



UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021

2021 asp 4

PART 2

ENVIRONMENT

CHAPTER 2

ENVIRONMENTAL GOVERNANCE

Functions of Environmental Standards Scotland

20 Functions

- (1) Environmental Standards Scotland's functions are—
- (a) to monitor as it considers appropriate—
 - (i) public authorities' compliance with environmental law,
 - (ii) the effectiveness of environmental law and of how it is implemented and applied,
 - (b) to investigate (either on its own initiative or in response to any representations made to it by another person) any matter concerning—
 - (i) whether a public authority is failing (or has failed) to comply with environmental law,
 - (ii) the effectiveness of environmental law or of how it is (or has been) implemented or applied,
 - (c) to take the steps it considers appropriate to secure—
 - (i) a public authority's compliance with environmental law,
 - (ii) improvement in the effectiveness of environmental law or in how it is implemented or applied, and
 - (d) the additional functions conferred on it by this or any other enactment.
- (2) In exercising its functions, Environmental Standards Scotland may, in particular—

Status: This is the original version (as it was originally enacted).

- (a) carry out, commission or support any research it considers appropriate,
 - (b) seek any independent and expert advice it considers appropriate,
 - (c) make recommendations in relation to any matter relevant to its functions,
 - (d) consider, assess and review data on the quality of the environment in Scotland,
 - (e) keep under review implementation of any international obligation of the United Kingdom relating to environmental protection,
 - (f) have regard to developments in, and information on the effectiveness of, international environmental protection legislation,
 - (g) collaborate with any other environmental governance body in the United Kingdom, including the Office for Environmental Protection, or such other persons as Environmental Standards Scotland considers appropriate,
 - (h) request information from public authorities about the exercise of their functions under environmental law.
- (3) In exercising its functions, Environmental Standards Scotland must act objectively, impartially, proportionately and transparently.

21 Power to modify functions

- (1) The Scottish Ministers may by regulations modify Environmental Standards Scotland's functions for the purpose of implementing an international obligation that arises or may arise under an agreement or arrangement between the United Kingdom and the EU following the withdrawal of the United Kingdom from the EU.
- (2) Regulations under subsection (1) may modify this Act.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.
- (4) Before laying a draft of regulations under subsection (1) before the Scottish Parliament for approval, the Scottish Ministers must consult—
- (a) Environmental Standards Scotland, and
 - (b) such other persons as the Scottish Ministers consider appropriate.
- (5) In subsection (1), “modify” includes confer or remove a function.

22 Duty to prepare and publish strategy on exercise of functions

- (1) Environmental Standards Scotland must—
- (a) prepare and publish a strategy that sets out how it intends to exercise its functions, and
 - (b) exercise its functions in accordance with the strategy.
- (2) Schedule 2 makes further provision about the strategy.

23 Co-operation duties of public authorities and Environmental Standards Scotland

- (1) A public authority must co-operate with Environmental Standards Scotland, and give it such reasonable assistance as it requests (including the provision of information), in connection with the exercise of its functions.
- (2) In addition, a public authority must make all reasonable efforts to—

- (a) swiftly resolve any matter which Environmental Standards Scotland raises concerning the authority's failure to comply with environmental law, to make effective environmental law or to implement or apply it effectively, and
 - (b) reach agreement with Environmental Standards Scotland on any remedial action the authority should take for the purpose of environmental protection.
- (3) If Environmental Standards Scotland considers that a particular exercise of its functions may be relevant to the exercise of an environmental governance function by the Office for Environmental Protection, or any other environmental governance body in the United Kingdom, Environmental Standards Scotland must consult that body.