



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 ^[F1]AND THE NATURAL RESOURCES BODY FOR WALES]

Charging schemes

41 Power to make schemes imposing charges.

- (1) Subject to the following provisions of this section and ^[F1]sections 41B, 41C and 4J below—
- (a) in the case of any particular licence under Chapter II of Part II of the 1991 Act (abstraction and impounding), ^[F2]an appropriate 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 ^[F3]the Agency, the Natural Resources Body for Wales or SEPA] such charges as may from time to time be prescribed; ^{F4}...
 - ^[F5](ba) as a means of recovering costs incurred by it in performing functions conferred by the Reservoirs Act 1975 ^[F6]an appropriate agency] may require the payment to it of such charges as may from time to time be prescribed;]
 - (c) ^[F7]as a means of recovering costs incurred by it in performing functions conferred by regulations under section 62 of the 1990 Act (dangerous or intractable waste) each of the new Agencies may require the payment to it of such charges as may from time to time be prescribed;]^{F8}^[F9]...
 - ^{F10}(ca) [as a means of recovering costs incurred by it in performing functions conferred by the Hazardous Waste (England and Wales) Regulations 2005, the Agency

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

may require the payment to it of such charges as may from time to time be prescribed;

(cb) as a means of recovering costs incurred by it in performing functions conferred by the Hazardous Waste (Wales) Regulations 2005, the Natural Resources Body for Wales may require the payment to it of such charges as may from time to time be prescribed;]

^{F11}(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;]

^{F12}(d) [as a means of recovering costs incurred by it in performing functions in connection with the regulation of the importation or exportation of waste or the transit of waste for export, 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;]

^{F13}(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;]

^{F14}(e) [as a means of recovering costs incurred by it in performing functions conferred by ^{F15}Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants (recast)] as amended from time to time, ^{F16}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;]

^{F17}(f) [as a means of recovering costs incurred by it in performing functions conferred by regulations under section 79 of the Climate Change (Scotland) Act 2009 (asp 12), SEPA may require the payment to it of such charges as may from time to time be prescribed;]

^{F18}(f) [as a means of recovering costs incurred by it in performing functions conferred by ^{F19}^{F20}assimilated] law which implemented Council Directive 2006/117/Euratom on the supervision and control of shipments of radioactive waste and spent fuel (as it had effect immediately before IP completion day)], ^{F21}an appropriate agency] may require the payment to it of such charges as may from time to time be prescribed;]

^{F22}(g) [as a means of recovering costs incurred by it in performing functions conferred by ^{F23}^{F24}assimilated] law which implemented Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators (as it had effect immediately before IP completion day)]^{F25}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 ^{F26}prescribed;]

^{F27}(h) [as a means of recovering costs incurred by it in performing functions conferred by regulation 8A of the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Inventory Regulations 2005, the Agency may require the payment to it of such charges as may from time to time be prescribed;

^{F28}(i)

^{F28}(j)]

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- ^{F29}(k) [as a means of recovering costs incurred by it in performing functions conferred by Regulation EU 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008^{F30}, 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;]
- ^{F31}(l) [as a means of recovering costs incurred by it in performing functions conferred by Regulation (EC) No 1005/2009 on substances that deplete the ozone layer, 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;
- (m) as a means of recovering costs incurred by it in performing functions conferred by Regulation (EU) No 517/2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006, 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;]
- ^{F32}(n) [as a means of recovering costs incurred by it in performing functions conferred by regulations made under Schedule 4 or 5 to the Environment Act 2021, 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;
- (o) as a means of recovering costs incurred by it in performing functions conferred by the End-of-Life Vehicles (Producer Responsibility) Regulations 2005 (S.I. 2005/263), 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;
- (p) as a means of recovering costs incurred by it in performing functions conferred by the Waste Electrical and Electronic Equipment Regulations 2013 (S.I. 2013/3113), 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;
- (q) as a means of recovering costs incurred by it in performing functions relating to section 33(1) of the Environmental Protection Act 1990, 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;
- (r) as a means of recovering costs incurred by it in performing functions relating to regulation 12(1) of the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) in relation to a regulated facility which is a waste operation (within the meaning of those Regulations), 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;]

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 [^{F33}body] in question.

^{F34}(1A) [In paragraph (d) of subsection (1) “importation”, “exportation”, “transit of waste for export” and “waste” have the meaning they have in section 141 of the Environmental Protection Act 1990.]

- (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;

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- (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.
- ^{F35} [any other approval, consent, consideration or determination carried out by the Agency relating to any [^{F36}[^{F37}assimilated] obligation] or any application for such an approval of consent, consideration or determination.]

^{F38}(2A)

- (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 [^{F39}the Agency, the Natural Resources Body for Wales or SEPA] 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;
 - (c) revoke or amend any previous charging scheme;

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- (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 [^{F40}Canal & River Trust]).
- (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.
- [The Natural Resources Body for Wales may not make a charging scheme unless
- ^{F41}(9A) the provisions of the scheme have been approved by the Welsh Ministers under section 42.]
- (10) In this section—
- ^{F42} ...
- “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.
- ^{F43} ...
- ^{F42} ...
- [Any power of the Secretary of State to make regulations under this section is
- ^{F44}(10A) exercisable in relation to Wales only after consultation with the Welsh Ministers.]
- (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** Words in s. 41(1) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), [16\(2\)](#) (with arts. 24, 28)
- F2** Words in s. 41(1)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 372\(2\)\(a\)](#) (with Sch. 7)
- F3** Words in s. 41(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 372\(2\)\(b\)](#) (with Sch. 7)
- F4** Word in s. 41(1)(b) omitted (12.7.2007) by virtue of [The Transfrontier Shipment of Waste Regulations 2007 \(S.I. 2007/1711\)](#), regs. 1, [46\(1\)\(a\)](#) (with reg. 3)
- F5** S. 41(1)(ba) inserted (E.W.) (1.10.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 39](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(h)
- F6** Words in s. 41(1)(ba) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 372\(2\)\(c\)](#) (with Sch. 7)
- F7** S. 41(1)(c) omitted (E.W.) (31.12.2020) by virtue of [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), [3\(3\)\(a\)\(i\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Word in s. 41(1)(c) omitted (3.12.2007) by virtue of [The Persistent Organic Pollutants Regulations 2007 \(S.I. 2007/3106\)](#), regs. 1, [9\(1\)\(a\)](#)
- F9** S. 41(1)(d) and word inserted (12.7.2007) by [The Transfrontier Shipment of Waste Regulations 2007 \(S.I. 2007/1711\)](#), regs. 1, [46\(1\)\(b\)](#) (with reg. 3)

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- F10** S. 41(1)(ca)(cb) inserted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(3)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** S. 41(1)(cc) inserted (24.1.2022 for E., 7.3.2022 for W.) by Environment Act 2021 (c. 30), **s. 60(5)** (with s. 144); S.I. 2022/48, reg. 2(j); S.I. 2022/223, regs. 1(2), 2(b)
- F12** S. 41(1)(d) substituted (24.1.2022) by Environment Act 2021 (c. 30), **ss. 62(10)(a)**, 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)
- F13** S. 41(1)(da) inserted (9.1.2022) by Environment Act 2021 (c. 30), **ss. 58(4)**, 147(2)(g) (with s. 144)
- F14** S. 41(1)(e) and word inserted (3.12.2007) by The Persistent Organic Pollutants Regulations 2007 (S.I. 2007/3106), regs. 1, **9(1)(b)**
- F15** Words in s. 41(1)(e) substituted (12.8.2019) by The Persistent Organic Pollutants (Various Amendments) Regulations 2019 (S.I. 2019/1099), regs. 2(2), **3**
- F16** Words in s. 41(1)(e) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 372(2)(d)** (with Sch. 7)
- F17** S. 41(1)(f) inserted (S.) (31.10.2009) by Climate Change (Scotland) Act 2009 (asp 12), s. 100(2), **sch. 2 para. 2** (with s. 95); S.S.I. 2009/341, art. 2(2)(c)
- F18** S. 41(1)(f) inserted (25.12.2008) by The Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008 (S.I. 2008/3087), regs. 1, **17(1)(b)** (with reg. 3)
- F19** Words in s. 41(1)(f) substituted (E.W.) (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(3)(a)(iii)** (as amended by S.I. 2020/1540, regs. 1(3), **12(2)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F20** Word in s. 41(1)(f) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 36(2)(b)**
- F21** Words in s. 41(1)(f) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 372(2)(e)** (with Sch. 7)
- F22** S. 41(1)(g) inserted (5.5.2009) by The Waste Batteries and Accumulators Regulations 2009 (S.I. 2009/890), reg. 1(2), **Sch. 8 para. 1(2)**
- F23** Words in s. 41(1)(g) substituted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(3)(a)(iv)** (as amended by S.I. 2020/1540, regs. 1(3), **12(2)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F24** Word in s. 41(1)(g) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 36(2)(b)**
- F25** Word in s. 41(1)(g) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 372(2)(f)** (with Sch. 7)
- F26** Word in s. 41(1)(g) substituted (1.1.2012) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (Registries and Fees etc.) Regulations 2011 (S.I. 2011/2911), reg. 1(1), **Sch. para. 22(a)** (with Sch. para ss. 33-36)
- F27** S. 41(1)(h)-(j) inserted (1.1.2012) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (Registries and Fees etc.) Regulations 2011 (S.I. 2011/2911), reg. 1(1), **Sch. para. 22(a)** (with Sch. para ss. 33-36)
- F28** S. 41(1)(i)(j) omitted (3.12.2012) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, **4(a)**
- F29** S. 41(1)(k) inserted (1.1.2018) by The Control of Mercury (Enforcement) Regulations 2017 (S.I. 2017/1200), regs. 2(1), **48** (with reg. 1(2))
- F30** OJ No L 137, 24.5.2017, p1.
- F31** S. 41(1)(l)(m) inserted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(3)(a)(v)**; 2020 c. 1, Sch. 5 para. 1(1)
- F32** S. 41(1)(n)-(r) inserted (24.1.2022 for specified purposes, 7.3.2022 for W. for specified purposes, 9.11.2022 for S. for specified purposes) by Environment Act 2021 (c. 30), **s. 64(2)** (with s. 144); S.I. 2022/48, reg. 2(l); S.I. 2022/223, regs. 1(2), 2(c); S.S.I. 2022/305, reg. 2(b)
- F33** Word in s. 41(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 372(2)(g)** (with Sch. 7)
- F34** S. 41(1A) inserted (24.1.2022) by Environment Act 2021 (c. 30), **ss. 62(10)(b)**, 147(3) (with s. 144); S.I. 2022/48, reg. 2(k)

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- F35** 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)
- F36** Words in s. 41(2)(g) substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), [3\(3\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Word in s. 41(2)(g) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), [Sch. para. 36\(2\)\(b\)](#)
- F38** S. 41(2A) omitted (6.4.2010) by virtue of [The Environmental Permitting \(England and Wales\) \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/3381\)](#), regs. 1(1)(b), [13\(2\)\(a\)](#) (with regs. 1(2), 16(2))
- F39** Words in s. 41(6) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 372\(3\)](#) (with Sch. 7)
- F40** Words in s. 41(8) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 3 para. 13](#) (with arts. 4-6)
- F41** S. 41(9A) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 372\(4\)](#) (with Sch. 7)
- F42** Words in s. 41(10) omitted (3.12.2012) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, [4\(b\)](#)
- F43** Words in s. 41(10) omitted (6.4.2010) by virtue of [The Environmental Permitting \(England and Wales\) \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/3381\)](#), regs. 1(1)(b), [13\(2\)\(b\)](#) (with regs. 1(2), 16(2))
- F44** S. 41(10A) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), [16\(3\)](#) (with arts. 24, 28)

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\(15\)](#))
- C4** S. 41 applied (S.) (13.11.2014) by [The Sulphur Content of Liquid Fuels \(Scotland\) Regulations 2014 \(S.S.I. 2014/258\)](#), reg. 1(1), [sch. para. 8](#) (with reg. 3)
- C5** S. 41(1)(n) modified (temp.) (24.1.2022 for specified purposes, 7.3.2022 for W. for specified purposes, 9.11.2022 for S. for specified purposes) by [Environment Act 2021 \(c. 30\)](#), [s. 64\(4\)](#) (with s. 144); [S.I. 2022/48](#), [reg. 2\(1\)](#); [S.I. 2022/223](#), regs. 1(2), 2(c); [S.S.I. 2022/305](#), [reg. 2\(b\)](#)
- C6** S. 41(10): transfer of functions (10.7.2008) by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2008 \(S.I. 2008/1776\)](#), arts. 1(1), 2, [Sch.](#)

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 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](#)

[^{F45}41A [^{F46}Charges in respect of [^{F47}the EU greenhouse gas emissions trading scheme]]

[^{F48}(1) Each of the [^{F49}charging authorities] may require the payment to it of such charges as may from time to time be prescribed—

[^{F50}(a) as a means of recovering costs incurred by it in performing functions conferred under or by virtue of—

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- (i) the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I. 2005/925);
- (ii) the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 (S.I. 2010/1996);
- (iii) the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038).]

(b) in respect of—

- (i) an application to open an account that, under the [^{F51}Registries Regulation 2013], is required to be held in [^{F52}the Kyoto Protocol Registry];
- (ii) the subsistence of such an account;
- (iii) the updating of information provided to the Agency in relation to such an account;

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 [^{F53}charging authority] in question.

(1A) 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;
- (c) revoke or amend any previous charging scheme;
- (d) contain supplemental, incidental, consequential or transitional provision for the purposes of the scheme.

(1B) A charging scheme must specify, in relation to any charge prescribed by the scheme, the description of person who is liable to pay the charge.

(1C) A [^{F54}charging authority] may not make a charging scheme unless the provisions of the scheme have been approved by the Secretary of State [^{F55}, the Welsh Ministers] or the Scottish Ministers under section 42.]

(2) If the Agency—

- (a) proposes to prescribe [^{F56}charges under subsection (1)(b)] or to amend any provision for such charges included in a charging scheme, and
- (b) notifies [^{F57}another charging authority] of its proposals,

the Agency and [^{F58}that other charging authority] shall each include in a charging scheme (subject to approval by the Secretary of State [^{F59}, the Welsh Ministers][^{F60}or the Scottish Ministers under section 42]) provision giving effect to the proposals.

(3) If the Agency revises any proposals of which it has given notification under subsection (2) above, and notifies [^{F61}the relevant charging authority] accordingly, the obligations imposed by that subsection apply in relation to the proposals as revised.

(4) A notification under subsection (2) or (3) above shall include details of the amount of the proposed charges.

(5) [^{F62}The Natural Resources Body for Wales and]SEPA shall pass on to the Agency any [^{F63}charges under subsection (1)(b)] that [^{F64}they receive].

(6) A charging scheme made by the Agency may require the payment to the Agency of such charges as may from time to time be prescribed in respect of—

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- [^{F65}(a) an application to open an account in [^{F66}the Kyoto Protocol Registry], other than one that under the [^{F67}Registries Regulation 2013] is required to be held in that registry;]
- (b) the subsistence of such an account;
- (c) the updating of information provided to the Agency in relation to such an account.

[^{F68}(7) In this section—

“charging authority” means the Agency, the Natural Resources Body for Wales or SEPA;

“the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013 establishing a Union Registry pursuant to [Directive 2003/87/EC](#) of the European Parliament and of the Council, Decisions No [290/2004/EC](#) and No [406/2009/EC](#) of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011, as amended from time to time; and

[^{F69}“the Kyoto Protocol Registry” means the registry administered on behalf of the United Kingdom for the purposes of its obligations as a party to the Kyoto Protocol to the United Nations Framework Convention on Climate Change.]]]

Textual Amendments

- F45** S. 41A inserted (21.4.2005) by [The Greenhouse Gas Emissions Trading Scheme Regulations 2005](#) (S.I. 2005/925), **Sch. 6 para. 1(2)** (with reg. 3)
- F46** Words in s. 41A heading substituted (1.1.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Registries and Fees etc.\) Regulations 2011](#) (S.I. 2011/2911), reg. 1(1), **Sch. para. 23(a)** (with [Sch. para ss. 33-36](#))
- F47** Words in s. 41A heading substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012](#) (S.I. 2012/2788), regs. 1, **5(2)**
- F48** Ss. 41A(1)-(1C) substituted for s. 41A(1) (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012](#) (S.I. 2012/2788), regs. 1, **5(3)**
- F49** Words in s. 41A(1) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013](#) (S.I. 2013/1821), arts. 1(2), **17(2)(a)** (with art. 24)
- F50** S. 41A(1)(a) substituted (31.12.2020) by [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/458), regs. 1(1), **3(4)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F51** Words in s. 41A(1)(b)(i) substituted (31.1.2014) by [The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory \(Amendment\) Regulations 2013](#) (S.I. 2013/3135), regs. 1, **13(2)**
- F52** Words in s. 41A(1)(b)(i) substituted (1.5.2021) by [The Greenhouse Gas Emissions \(Kyoto Protocol Registry\) Regulations 2021](#) (S.I. 2021/511), regs. 1, **11(a)**
- F53** Words in s. 41A(1) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013](#) (S.I. 2013/1821), arts. 1(2), **17(2)(b)** (with art. 24)
- F54** Words in s. 41A(1C) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013](#) (S.I. 2013/1821), arts. 1(2), **17(3)(a)** (with art. 24)
- F55** Words in s. 41A(1C) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013](#) (S.I. 2013/1821), arts. 1(2), **17(3)(b)** (with art. 24)
- F56** Words in s. 41A(2) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012](#) (S.I. 2012/2788), regs. 1, **5(4)(a)**

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- F57** Words in s. 41A(2)(b) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), [17\(4\)\(a\)](#) (with art. 24)
- F58** Words in s. 41A(2) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), [17\(4\)\(b\)\(i\)](#) (with art. 24)
- F59** Words in s. 41A(2) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), [17\(4\)\(b\)\(ii\)](#) (with art. 24)
- F60** Words in s. 41A(2) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, [5\(4\)\(b\)](#)
- F61** Words in s. 41A(3) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), [17\(5\)](#) (with art. 24)
- F62** Words in s. 41A(5) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), [17\(6\)\(a\)](#) (with art. 24)
- F63** Words in s. 41A(5) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, [5\(5\)](#)
- F64** Words in s. 41A(5) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), [17\(6\)\(b\)](#) (with art. 24)
- F65** S. 41A(6)(a) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, [5\(6\)](#)
- F66** Words in s. 41A(6)(a) substituted (1.5.2021) by [The Greenhouse Gas Emissions \(Kyoto Protocol Registry\) Regulations 2021 \(S.I. 2021/511\)](#), regs. 1, [11\(b\)](#)
- F67** Words in s. 41A(6)(a) substituted (31.1.2014) by [The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory \(Amendment\) Regulations 2013 \(S.I. 2013/3135\)](#), regs. 1, [13\(2\)](#)
- F68** S. 41A(7) substituted (31.1.2014) by [The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory \(Amendment\) Regulations 2013 \(S.I. 2013/3135\)](#), regs. 1, [13\(3\)](#)
- F69** Words in s. 41A(7) substituted (1.5.2021) by [The Greenhouse Gas Emissions \(Kyoto Protocol Registry\) Regulations 2021 \(S.I. 2021/511\)](#), regs. 1, [11\(c\)](#)

[^{F70}41B. Charging schemes in respect of abstraction and impounding licences: joint charging schemes

- (1) A charging scheme under section 41 relating to licences under Chapter II of Part II of the 1991 Act may be made by both of the appropriate agencies acting jointly (referred to in this section as a “joint charging scheme”), if that scheme prescribes charges in relation to licences granted within a combined area that—
 - (a) is partly in England and partly in Wales; and
 - (b) includes all of, or any part of, the catchment areas of the rivers Dee, Wye and Severn.
- (2) A joint charging scheme must—
 - (a) designate the combined area to which it applies; and
 - (b) specify the manner in which the sums recovered by way of charges prescribed by the scheme are to be apportioned between, and paid to, each appropriate agency.
- (3) Subsections (9) and (9A) of section 41 do not apply to joint charging schemes.

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- (4) Subject to subsection (5), the appropriate agencies may not make a joint charging scheme unless the provisions of the scheme have been approved under section 42 by the Secretary of State and the Welsh Ministers acting jointly.
- (5) Section 42 applies in relation to joint charging schemes as though references in that section to—
 - (a) anything done by or in relation to either the Secretary of State or the Welsh Ministers were references to that thing being done by or in relation to the Secretary of State and the Welsh Ministers acting jointly;
 - (b) a charging authority were references to both of the appropriate agencies acting jointly.
- (6) This section does not affect any power of an appropriate agency to make a charging scheme under section 41.

Textual Amendments

F70 Ss. 41B, 41C inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), **19** (with arts. 24, 28)

41C. Charging schemes in respect of abstraction and impounding licences: cross-border arrangements

- (1) An appropriate agency may not make or revise a relevant charging scheme unless it has—
 - (a) notified the other appropriate agency of its proposal; and
 - (b) had regard to any information provided by the other appropriate agency relating to costs or expenses—
 - (i) which the other appropriate agency has incurred or expects to incur, and
 - (ii) in respect of which the other appropriate agency considers that the relevant charging scheme should make provision.
- (2) Subsection (1) does not apply to a joint charging scheme made in accordance with section 41B.
- (3) An appropriate agency may not, without the consent of the other appropriate agency, enter into any agreement, or any variation of an agreement, as a result of which it will be liable to incur costs or expenses—
 - (a) in respect of which it would expect a relevant charging scheme made by the other appropriate agency (or by both of the appropriate agencies acting jointly) to make provision; and
 - (b) which would, if an existing relevant charging scheme were revised to make provision for the purpose of recovering the amount required to meet those costs or expenses in full, result in a significant increase in the charges payable under that charging scheme.
- (4) Either appropriate agency may refer the question of whether consent should be given for the purposes of subsection (3) for determination by the Secretary of State and the Welsh Ministers acting jointly.

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- (5) The Secretary of State and the Welsh Ministers, acting jointly—
 - (a) may give guidance to the appropriate agencies as to the exercise of the appropriate agencies' functions under this section;
 - (b) must arrange for any guidance given under this subsection to be published in such manner as they consider appropriate.
- (6) The appropriate agencies must have regard to any guidance given under subsection (5).
- (7) In this section, “relevant charging scheme” means a charging scheme under section 41 which relates to any extent to licences granted under Chapter II of Part II of the 1991 Act in respect of abstractions from, or impounding of, waters in the catchment areas of the rivers Dee, Wye and Severn.]

Textual Amendments

F70 Ss. 41B, 41C inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), **19** (with arts. 24, 28)

42 Approval of charging schemes.

- (1) Before submitting a proposed charging scheme to the Secretary of State [^{F71}or the Welsh Ministers for approval, a charging authority] shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by the scheme, publish a notice—
 - (a) setting out its proposals; and
 - (b) specifying the period within which representations or objections with respect to the proposals may be made to the Secretary of State [^{F72}or, as the case may be, the Welsh Ministers].
- (2) Where any proposed charging scheme has been submitted to the Secretary of State [^{F73}or the Welsh Ministers for] approval, he [^{F74}or they] shall, in determining whether or not to approve the scheme or to approve it subject to modifications,—
 - (a) consider any representations or objections duly made to him [^{F75}or them] and not withdrawn; and
 - ^{F76}(b) have regard to—
 - (i) in the case of a charging scheme made under section 41, the matter specified in subsection (3);
 - (ii) in the case of a charging scheme made under section 41A, the matter specified in subsection (3A).]
- (3) The matter mentioned in subsection [^{F77}(2)(b)(i)] above is the desirability of ensuring that, in the case of each of the descriptions of environmental licence specified in the paragraphs of the definition of that expression in section 56 below, the amounts recovered by the [^{F78}charging authority] in question by way of charges prescribed by charging schemes are the amounts which, taking one year with another, need to be recovered by that [^{F78}charging authority] to meet such of the costs and expenses (whether of a revenue or capital nature)—
 - (a) which it incurs in carrying out its functions,

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- (b) [^{F79}in the case of environmental licences which are authorisations [^{F80}for radioactive substances activities under the Environmental Authorisations (Scotland) Regulations 2018]—
 [^{F79}which the Food Standards Agency incurs in carrying out its functions in relation to environmental permits under [^{F84}the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154)] concerning the disposal of radioactive waste within the meaning of those Regulations.]
 - [^{F85}(c) in the case of licences granted by the Agency under Chapter II of Part II of the 1991 Act (abstraction and impounding), which the Natural Resources Body for Wales incurs in carrying out its functions under Part II of that Act or section 6(2A) above in the catchment areas of the rivers Dee, Wye and Severn for purposes connected with abstractions from, or impounding of, waters in England,
 - (d) in the case of licences granted by the Natural Resources Body for Wales under Chapter II of Part II of the 1991 Act (abstraction and impounding), which the Agency incurs in carrying out its functions under Part II of that Act or section 6(2) above in the catchment areas of the rivers Dee, Wye and Severn for purposes connected with abstractions from, or impounding of, waters in Wales,]
- as the Secretary of State [^{F86}or, as the case may be, the Welsh Ministers] may consider it appropriate to attribute to the carrying out of those functions in relation to activities to which environmental licences of the description in question relate.
- [^{F87}(3A) The matter mentioned in subsection (2)(b)(ii) above is the desirability of ensuring that the amounts recovered by the [^{F88}charging authority] in question by way of charges prescribed by charging schemes are the amounts which, taking one year with another, need to be recovered by that [^{F88}charging authority] to meet such of the costs and expenses (whether of a revenue or capital nature) which it incurs in carrying out its functions in relation to the matters described in section 41A(1) as the Secretary of State [^{F89}or, as the case may be, the Welsh Ministers] may consider it appropriate to attribute to the carrying out of those functions.]
- (4) Without prejudice to the generality of the expression “costs and expenses”, in determining for the purposes of subsection (3) [^{F90}or (3A)] above the amounts of the costs and expenses which the Secretary of State considers [^{F91}or which the Welsh Ministers consider] it appropriate to attribute to the carrying out of a [^{F92}charging authority's] or the [^{F93}Food Standard Agency's] functions [^{F94}..., the Secretary of State [^{F95}or the Welsh Ministers]—
- (a) shall take into account any determination of the [^{F96}charging authority's] financial duties under section 44 below [^{F97}or (in the case of the Natural Resources Body for Wales) under article 13 of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I.2012/1903)]; and
 - (b) may include amounts in respect of the depreciation of, and the provision of a return on, such assets as are held by the [^{F98}charging authority], [^{F99}or the Food Standards Agency], for purposes connected with the carrying out of the functions in question.
- (5) If and to the extent that a charging scheme relates to any licence under Chapter II of Part II of the 1991 Act (abstraction and impounding), the Secretary of State [^{F100}or the Welsh Ministers (as the case may be)] may consider it appropriate to attribute to the carrying out of [^{F101}an appropriate agency's] functions in relation to activities to which such a licence relates any costs and expenses incurred by the [^{F102}appropriate agency]

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- in carrying out any of its functions under Part II of that Act or under section 6(2) [^{F103}or (2A)] above.
- (6) Subsection (5) above is without prejudice to what costs and expenses the Secretary of State [^{F104}or the Welsh Ministers] may consider it appropriate to attribute to the carrying out of any functions of a [^{F105}charging authority], the Minister or the Secretary of State in relation to activities to which environmental licences of any particular description relate.
- (7) The consent of the Treasury shall be required for the giving of approval to a charging scheme [^{F106}submitted by the Agency][^{F107}or by both of the appropriate agencies acting jointly] . . .
- (8) It shall be the duty of a [^{F108}charging authority] to take such steps as it considers appropriate for bringing the provisions of any charging scheme made by it which is for the time being in force to the attention of persons likely to be affected by them.
- (9) If and to the extent that any sums recovered by a [^{F109}charging authority] by way of charges prescribed by charging schemes may fairly be regarded as so recovered for the purpose of recovering the amount required to meet (whether in whole or in part)—[^{F110}such of the costs and expenses incurred by the Food Standards Agency as fall within subsection (3) above] those sums shall be paid by that [^{F109}charging authority][^{F111}to the Food Standards Agency].
- [^{F112}(9A) The Agency must pay to the Natural Resources Body for Wales any sums which the Agency recovers under a charging scheme made under section 41 (other than a joint charging scheme made in accordance with section 41B) that may fairly be regarded as recovered for the purpose of meeting (in whole or in part) any costs and expenses incurred, or deemed to have been incurred, by the Body in carrying out its functions under Part II of the 1991 Act or section 6(2A) above.
- (9B) The Natural Resources Body for Wales must pay to the Agency any sums which the Body recovers under a charging scheme made under section 41 (other than a joint charging scheme made in accordance with section 41B) that may fairly be regarded as recovered for the purpose of meeting (in whole or in part) any costs and expenses incurred by the Agency in carrying out its functions under Part II of the 1991 Act or section 6(2) above, other than costs and expenses that are deemed to have been incurred by the Body.
- (9C) Any sums recovered by an appropriate agency by way of charges prescribed by a joint charging scheme made in accordance with section 41B must be apportioned between, and paid to, each appropriate agency in the manner specified by the scheme pursuant to section 41B(2)(b).
- (9D) For the purposes of subsections (9A) and (9B), costs or expenses are deemed to have been incurred by the Natural Resources Body for Wales if the liability for those costs or expenses was transferred from the Agency to the Body on 1st April 2013—
- (a) by a transfer scheme made by the Welsh Ministers under section 23 of the Public Bodies Act 2011; or
 - (b) by virtue of article 10 of, and paragraph 2 of Schedule 7 to, the Natural Resources Body for Wales (Functions) Order 2013.]
- (10) For the purposes of subsection (9) above, any question as to the extent to which any sums may fairly be regarded as recovered for the purpose of recovering the amount

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

required to meet the costs and expenses falling within [^{F113}that subsection shall be determined by the Secretary of State].

[^{F114}(10A) Any dispute as to the apportionment or payment of sums under subsection (9A), (9B) or (9C) shall be determined by the Secretary of State and the Welsh Ministers acting jointly.]

[^{F115}(11) In this section “charging scheme” means a scheme made under section 41 or 41A [^{F116}and “charging authority” means the body that makes or proposes to make a charging scheme].]

[^{F117}(12) In the application of this section to Scotland, the references to the Food Standards Agency are to be read as references to Food Standards Scotland.]

Textual Amendments

- F71** Words in s. 42(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 373(2)(a)** (with Sch. 7)
- F72** Words in s. 42(1)(b) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 373(2)(b)** (with Sch. 7)
- F73** Words in s. 42(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 373(3)(a)(i)** (with Sch. 7)
- F74** Words in s. 42(2) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 373(3)(a)(ii)** (with Sch. 7)
- F75** Words in s. 42(2)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 373(3)(b)** (with Sch. 7)
- F76** S. 42(2)(b) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **6(2)**
- F77** Word in s. 42(3) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **6(3)**
- F78** Words in s. 42(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 373(4)(a)** (with Sch. 7)
- F79** S. 42(3)(b) substituted (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1)(b), **Sch. 26 para. 13(3)** (with reg. 1(2), Sch. 4)
- F80** Words in s. 42(3)(b) substituted (S.) (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), reg. 1, **sch. 6 para. 3(a)** (with reg. 78, sch. 5 para. 2)
- F81** Words in s. 42(3)(b)(i) substituted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 44(1)(2)(a)** (with ss. 38, 40(2)); [S.I. 2000/1066](#), **art. 2**
- F82** Words in s. 42(3)(b) substituted (S.) (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), reg. 1, **sch. 6 para. 3(b)** (with reg. 78, sch. 5 para. 2)
- F83** S. 42(3)(b)(ii) repealed (1.4.2000) by 1999 c. 28, s. 40(1)(2)(4), Sch. 5 para. 44(1)(2)(b), **Sch. 6** (with ss. 38, 40(2)); [S.I. 2000/1066](#), **art. 2**
- F84** Words in s. 42(3)(b) substituted (E.W.) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 Pt. 1 para. 13(2)** (with regs. 1(3), 77-79, Sch. 4)
- F85** S. 42(3)(c)(d) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), **20(2)** (with art. 24)
- F86** Words in s. 42(3) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 373(4)(b)** (with Sch. 7)
- F87** S. 42(3A) inserted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **6(4)**

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- F88** Words in s. 42(3A) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2), **18(2)** (with art. 24)
- F89** Words in s. 42(3A) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2), **18(3)** (with art. 24)
- F90** Words in s. 42(4) inserted (3.12.2012) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, **6(5)(a)**
- F91** Words in s. 42(4) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(5)(a)(i)** (with Sch. 7)
- F92** Words in s. 42(4) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(5)(a)(ii)** (with Sch. 7)
- F93** Words in s. 42(4) substituted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 44(1)(3)(s)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F94** Words in s. 42(4) omitted (3.12.2012) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) (Charging Schemes) Regulations 2012 (S.I. 2012/2788), regs. 1, **6(5)(b)**
- F95** Words in s. 42(4) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(5)(a)(iii)** (with Sch. 7)
- F96** Words in s. 42(4)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(5)(b)(i)** (with Sch. 7)
- F97** Words in s. 42(4)(a) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(5)(b)(ii)** (with Sch. 7)
- F98** Words in s. 42(4)(b) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(5)(c)** (with Sch. 7)
- F99** Words in s. 42(4)(b) substituted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 44(1)(3)(b)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F100** Words in s. 42(5) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(6)(a)** (with Sch. 7)
- F101** Words in s. 42(5) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(6)(b)** (with Sch. 7)
- F102** Words in s. 42(5) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(6)(c)** (with Sch. 7)
- F103** Words in s. 42(5) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(6)(d)** (with Sch. 7)
- F104** Words in s. 42(6) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(7)(a)** (with Sch. 7)
- F105** Words in s. 42(6) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(7)(b)** (with Sch. 7)
- F106** Words in s. 42(7) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 120(3)**; S.I. 1998/3178, **art. 3**
- F107** Words in s. 42(7) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2), **20(3)** (with art. 24)
- F108** Words in s. 42(8) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(8)** (with Sch. 7)
- F109** Words in s. 42(9) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 373(8)** (with Sch. 7)
- F110** Words in s. 42(9) substituted for paras. (a) and (b) (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 44(1)(5)(a)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F111** Words in s. 42(9) substituted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 44(1)(5)(b)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**

Changes to legislation: Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- F112** S. 42(9A)-(9D) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), **20(4)** (with arts. 24, 28)
- F113** Words in s. 42(10) substituted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 44(1)(6)** (with s. 38, 40(2)); [S.I. 2000/1066](#), **art. 2**
- F114** S. 42(10A) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), **20(5)** (with art. 24)
- F115** S. 42(11) substituted (3.12.2012) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(Charging Schemes\) Regulations 2012 \(S.I. 2012/2788\)](#), regs. 1, **6(6)**
- F116** Words in s. 42(11) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 373(9)** (with Sch. 7)
- F117** S. 42(12) inserted (S.) (1.4.2015) by [Food \(Scotland\) Act 2015 \(asp 1\)](#), s. 63(2), **sch. para. 6** (with s. 62); [S.S.I. 2015/99](#), art. 2

Modifications etc. (not altering text)

- C7** S. 42 applied (with modifications) (2.12.1998) by [S.I. 1998/2746](#), **reg. 16(1)**
 S. 42: certain functions made exercisable only after consultation with the Assembly (W.) (1.7.1999) by [S.I. 1999/672](#), art. 5, **Sch. 2**
 S. 42 modified (1.7.1999) by [S.I. 1999/672](#), art. 2, **Sch. 1**
- C8** S. 42 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)**)
- C9** S. 42: transfer of functions (10.7.2008) by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2008 \(S.I. 2008/1776\)](#), arts. 1(1), 2, **Sch.**
- C10** S. 42 modified (with effect in accordance with art. 1(3) of the amending S.I.) by [The Natural Resources Body for Wales \(Consequential Provision\) Order 2013 \(S.I. 2013/1821\)](#), arts. 1(2), **21** (with art. 24)

Changes to legislation:

Environment Act 1995, Cross Heading: Charging schemes is up to date with all changes known to be in force on or before 11 April 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41(1)(s) inserted by [2021 c. 30 s. 57\(8\)](#)
- s. 80(8) inserted by [2024 asc 2 s. 12\(1\)](#)
- s. 80(9)(10) inserted by [2024 asc 2 s. 13](#)
- s. 81B inserted by [2024 asc 2 s. 14\(1\)](#)
- s. 82(1A) inserted by [2024 asc 2 s. 16\(3\)](#)
- s. 83B inserted by [2024 asc 2 s. 17\(1\)](#)
- s. 85(3)(e)(f) inserted by [2024 asc 2 s. 18\(b\)](#)
- s. 87(2)(o)(i) words in s. 87(2)(o) renumbered as s. 87(2)(o)(i) by [2024 asc 2 s. 24\(2\)\(a\)\(i\)](#)
- s. 87(2)(o)(ii) and word inserted by [2024 asc 2 s. 24\(2\)\(a\)\(ii\)](#)
- s. 87(2B) inserted by [2024 asc 2 s. 24\(2\)\(b\)](#)
- s. 87(7A)(7B) inserted by [2024 asc 2 s. 15](#)
- s. 87(9A) inserted by [2024 asc 2 s. 12\(2\)](#)
- s. 88(4)(5) inserted by [2024 asc 2 s. 14\(3\)\(b\)](#)
- Sch. 7 para. 7(4A)(4B) inserted by [2007 c. 28 Sch. 14 para. 4\(3\)](#)