



Environment Act 2021

2021 CHAPTER 30

PART 3

WASTE AND RESOURCE EFFICIENCY

Managing waste

63 Regulations under the Environmental Protection Act 1990

- (1) The Environmental Protection Act 1990 is amended as follows.
- (2) After section 160 insert—

“160A Regulations and orders

- (1) Regulations and orders under this Act are subject to the negative procedure, other than—
 - (a) regulations or orders subject to the affirmative procedure by virtue of subsection (2);
 - (b) regulations made by a Northern Ireland department under section 156 (power to give effect to retained EU obligations and international obligations);
 - (c) an order under section 164(3) (commencement);
 - (d) an order under paragraph 4 of Schedule 3 (statutory nuisance).
- (2) Regulations or orders made under a section listed in the first column of the following Table that are of the description specified in the second column are subject to the affirmative procedure—

<i>Section</i>	<i>Description of regulations or orders</i>
34D (prohibition on disposal of food waste to sewer: Wales)	any regulations under that section.

Status: This is the original version (as it was originally enacted).

<i>Section</i>	<i>Description of regulations or orders</i>
45AA(10) (separate collection of waste: Wales)	any regulations under that section.
78M(4) (offences of not complying with a remediation notice)	any order under that section.
79(1ZA) (statutory nuisance)	any regulations under that section.
80ZA(11) (fixed penalty notices)	any regulations under that section.
88A (litter from vehicles: England)	regulations that include provision falling within section 88A(3)(a) or (6).

- (3) Regulations and orders made under this Act by the Secretary of State or the Welsh Ministers are to be made by statutory instrument, other than an order under paragraph 4 of Schedule 3.
- (4) Where regulations or orders under this Act made or to be made by the Secretary of State—
- (a) are subject to the negative procedure, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) are subject to the affirmative procedure, they may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Where regulations or orders under this Act made or to be made by the Welsh Ministers—
- (a) are subject to the negative procedure, the statutory instrument containing them is subject to annulment in pursuance of a resolution of Senedd Cymru;
 - (b) are subject to the affirmative procedure, they may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru.
- (6) See sections 28 and 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)) for the meaning of “the negative procedure” and “the affirmative procedure” in relation to regulations or orders under this Act made or to be made by the Scottish Ministers.
- (7) Any provision that may be made by regulations or order under this Act subject to the negative procedure may be made subject to the affirmative procedure.”
- (3) In section 45B omit subsection (3).
- (4) In section 78M omit subsection (7).
- (5) In section 161 (regulations, orders and directions)—
- (a) for the heading substitute “Directions”;
 - (b) omit subsections (1) to (4).