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STATUTORY INSTRUMENTS

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**1996 No. 186 (C. 3)**

**ENVIRONMENTAL PROTECTION**

**The Environment Act 1995 (Commencement No. 5) Order 1996**

Made - - - - 31st January 1996

The Secretary of State, in exercise of his powers under section 125(3), (4) and (5) of the Environment Act 1995<sup>(1)</sup>, hereby makes the following Order:

**Citation**

1. This Order may be cited as the Environment Act 1995 (Commencement No. 5) Order 1996.

**Provisions coming into force on 1st February 1996**

2. The following provisions of the Environment Act 1995 shall come into force on 1st February 1996—

section 5(2) and (5);

section 41 in so far as it confers power on the Secretary of State to make regulations and makes provision in relation to the exercise of that power;

section 55(7) to (10);

section 80;

sections 87 to 89;

section 90 in so far as it relates to paragraphs 2, 3 and 5 of Schedule 11;

section 91;

section 105 in so far as it relates to paragraphs 3 and 5(1) of Schedule 15;

section 117;

section 118(1) to (3);

section 118(4) and (5) in so far as they confer power to make an order or make provision in relation to the exercise of that power;

section 118(6);

section 119;

section 120(1) in so far as it relates to paragraphs 2, 13, 36, 37(2)(b), 43, 44, 67 in so far as it confers power to make regulations or makes provision in relation to the exercise of that power, 102, 103 in so far as it confers power to issue guidance or makes provision in relation to the exercise of that power, and 232(1) of Schedule 22; and

section 120(3) in so far as it relates to the repeals in Schedule 24 in relation to the Local Government etc. (Scotland) Act 1994(2), except the repeal in relation to section 165(6) of that Act.

### **Provisions coming into force on 1st April 1996**

**3.** The following provisions of the Environment Act 1995 shall come into force on 1st April 1996—

section 2;

section 3(1);

section 5(1), (3) and (4);

section 6;

section 8;

sections 10 and 11;

sections 13 to 19;

sections 25 to 29;

sections 33 to 35;

section 37(3) to (8);

section 41 in so far as that section is not already in force;

sections 53 and 54;

section 55(1) to (6);

section 81;

section 92;

section 104;

section 105 in so far as it relates to paragraphs 1, 2, 4, 5(2) and (3), 6 to 12, 14(2) and (3), 15, 16, 18, 19 and 21 to 24 of Schedule 15;

sections 106 to 114;

section 115 in so far as that section is not already in force;

section 120(1) in so far as it relates to the following paragraphs of Schedule 22—

1, 3, 5 to 12, 14, 17 to 27(a), 28, 29(1) in so far as that sub-paragraph is not already in force, 29(2) to (20), (21)(a)(ii), (23) to (25) and (27) to (35), 30, 32 to 35, 37(3) and (5) to (8), 40, 41, 45, 46(1) to (4) and (6) to (11), 47 to 50, 51(4), 52, 54 to 66, 68(1), (2) in so far as it requires an application to be accompanied by the prescribed charge, (3), (4) and (6), 70(1) and (2), 72(2), 73(1), (2) in so far as it requires an application to be accompanied by the prescribed charge and (3) to (6), 74 in so far as it requires an application to be accompanied by the prescribed charge, 75, 76(2), (4) to (7) and (8)(b), 77, 78, 80(3), 82 in so far as that paragraph is not already in force, 83 to 87, 90, 93, 94, 96 to 101, 103 in so far as that paragraph is not already in force, 104 to 132, 133(2), 134, 136, 140, 141, 144 to 146, 148 to 152, 154 to 160, 164 to 168, 171 to 181, 184, 185, 187(2), 188 to 191, 193 to 212, 213(2)(a), (4) and (5), 214 to 222, 223(1)(a) and (b) and (2), 224 to 231 and 233;

section 120(2) in so far as it relates to paragraphs 1 to 6, 8 to 10, 12, 13, 14(1) to (4), (7) and (8) (in so far as that sub-paragraph relates to the definitions of “approval” and “the transfer date”) and 16 to 24 of Schedule 23;

section 120(3) in so far as it relates to the following repeals in Schedule 24—

- (i) the repeals in relation to the Public Health (Scotland) Act 1897**(3)**;
- (ii) the repeals in relation to the Alkali, & c, Works Regulation Act 1906**(4)**;
- (iii) the repeals in relation to the Rivers (Prevention of Pollution) (Scotland) Act 1951**(5)**;
- (iv) the repeal of section 151(5) of the Mines and Quarries Act 1954**(6)**;
- (v) the repeal of section 10(6)(a) of the Rivers (Prevention of Pollution) (Scotland) Act 1965**(7)**;
- (vi) the repeal in relation to section 3(3)(b) of the Nuclear Installations Act 1965**(8)**;
- (vii) the repeals in relation to the Parliamentary Commissioner Act 1967**(9)**;
- (viii) the repeals in relation to the Sewerage (Scotland) Act 1968**(10)**;
- (ix) the repeal in relation to section 1(1)(g) of the Hovercraft Act 1968**(11)**;
- (x) the repeals in relation to the Agriculture Act 1970**(12)**;
- (xi) the repeal in relation to section 223(2) of the Local Government Act 1972**(13)**;
- (xii) the repeal of the Clyde River Purification Act 1972**(14)**;
- (xiii) the repeals in relation to the Local Government (Scotland) Act 1973**(15)**;
- (xiv) the repeals in relation to section 28 of the Health and Safety at Work etc. Act 1974**(16)**;
- (xv) the repeals in relation to the Control of Pollution Act 1974**(17)** except that in relation to section 30(1) of that Act;
- (xvi) the repeal of paragraph 1 of Schedule 2 to the Clean Air Enactments (Repeals and Modifications) Regulations 1974**(18)**;
- (xvii) the repeal in relation to Schedule 1 to the House of Commons Disqualification Act 1975**(19)**;
- (xviii) the repeal in relation to Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975**(20)**;
- (xix) the repeals in relation to the Local Government (Scotland) Act 1975**(21)**

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**(3)** 60 & 61 Vict. c.38.

**(4)** 6 Edw. 7. c.14.

**(5)** 14 & 15 Geo. 6. c.66.

**(6)** 2 & 3 Eliz. 2. c.70.

**(7)** 1965 c. 13.

**(8)** 1965 c. 57.

**(9)** 1967 c. 13.

**(10)** 1968 c. 47.

**(11)** 1968 c. 59.

**(12)** 1970 c. 40.

**(13)** 1972 c. 70.

**(14)** 1972 c.v.

**(15)** 1973 c. 65.

**(16)** 1974 c. 37.

**(17)** 1974 c. 40.

**(18)** S.I. 1974/2170.

**(19)** 1975 c. 24.

**(20)** 1975 c. 25.

**(21)** 1975 c. 30.

- (xx) the repeals in relation to sections 5(2), 10 and 15 of the Salmon and Freshwater Fisheries Act 1975**(22)**
- (xxi) the repeals in relation to the Water (Scotland) Act 1980**(23)**
- (xxii) the repeal of paragraph 17(3) of Schedule 9 to the Roads (Scotland) Act 1984**(24)**
- (xxiii) the repeal of regulations 2 and 4 of the Control of Industrial Air Pollution (Transfer of Powers of Enforcement) Regulations 1987**(25)**
- (xxiv) the repeal of sections 7(2) and (8) and 11(3) of the Control of Pollution (Amendment) Act 1989**(26)**
- (xxv) the repeals in relation to the Water Act 1989**(27)**
- (xxvi) the repeals in relation to the Environmental Protection Act 1990**(28)** except those in relation to sections 33(1), 36(11), and (12), 39(12) and (13), 54, 61, 75(3), 88, 143 of, and Schedule 8 to, that Act;
- (xxvii) the repeals in relation to the Natural Heritage (Scotland) Act 1991**(29)**;
- (xxviii) the repeals in relation to the Water Industry Act 1991**(30)** except those in relation to section 4(6);
- (xxix) in relation to the Water Resources Act 1991**(31)**, the repeal of sections 1 to 14, 16 to 19, 58, 105(1), the repeal in relation to section 113(1), the repeal of sections 114, 117, 121 to 124, 131, 132, 144, 146, 150 to 153, 187, 196, 202(5), 206(2), 209(1), (2) and (4), 213 to 215, 218, the words "Subject to subsection (3) below," in section 219(2), section 219(3), the definitions of "the Authority" and "constituent council" in section 221(1) and Schedules 1,3 and 4;
- (xxx) the repeal in relation to section 72(1) of the Land Drainage Act 1991**(32)**;
- (xxxi) the repeals in relation to the Water Consolidation (Consequential Provisions) Act 1991**(33)**;
- (xxxii) the repeals in relation to the Clean Air Act 1993**(34)**;
- (xxxiii) the repeals in relation to the Radioactive Substances Act 1993**(35)**;
- (xxxiv) the repeals in relation to the Noise and Statutory Nuisance Act 1993**(36)**;
- (xxxv) the repeal of paragraph 17(4) of Schedule 9, and paragraph 3(1) and (2) of Schedule 11, to the Local Government (Wales) Act 1994**(37)**;
- (xxxvi) the repeal of the words "a river purification board" in section 165(6) of the Local Government etc. (Scotland) Act 1994**(38)**.

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- (22) 1975 c. 51.
  - (23) 1980 c. 45.
  - (24) 1984 c. 54.
  - (25) S.I. 1987/180.
  - (26) 1989 c. 14.
  - (27) 1989 c. 15.
  - (28) 1990 c. 43.
  - (29) 1991 c. 28.
  - (30) 1991 c. 56.
  - (31) 1991 c. 57.
  - (32) 1991 c. 59.
  - (33) 1991 c. 60.
  - (34) 1993 c. 11.
  - (35) 1993 c. 12.
  - (36) 1993 c. 40.
  - (37) 1994 c. 19.
  - (38) 1994 c. 39.

### **Saving**

4. Notwithstanding the coming into force on 1st April 1996 of the amendments made by paragraph 68(1) to (3) and (6) of Schedule 22 to the Environment Act 1995, section 36 of the Environmental Protection Act 1990 shall have effect in relation to England and Wales on and after that date in relation to any application for a licence under that section made, but not finally disposed of, before that date as if—

- (a) those amendments had not been made;
- (b) in subsection (4)(a) the words “the National Rivers Authority and” were omitted; and
- (c) in subsection (4)(b) the words “the Authority or” were omitted.

Signed by authority of the Secretary of State,

31st January 1996

*James Clappison*  
Parliamentary Under Secretary of State,  
Department of the Environment

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Part I of the Environment Act 1995 establishes the Environment Agency and the Scottish Environment Protection Agency (“SEPA”). The main purpose of this Order is to bring into force provisions of the Environment Act 1995 concerning the new Agencies. The Order also brings into force a number of other provisions of the Environment Act 1995.

Article 2 of this Order brings into force on 1st February 1996 provisions of the Environment Act 1995 which enable preparations to be made for the transfer of functions, property, rights and liabilities to the new Agencies.

Article 2 also brings into force on 1st February 1996 the following further provisions of the Environment Act 1995—

- sections 80, 87 to 89, 90 (partially) and 91 and paragraph 36 of Schedule 22 (air quality);
- section 105 (partially) and paragraphs 3 and 5(1) of Schedule 15 (power to amend subordinate legislation concerning fisheries, and order making powers concerning sea fisheries);
- sections 117 and 118 (partially) (application of the Environment Act 1995 and certain other enactments to the Isles of Scilly); and
- the following paragraphs of Schedule 22—
  - paragraphs 43 and 44 (mineral planning amendments);
  - paragraph 67 (partially) (power to make regulations about compensation where rights are granted under section 35(4) or 38(9A) of the Environmental Protection Act 1990);
  - paragraphs 102 (water undertakers' duty to promote efficient use of water by customers) and 103 (partially) (power to issue guidance in relation to the provision of sewers otherwise than by requisition).

Article 2 also brings into force on 1st February 1996 other minor and consequential amendments and repeals in Schedules 22 and 24 there listed.

Article 3 of this Order brings into force on 1st April 1996 the provisions of the Environment Act 1995 which effect the transfer of functions, property, rights and liabilities to the new Agencies, and which make related amendments.

Article 3 also brings into force on 1st April 1996 the following further provisions of the Environment Act 1995—

- section 92 (national waste strategy);
- section 104 (fixed penalty system for certain fisheries offences);
- section 105 (minor and consequential amendments relating to fisheries) in so far as it relates to paragraphs 1, 2, 4, 5(2) and (3), 6 to 12, 14(2) and (3), 15, 16, 18, 19 and 21 to 24 of Schedule 15;
- section 106 (control of water pollution in Scotland);
- section 107 (statutory nuisances: Scotland);
- section 114 (power of Secretary of State to delegate functions concerning appeals);
- section 115 in so far as that section is not already in force (Crown application); and
- the following paragraphs of Schedule 22—

paragraph 29 (partially) (amendment of the Control of Pollution Act 1974 as it has effect in relation to Scotland);

paragraph 103 in so far as that paragraph is not in force and paragraph 104 (further duty to provide sewers and new connections to sewers); paragraphs 114 and 115 (power of undertakers to charge, and charges schemes under the Water Industry Act 1991); and paragraph 116 (repeal of section 151 of the Water Industry Act 1991 (financial contributions to rural services));

paragraphs 140 and 141 (drought permits and drought orders);

paragraph 193 (spray irrigation);

paragraphs 195 (increase of penalty for offence of emission of dark smoke from industrial or trade premises), 196 (smoke control orders in Scotland), 197 (amendment of Clean Air Act 1993 inquiries provisions), 197 and 198 (amendment of Clean Air Act 1993 in its application to Scotland); and

paragraph 233 (general translation of references in subordinate legislation and local statutory provisions to the National Rivers Authority and to the relevant inspector).

Article 3 of the Order also brings into force on 1st April 1996 a number of other minor and consequential amendments in Schedule 22, and the repeals in Schedule 24, listed in the Article.

Article 4 contains a saving.

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

The following provisions of the Environment Act 1995 have been or are to be brought into force by Commencement Orders made before the date of this Order—

Provision	Date of Commencement	S.I. No.
Section 1	28th July 1995	<a href="#">1995/1983</a>
Section 3(2) to (8)	28th July 1995	<a href="#">1995/1983</a>
Section 4	28th July 1995	<a href="#">1995/1983</a>
Section 7	28th July 1995	<a href="#">1995/1983</a>
Section 9	28th July 1995	<a href="#">1995/1983</a>
Section 12	28th July 1995	<a href="#">1995/1983</a>
Section 20	12th October 1995	<a href="#">1995/2649</a>
Section 21	12th October 1995	<a href="#">1995/2649</a>
Section 22	12th October 1995	<a href="#">1995/2649</a>
Section 23	12th October 1995	<a href="#">1995/2649</a>
Section 30	12th October 1995	<a href="#">1995/2649</a>
Section 31	12th October 1995	<a href="#">1995/2649</a>
Section 32	12th October 1995	<a href="#">1995/2649</a>
Section 36	12th October 1995	<a href="#">1995/2649</a>
Section 37(1), (2) and (9)	28th July 1995	<a href="#">1995/1983</a>

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Provision	Date of Commencement	S.I. No.
Sections 38 to 40	28th July 1995	1995/1983
Section 41 (partially)	21st September 1995	1995/1983
Section 42	21st September 1995	1995/1983
Sections 43 to 52	28th July 1995	1995/1983
Section 56	28th July 1995	1995/1983
Section 57 (partially)	21st September 1995	1995/1983
Section 58 (partially)	21st September 1995	1995/1983
Section 59 (partially)	12th October 1995	1995/2649
Section 78 (partially) and paragraphs 1, 2(1), 2(3) to (8), 2(9)(a), (c) and (d), 3 to 7, 8(2), 9, 10(1) and (3), 11, 12, 14, 15, 17 to 19, 21, 23 to 26, 28 to 31, 32(1) to (13) and (15) to (18), 33(1) to (5), 34, 35 (partially), 36, 37 and 38(1) of Schedule 10, with savings	23rd November 1995	1995/2950
Section 78 (partially) and paragraphs 2(2) and (9)(b), 8(1) and (3), 13, 16, 20 and 22(3), (4)(a) and (b) and (5) of Schedule 10, with savings	1st April 1996	1995/2950
Sections 93 to 95	21st September 1995	1995/1983
Section 96(1) and (4) to (6) (partially)	1st November 1995	1995/2765
Section 96(2)	1st November 1995	1995/2765
Sections 97 to 103	21st September 1995	1995/1983
Section 105 (partially) and paragraphs 25 and 26(1) of Schedule 15	21st September 1995	1995/1983
Section 105 (partially) and paragraphs 13, 14(1) and (4), 17, 20 and 26(2) of Schedule 15	1st January 1999	1995/1983
Section 115(1) to (4) and (6) (partially)	1st April 1996	1995/2950
Section 116 (partially) and paragraph 2(1) to (3) of Schedule 21	21st September 1995	1995/1983
Section 120(1) (partially) and paragraphs 4, 31, 42, 213(1),	28th July 1995	1995/1983



Provision	Date of Commencement	S.I. No.
(2)(b) and (3) and 223(1)(c) of Schedule 22		
Section 120(1) (partially) and paragraphs 15, 29(1) and (22) (partially), 51(1) to (3) and (5) and 53 of Schedule 22	12th October 1995	<a href="#">1995/2649</a>
Section 120(1) (partially) and paragraphs 37(1) and (4), 38, 39, 76(1) and (3), 80(1) and (2), 82(1) and (5) (partially), 133(1), 137 to 139, 147, 153, 162 (partially), 182, 187(1) and 192 of Schedule 22	21st September 1995	<a href="#">1995/1983</a>
Section 120(2) (partially) and paragraph 14(5), (6) and (8) (partially) of Schedule 23	1st January 1999	<a href="#">1995/1983</a>
Section 120(3) (partially) and the repeals in Schedule 24 in relation to sections 68, 69(5), 126(6) and 129(4) of the Water Resources Act 1991	21st September 1995	<a href="#">1995/1983</a>
Section 120(3) (partially) and the repeal in Schedule 24 in relation to section 105 of the Town and Country Planning Act 1990	1st November 1995	<a href="#">1995/2765</a>
Section 120(3) (partially) and the repeals in Schedule 24 in relation to sections 30 and 41(1) of the Salmon and Freshwater Fisheries Act 1975	1st January 1999	<a href="#">1995/1983</a>
Section 120(4) to (6)	28th July 1995	<a href="#">1995/1983</a>
Sections 121 to 124	28th July 1995	<a href="#">1995/1983</a>
Schedules 13 and 14 (so far as they apply in relation to England and Wales)	1st November 1995	<a href="#">1995/2765</a>

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