) for whom it is not reasonably practicable to use electronic communications or to keep electronic records for any reason (including age, disability or location);
  - “extractive waste”—
    - (a) in relation to regulations made in relation to England or Wales, has the meaning it has in this Part (as it extends to England and Wales);

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- (b) in relation to regulations made in relation to Scotland, has the meaning it has in the Management of Extractive Waste (Scotland) Regulations 2010 (S.S.I. 2010/60);  
“relevant national authority” means—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers;
  - (c) in relation to Scotland, the Scottish Ministers;“relevant waste” means controlled waste or extractive waste;  
“relevant waste controller” means any person who—
  - (a) is subject to the duty in section 34(1) (duty of care as respects controlled waste),
  - (b) imports, produces, carries, keeps, treats, manages or disposes of extractive waste or, as a dealer or broker, has control of such waste, or
  - (c) exports relevant waste;“specified” means specified or described in the regulations;  
“waste processing product” means any product of the processing of relevant waste, including material which is not relevant waste or which is not derived from relevant waste.

#### **34CB Further provision about regulations under section 34CA**

- (1) Regulations under section 34CA(1) may make provision about the enforcement of requirements imposed by or under the regulations.
- (2) The regulations may include provision—
  - (a) creating criminal offences punishable with a fine in respect of failures to comply with the regulations;
  - (b) about such offences.
- (3) The regulations may include provision—
  - (a) for, about or connected with the imposition of civil sanctions by an enforcement authority;
  - (b) in the case of a civil sanction that requires the payment of an amount, for that amount—
    - (i) to be specified in the regulations;
    - (ii) to be determined by an enforcement authority in accordance with the regulations;
  - (c) for such a determination to be made by reference to factors specified or described in the regulations which may include, for example, the turnover of a business or the costs of complying with the requirement being enforced (and the regulations may provide that the amount to be paid may exceed the amount of those costs);
  - (d) about appeals against the imposition of a civil sanction.
- (4) In this section “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices and enforcement undertakings).

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- (5) The regulations may include provision for the imposition of sanctions of that kind whether or not—
- (a) the conduct in respect of which the sanction is imposed constitutes an offence,
  - (b) the enforcement authority is a regulator for the purposes of Part 3 of the Regulatory Enforcement and Sanctions Act 2008, or
  - (c) the relevant national authority may make provision for the imposition of sanctions under that Part.
- (6) The regulations may make different provision for different purposes.
- (7) The regulations may make consequential, supplementary, incidental, transitional or saving provision, including provision amending, repealing or revoking primary legislation or retained direct EU legislation.
- (8) In this section—
- “enforcement authority” means the Environment Agency, the Natural Resources Body for Wales, a waste collection authority for an area in England or Wales or the Scottish Environment Protection Agency;
- “primary legislation” means—
- (a) in relation to regulations made by the Secretary of State, an Act of Parliament;
  - (b) in relation to regulations made by the Welsh Ministers, an Act of Parliament or an Act or Measure of Senedd Cymru;
  - (c) in relation to regulations made by the Scottish Ministers, an Act of Parliament or an Act of the Scottish Parliament.”
- (3) In section 160A(2) (regulations and orders) (as inserted by section 63), in the Table, at the appropriate place insert—

“34CA (electronic waste tracking)

regulations that—

- (a) are the first set of regulations to be made by the relevant national authority (within the meaning given by section 34CA(12)) under section 34CA,
- (b) provide for conduct to be a criminal offence which is not a criminal offence under existing regulations made by that authority under that section,
- (c) increase the maximum penalty for a criminal offence under existing regulations made by that authority under that section,
- (d) provide for conduct to be subject to a civil sanction (within the meaning given by section 34CB(4)) which is not subject to a civil sanction under existing regulations made by that authority under that section, or
- (e) amend, repeal or revoke a provision contained in primary legislation (within the meaning given by section 34CB(8)) or retained direct principal EU legislation.”

(4) In section 41(1) of the Environment Act 1995 (powers to make charging schemes) after paragraph (d) insert—

“(da) as a means of recovering costs incurred by it in performing functions conferred by regulations made under section 34CA of the Environmental Protection Act 1990 (electronic waste tracking) 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;”.