



Environment Act 2021

2021 CHAPTER 30

PART 3

WASTE AND RESOURCE EFFICIENCY

Managing waste

60 Hazardous waste: England and Wales

- (1) The Environmental Protection Act 1990 is amended in accordance with subsections (2) to (4).
- (2) After section 62 insert—

“62ZA Special provision with respect to hazardous waste in England and Wales

- (1) The relevant national authority may, by regulations, make provision for, about or connected with the regulation of hazardous waste in England and Wales.
- (2) Provision that may be made in the regulations includes provision—
 - (a) prohibiting or restricting any activity in relation to hazardous waste;
 - (b) for the giving of directions by waste regulation authorities with respect to matters connected with any activity in relation to hazardous waste;
 - (c) imposing requirements about how hazardous waste may be kept (including requirements about the quantities of hazardous waste which may be kept at any place);
 - (d) about hazardous waste that originated outside England or Wales;
 - (e) about the registration of hazardous waste controllers or places where activities in relation to hazardous waste are carried out;
 - (f) for the keeping of records by hazardous waste controllers;

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- (g) for the inspection of those records by waste regulation authorities or specified persons;
 - (h) for the provision by hazardous waste controllers of copies of, or information derived from, those records to waste regulation authorities or specified persons;
 - (i) for hazardous waste controllers to inform waste regulation authorities, or specified persons, when carrying out activities in relation to hazardous waste;
 - (j) about the circumstances in which waste which is not hazardous waste, but which shares characteristics with hazardous waste, is to be treated as hazardous waste;
 - (k) for, about or connected with criminal offences;
 - (l) for, about or connected with the imposition of civil sanctions.
- (3) The regulations may not provide for an offence to be punishable—
- (a) on summary conviction, by imprisonment, or
 - (b) on conviction on indictment, by a term of imprisonment exceeding two years.
- (4) For the purposes of 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).
- (5) The regulations may make provision for, about or connected with the imposition of a sanction of that kind whether or not—
- (a) the conduct in respect of which the sanction is imposed constitutes an offence, or
 - (b) the person imposing it is a regulator for the purposes of Part 3 of the Regulatory Enforcement and Sanctions Act 2008.
- (6) The regulations may also include provision—
- (a) for the supervision by waste regulation authorities—
 - (i) of activities in relation to hazardous waste, or
 - (ii) of hazardous waste controllers;
 - (b) about the keeping of records (which may include registers of hazardous waste controllers and places where hazardous waste may be kept or processed) by waste regulation authorities;
 - (c) as to the recovery of expenses or other charges for the treatment, keeping or disposal or the re-delivery of hazardous waste by waste regulation authorities or hazardous waste controllers;
 - (d) as to appeals to the relevant national authority from decisions of waste regulation authorities.
- (7) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).
- (8) Regulations under this section may confer functions (including functions involving the exercise of a discretion) on the relevant national authority or a waste regulation authority.
- (9) The regulations may—

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- (a) make different provision for different purposes;
 - (b) make incidental, supplementary, consequential, transitional or saving provision.
- (10) For the purposes of this section “mixing” in relation to hazardous waste means—
- (a) diluting it (with any substance);
 - (b) mixing it with other hazardous waste of a different type, or that has different characteristics;
 - (c) mixing it with any other substance or material (whether waste or not).
- (11) In this section—
- “activity”, in relation to hazardous waste, includes—
- (a) keeping, collecting, receiving, importing, exporting, transporting or producing hazardous waste;
 - (b) sorting, treating, recovering, mixing or otherwise processing hazardous waste;
 - (c) disposing of hazardous waste in any manner (including providing hazardous waste to another person for the purposes of that person carrying out an activity in relation to it);
 - (d) examining, testing or classifying hazardous waste (including doing any of those things to waste in connection with establishing whether it is hazardous);
 - (e) acting as a broker of, or dealer in, hazardous waste;
 - (f) directing or supervising another person in relation to an activity in relation to hazardous waste;
- “hazardous waste controller” means a person who carries out any activity in relation to hazardous waste;
- “relevant national authority” means—
- (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers;
- “specified” means specified in the regulations.”
- (3) In section 75 (meaning of “waste” etc) for subsection (8A) substitute—
- “(8A) In the application of this Part to England, “hazardous waste” means—
- (a) any waste identified as hazardous waste in—
 - (i) the waste list as it applies in relation to England, or
 - (ii) regulations made by the Secretary of State under regulation 3 of the Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), and
 - (b) any other waste that is treated as hazardous waste for the purposes of—
 - (i) regulations made by the Secretary of State under section 62ZA, or
 - (ii) the Hazardous Waste (England and Wales) Regulations 2005 (S.I. 2005/894).
- (8B) In the application of this Part to Wales, “hazardous waste” means—

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- (a) any waste identified as hazardous waste in—
 - (i) the waste list as it applies in relation to Wales, or
 - (ii) regulations made by the Welsh Ministers under regulation 3 of the Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), and
- (b) any other waste that is treated as hazardous waste for the purposes of—
 - (i) regulations made by the Welsh Ministers under section 62ZA, or
 - (ii) the Hazardous Waste (Wales) Regulations 2005 (S.I. 2005/1806 (W.138)).

(8C) In subsections (8A) and (8B) “the waste list” means the list of waste contained in the Annex to Commission Decision of 3 May 2000 replacing [Decision 94/3/EC](#) establishing a list of wastes pursuant to Article 1(a) of [Council Directive 75/442/EEC](#) on waste and [Council Decision 94/904/EC](#) establishing a list of hazardous waste pursuant to Article 1(4) of [Council Directive 91/689/EEC](#) on hazardous waste ([2000/532/EC](#)).

- (4) In section [160A\(2\)](#) (regulations and orders) (as inserted by section 63), in the Table, at the appropriate place insert—

<p>“62ZA (regulation of hazardous waste in England and Wales)</p>	<p>regulations that—</p> <ul style="list-style-type: none"> (a) provide for conduct to be a criminal offence which is not a criminal offence under existing regulations made by the relevant national authority (within the meaning given by section 62ZA(11)) under section 62ZA, (b) increase the maximum penalty for a criminal offence under existing regulations made by that authority under that section, or (c) provide for conduct to be subject to a civil sanction (within the meaning given by section 62ZA(4)) which is not subject to a civil sanction under existing regulations made by that authority under that section.”
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- (5) In section 41(1) of the Environment Act 1995 (power to make charging schemes), before paragraph (d) insert—

“(cc) as a means of recovering costs incurred by it in performing functions conferred by regulations made under section 62ZA of the Environmental Protection Act 1990 (special provision with respect to hazardous waste), the Agency or the Natural Resources Body for Wales may require the payment to it of such charges as may from time to time be prescribed;”.

- (6) In section 114 of the Environment Act 1995 (delegation or reference of appeals etc), in subsection (2)(a)(iii) before “, 78L” insert “[62ZA\(6\)\(d\)](#)”.