



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART VIII

#### MISCELLANEOUS

##### *Other controls on substances, articles or waste*

#### **140 Power to prohibit or restrict the importation, use, supply or storage of injurious substances or articles.**

- (1) The Secretary of State may by regulations prohibit or restrict—
- (a) the importation into and the landing and unloading in the United Kingdom,
  - (b) the use for any purpose,
  - (c) the supply for any purpose, and
  - (d) the storage,
- of any specified substance or article if he considers it appropriate to do so for the purpose of preventing the substance or article from causing pollution of the environment or harm to human health or to the health of animals or plants.
- (2) Any such prohibition or restriction may apply—
- (a) in all, or only in specified, areas;
  - (b) in all, or only in specified, circumstances or if conditions imposed by the regulations are not complied with; and
  - (c) to all, or only to specified descriptions of, persons.
- (3) Regulations under this section may—
- (a) confer on the Secretary of State power to direct that any substance or article whose use, supply or storage is prohibited or restricted is to be treated as waste or controlled waste of any description and in relation to any such substance or article—
    - (i) to apply, with or without modification, specified provisions of Part II; or

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- (ii) to direct that it be disposed of or treated in accordance with the direction;
  - (b) confer on the Secretary of State power, where a substance or article has been imported, landed or unloaded in contravention of a prohibition or restriction imposed under subsection (1)(a) above, to require that the substance or article be disposed of or treated in or removed from the United Kingdom;
  - (c) confer powers corresponding to those conferred by [<sup>F1</sup>section 108 of the Environment Act 1995] on persons authorised for any purpose of the regulations by the Secretary of State or any local or other authority; and
  - (d) include such other incidental and supplemental, and such transitional provisions, as the Secretary of State considers appropriate.
- (4) The Secretary of State may, by regulations under this section, direct that, for the purposes of any power conferred on him under subsection (3)(b) above, any prohibition or restriction on the importation into or the landing and unloading in the United Kingdom imposed—
- (a) by or under any [<sup>F2</sup>EU] instrument, or
  - (b) by or under any enactment,
- shall be treated as imposed under subsection (1)(a) above and any power conferred on him under subsection (3)(b) above shall be exercisable accordingly.
- (5) The Secretary of State may by order establish a committee to give him advice in relation to the exercise of the power to make regulations under this section and Schedule 12 to this Act shall have effect in relation to it.
- (6) Subject to subsection (7) below, it shall be the duty of the Secretary of State before he makes any regulations under this section other than regulations under subsection (4) above—
- (a) to consult the committee constituted under subsection (5) above about the proposed regulations;
  - (b) having consulted the committee, to publish in the London Gazette and, if the regulations apply in Scotland or Northern Ireland, the Edinburgh Gazette or, as the case may be, Belfast Gazette and in any other publication which he considers appropriate, a notice indicating the effect of the proposed regulations and specifying—
    - (i) the date on which it is proposed that the regulations will come into force;
    - (ii) a place where a draft of the proposed regulations may be inspected free of charge by members of the public during office hours; and
    - (iii) a period of not less than fourteen days, beginning with the date on which the notice is first published, during which representations in writing may be made to the Secretary of State about the proposed regulations; and
  - (c) to consider any representations which are made to him in accordance with the notice.
- (7) The Secretary of State may make regulations under this section in relation to any substance or article without observing the requirements of subsection (6) above where it appears to him that there is an imminent risk, if those requirements are observed, that serious pollution of the environment will be caused.

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- (8) The Secretary of State may, after performing the duty imposed on him by subsection (6) above with respect to any proposed regulations, make the regulations either—
- (a) in the form of the draft mentioned in subsection (6)(b) above, or
  - (b) in that form with such modifications as he considers appropriate;
- but the Secretary of State shall not make any regulations incorporating modifications unless he is of opinion that it is appropriate for the requirements of subsection (6) above to be disregarded.
- (9) Regulations under this section may provide that a person who contravenes or fails to comply with a specified provision of the regulations or causes or permits another person to contravene or fail to comply with a specified provision of the regulations commits an offence and may prescribe the maximum penalty for the offence.
- (10) No offence under the regulations shall be made punishable with imprisonment for more than two years or punishable on summary conviction with a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence.
- (11) In this section—
- “the environment” means the air, water and land, or any of those media, and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground;
  - “specified” means specified in the regulations; and
  - “substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour and it includes mixtures of substances.

#### Textual Amendments

- F1** Words in s. 140(3)(c) substituted (E.W.S.) (6.5.1999) by [S.I. 1999/1108, reg. 2](#)
- F2** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\), arts. 2, 3, 6 \(with art. 3\(2\)\(3\), 4\(2\), 6\(4\)\(5\)\)](#)

#### Modifications etc. (not altering text)

- C1** S. 140 extended (with modifications) (19.2.1999) by [S.I. 1999/396, reg. 2](#)

### 141 Power to prohibit or restrict the importation or exportation of waste.

- (1) The Secretary of State may, for the purpose of preventing any risk of pollution of the environment or of harm to human health arising from waste being imported or exported or of conserving the facilities or resources for dealing with waste, make regulations prohibiting or restricting, or providing for the prohibition or restriction of—
- (a) the importation into and the landing and unloading in the United Kingdom, or
  - (b) the exportation, or the loading for exportation, from the United Kingdom, of waste of any description.
- (2) Regulations under this section may make different provision for different descriptions of waste or waste of any description in different circumstances.

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- (3) Regulations under this section may, as respects any description of waste, confer or impose on waste regulation authorities or any of them such functions in relation to the importation of waste as appear to be appropriate to the Secretary of State, subject to such limitations and conditions as are specified in the regulations.
- (4) Regulations under this section may confer or impose on waste regulation authorities or any of them functions of enforcing any of the regulations on behalf of the Secretary of State whether or not the functions fall within subsection (3) above.
- (5) Regulations under this section may—
- (a) as respects functions conferred or imposed on waste regulation authorities—
    - (i) make them exercisable in relation to individual consignments or consignments in a series by the same person but not in relation to consignments or descriptions of consignments generally; and
    - (ii) confer on the Secretary of State power, by direction to the authorities or any of them, to make the functions or any of them exercisable instead by him whether indefinitely or for any period;
  - (b) impose or provide for the imposition of prohibitions either absolutely or only if conditions or procedures prescribed in or under the regulations are not complied with;
  - (c) impose duties to be complied with before, on or after any importation or exportation of waste by persons who are, or are to be, consignors, consignees, carriers or holders of the waste or any waste derived from it;
  - (d) confer powers corresponding to those conferred by section 69(3) above;
  - (e) provide for appeals to the Secretary of State from determinations made by authorities under the regulations;
  - (f) provide for the keeping by the Secretary of State, waste regulation authorities and waste collection authorities of public registers of information relating to the importation and exportation of waste and for the transmission of such information between any of those persons;
  - (g) create offences, subject to the limitation that no offence shall be punishable with imprisonment for more than two years or punishable on summary conviction with imprisonment for more than six months or a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence.
- (6) In this section—
- “the environment” means land, water and air or any of them;
  - “harm” includes offence to any of man’s senses;
  - “waste”, “waste collection authority”, and “waste regulation authority” have the same meaning as in Part II; and
  - “the United Kingdom” includes its territorial sea.
- (7) In the application of this section to Northern Ireland and the territorial sea of the United Kingdom adjacent to Northern Ireland “waste regulation authority” means [<sup>F3</sup>the Department of the Environment for Northern Ireland].

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### Textual Amendments

- F3** Words in s. 141(7) substituted (N.I.) (27.11.2003 save for specified purposes and otherwise in accordance with art. 3 of the commencing S.R.) by [S.I. 1997/2778 \(N.I. 19\)](#), [art. 83\(1\)](#), [Sch. 5 para. 5](#); [S.R. 2003/489](#), [art. 2](#), [Sch.](#)

## 142 Powers to obtain information about potentially hazardous substances. **E+W**

- (1) The Secretary of State may, for the purpose of assessing their potential for causing pollution of the environment or harm to human health, by regulations make provision for and in connection with the obtaining of relevant information relating to substances which may be specified by him by order for the purposes of this section.
- (2) The Secretary of State shall not make an order under subsection (1) above specifying any substance—
  - (a) which was first supplied in any member State on or after 18th September 1981; or
  - (b) in so far as it is a regulated substance for the purposes of any relevant enactment.
- (3) The Secretary of State shall not make an order under subsection (1) above specifying any substance without consulting the committee established under section 140(5) except where it appears to him that information about the substance needs to be obtained urgently under this section.
- (4) Regulations under this section may—
  - (a) prescribe the descriptions of relevant information which are to be furnished under this section in relation to specified substances;
  - (b) impose requirements on manufacturers, importers or suppliers generally to furnish information prescribed under paragraph (a) above;
  - (c) provide for the imposition of requirements on manufacturers, importers or suppliers generally to furnish relevant information relating to products or articles containing specified substances in relation to which information has been furnished in pursuance of paragraph (b) above;
  - (d) provide for the imposition of requirements on particular manufacturers, importers or suppliers to furnish further information relating to specified substances in relation to which information has been furnished in pursuance of paragraph (b) above;
  - (e) provide for the imposition of requirements on particular manufacturers or importers to carry out tests of specified substances and to furnish information of the results of the tests;
  - (f) authorise persons to comply with requirements to furnish information imposed on them by or under the regulations by means of representative persons or bodies;
  - (g) impose restrictions on the disclosure of information obtained under this section and provide for determining what information is, and what information is not, to be treated as furnished in confidence;
  - (h) create offences, subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale;

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- (i) make any public authority designated by the regulations responsible for the enforcement of the regulations to such extent as may be specified in the regulations;
  - (j) include such other incidental and supplemental, and such transitional, provisions as the Secretary of State considers appropriate.
- (5) The Secretary of State shall have regard, in imposing or providing for the imposition of any requirement under subsection (4)(b), (c), (d) or (e) above, to the cost likely to be involved in complying with the requirement.

(6) In this section—

“the environment” means the air, water and land or any of them;

“relevant information”, in relation to substances, products or articles, means information relating to their properties, production, distribution, importation or use or intended use and, in relation to products or articles, to their disposal as waste;

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour and it includes mixtures of substances.

<sup>F4</sup>(7) The enactments which are relevant for the purposes of subsection (2)(b) above are the following—

[<sup>F5</sup>the Manufacture and Storage of Explosives Regulations 2005];

[<sup>F6</sup>the Environmental Permitting (England and Wales) Regulations 2010 in relation to radioactive material or radioactive waste;]

Parts II, III and VIII of the <sup>M1</sup>Medicines Act 1968;

Part IV of the <sup>M2</sup>Agriculture Act 1970;

the <sup>M3</sup>Misuse of Drugs Act 1971;

Part III of the <sup>M4</sup>Food and Environment Protection Act 1985; <sup>F7</sup> . . .

the <sup>M5</sup>Food Safety Act 1990;

[<sup>F8</sup>the Veterinary Medicines Regulations 2006;

and a substance is a regulated substance for the purposes of any such enactment in so far as any prohibition, restriction or requirement is imposed in relation to it by or under the enactment for the purposes of that enactment.]

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only

#### Textual Amendments

- F4** By [The Manufacture and Storage of Explosives Regulations \(Northern Ireland\) 2006 \(S.R. 2006/425\)](#), arts. 1, 27(1), [Sch. 6 para. 14\(3\)](#) (with [reg. 26](#)) it is provided that for the words "Explosive Substances Act 1875" in s. 142(7) there be substituted (N.I.) (1.12.2006) the words "Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006"
- F5** Words in s. 142(7) substituted (26.4.2005 with application as mentioned in [reg. 3](#) of the amending S.I.) by [The Manufacture and Storage of Explosives Regulations 2005 \(S.I. 2005/1082\)](#), [regs. 1\(1\), 28\(1\)](#), [Sch. 5 para. 19\(3\)](#)
- F6** Words in s. 142(7) substituted (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), [regs. 1\(1\)\(b\), 107](#), [Sch. 26 para. 5\(12\)](#) (with [Sch. 4](#))

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- F7** Word in s. 142(7) omitted (1.10.2006) by virtue of [The Veterinary Medicines Regulations 2006 \(S.I. 2006/2407\)](#), reg. 44(3), **Sch. 9 Pt. 1 para. 8(a)** (with reg. 3)
- F8** Words in s. 142(7) added (1.10.2006) by [The Veterinary Medicines Regulations 2006 \(S.I. 2006/2407\)](#), reg. 44(3), **Sch. 9 Pt. 1 para. 8(b)** (with reg. 3)

#### Marginal Citations

- M1** 1968 c. 67.  
**M2** 1970 c. 40.  
**M3** 1971 c. 38.  
**M4** 1985 c. 48.  
**M5** 1990 c. 16.

## 142 Powers to obtain information about potentially hazardous substances. **S+N.I.**

- (1) The Secretary of State may, for the purpose of assessing their potential for causing pollution of the environment or harm to human health, by regulations make provision for and in connection with the obtaining of relevant information relating to substances which may be specified by him by order for the purposes of this section.
- (2) The Secretary of State shall not make an order under subsection (1) above specifying any substance—
  - (a) which was first supplied in any member State on or after 18th September 1981; or
  - (b) in so far as it is a regulated substance for the purposes of any relevant enactment.
- (3) The Secretary of State shall not make an order under subsection (1) above specifying any substance without consulting the committee established under section 140(5) except where it appears to him that information about the substance needs to be obtained urgently under this section.
- (4) Regulations under this section may—
  - (a) prescribe the descriptions of relevant information which are to be furnished under this section in relation to specified substances;
  - (b) impose requirements on manufacturers, importers or suppliers generally to furnish information prescribed under paragraph (a) above;
  - (c) provide for the imposition of requirements on manufacturers, importers or suppliers generally to furnish relevant information relating to products or articles containing specified substances in relation to which information has been furnished in pursuance of paragraph (b) above;
  - (d) provide for the imposition of requirements on particular manufacturers, importers or suppliers to furnish further information relating to specified substances in relation to which information has been furnished in pursuance of paragraph (b) above;
  - (e) provide for the imposition of requirements on particular manufacturers or importers to carry out tests of specified substances and to furnish information of the results of the tests;
  - (f) authorise persons to comply with requirements to furnish information imposed on them by or under the regulations by means of representative persons or bodies;

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- (g) impose restrictions on the disclosure of information obtained under this section and provide for determining what information is, and what information is not, to be treated as furnished in confidence;
  - (h) create offences, subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale;
  - (i) make any public authority designated by the regulations responsible for the enforcement of the regulations to such extent as may be specified in the regulations;
  - (j) include such other incidental and supplemental, and such transitional, provisions as the Secretary of State considers appropriate.
- (5) The Secretary of State shall have regard, in imposing or providing for the imposition of any requirement under subsection (4)(b), (c), (d) or (e) above, to the cost likely to be involved in complying with the requirement.

(6) In this section—

“the environment” means the air, water and land or any of them;

“relevant information”, in relation to substances, products or articles, means information relating to their properties, production, distribution, importation or use or intended use and, in relation to products or articles, to their disposal as waste;

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour and it includes mixtures of substances.

<sup>F4</sup>(7) The enactments which are relevant for the purposes of subsection (2)(b) above are the following—

[<sup>F5</sup>the Manufacture and Storage of Explosives Regulations 2005];

[<sup>F11</sup>the <sup>M7</sup>Radioactive Substances Act 1993];

Parts II, III and VIII of the <sup>M1</sup>Medicines Act 1968;

Part IV of the <sup>M2</sup>Agriculture Act 1970;

the <sup>M3</sup>Misuse of Drugs Act 1971;

Part III of the <sup>M4</sup>Food and Environment Protection Act 1985; <sup>F7</sup> . . .

the <sup>M5</sup>Food Safety Act 1990;

[<sup>F8</sup>the Veterinary Medicines Regulations 2006;

and a substance is a regulated substance for the purposes of any such enactment in so far as any prohibition, restriction or requirement is imposed in relation to it by or under the enactment for the purposes of that enactment.]

#### Extent Information

- E2** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F4** By [The Manufacture and Storage of Explosives Regulations \(Northern Ireland\) 2006 \(S.R. 2006/425\)](#), arts. 1, 27(1), **Sch. 6 para. 14(3)** (with [reg. 26](#)) it is provided that for the words "Explosive Substances Act 1875" in s. 142(7) there be substituted (N.I.) (1.12.2006) the words "Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006"



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- F5** Words in s. 142(7) substituted (26.4.2005 with application as mentioned in reg. 3 of the amending S.I.) by [The Manufacture and Storage of Explosives Regulations 2005 \(S.I. 2005/1082\)](#), regs. 1(1), 28(1), **Sch. 5 para. 19(3)**
- F7** Word in s. 142(7) omitted (1.10.2006) by virtue of [The Veterinary Medicines Regulations 2006 \(S.I. 2006/2407\)](#), reg. 44(3), **Sch. 9 Pt. 1 para. 8(a)** (with reg. 3)
- F8** Words in s. 142(7) added (1.10.2006) by [The Veterinary Medicines Regulations 2006 \(S.I. 2006/2407\)](#), reg. 44(3), **Sch. 9 Pt. 1 para. 8(b)** (with reg. 3)
- F11** Words in s. 142(7) substituted (27.8.1993) by 1993 c. 12, ss. 49(1), 51(2), **Sch. 4 para.8** (with ss. 42, 46)

#### Marginal Citations

- M1** 1968 c. 67.
- M2** 1970 c. 40.
- M3** 1971 c. 38.
- M4** 1985 c. 48.
- M5** 1990 c. 16.
- M7** 1993 C. 12.

**F9** 143 .....

#### Textual Amendments

- F9** S. 143 repealed (1.4.2000 for E., 14.7.2000 for S. and 15.9.2001 for W.) by 1995 c. 25, s. 120(1)(3), [Sch. 22 para. 91](#), **Sch. 24** (with ss. 7(6), 115, 117); [S.I. 2000/340](#), **art. 2(b)(c)** (with art. 3); [S.S.I. 2000/180](#), **art. 2(1)(b)** (with art. 3); [S.I. 2001/3211](#), **art. 2(b)** (with saving in art. 3)

#### 144 Amendments of hazardous substances legislation.

Schedule 13 to this Act (which contains miscellaneous amendments to the legislation relating to hazardous substances) shall have effect.

#### Commencement Information

- II** S. 144 partly in force; s. 144 not in force at Royal Assent see s.164(3); s. 144 in force for certain purposes at 1.1.1992 by [S.I. 1991/2829](#) art. 3; s. 144 in force at 18.2.1993 (insofar as it relates to paras. 11 and 12 of Schedule 13, Part II) and 1.5.1993 (insofar as it relates to para. 13 of Schedule 13, Part II) by [S.I. 1993/274](#), **arts. 2(1), 3**

#### 145 Penalties for offences of polluting controlled waters etc.

**F10**(1) .....

- (2) In sections 31(7)(a), 31A(2)(c)(i) and 32(7)(a) of the <sup>M6</sup>Control of Pollution Act 1974 (corresponding penalties for Scotland), for the words “the statutory maximum” there shall be substituted “£20,000”.

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#### **Textual Amendments**

**F10** S. 145(1) repealed (1. 12. 1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 3(1), 4(2), **Sch. 3** (with Sch. 2 paras. 10, 14(1), 15)

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#### **Marginal Citations**

**M6** 1974 c. 40.

**Status:**

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