



# 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 <sup>F1</sup>AND THE NATURAL RESOURCES BODY FOR WALES]

#### *Additional general powers and duties*

#### **40 Ministerial directions to the new Agencies.**

- (1) The appropriate Minister may give a new Agency directions of a general or specific character with respect to the carrying out of any of its functions.
- (2) The appropriate Minister may give a new Agency such directions of a general or specific character as he considers appropriate <sup>F1</sup>...—
  - <sup>F2</sup>(a) for securing that any <sup>F3</sup>[assimilated] obligation is met, or]
  - (b) <sup>F4</sup>[for the implementation of] any international agreement to which the United Kingdom is for the time being a party.
- (3) Any direction under subsection (2) above shall be published in such manner as the Minister giving it considers appropriate for the purpose of bringing the matters to which it relates to the attention of persons likely to be affected by them; and—
  - (a) copies of the direction shall be made available to the public; and
  - (b) notice shall be given—
    - (i) in the case of a direction given to the Agency, in the London Gazette,  
or
    - (ii) in the case of a direction given to SEPA, in the Edinburgh Gazette,

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of the giving of the direction and of where a copy of the direction may be obtained.

- (4) The provisions of subsection (3) above shall have effect in relation to any direction given to a new Agency under an enactment other than subsection (2) above <sup>F5</sup>...—
- [<sup>F6</sup>(a) for securing that any [<sup>F7</sup>assimilated] obligation is met, or]
- (b) [<sup>F8</sup>for the implementation of] any international agreement to which the United Kingdom is for the time being a party,
- as those provisions have effect in relation to a direction given under subsection (2) above.
- (5) In determining—
- (a) any appeal against, or reference or review of, a decision of a new Agency, or
- (b) any application transmitted from a new Agency,
- the body or person making the determination shall be bound by any direction given under this section or any other enactment by a Minister of the Crown to the new Agency to the same extent as the new Agency.
- (6) Any power to give a direction under this section shall be exercisable, except in an emergency, only after consultation with the new Agency concerned.
- (7) Any power of the appropriate Minister to give directions to a new Agency otherwise than by virtue of this section shall be without prejudice to any power to give directions conferred by this section.
- (8) It is the duty of a new Agency to comply with any direction which is given to that new Agency by a Minister of the Crown under this section or any other enactment.
- [<sup>F9</sup>(9) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]
- [<sup>F10</sup>(9) For the purposes of this section, the “appropriate Minister” in relation to the Agency is—
- (a) in any case not falling within paragraph (b), the Secretary of State;
- (b) in the case of a direction under subsection (1)—
- (i) which would have any effect in Wales, or
- (ii) which relates to water resources management, water supply, rivers or other watercourses, control of pollution of water resources, sewerage or land drainage, and which would have any effect in the catchment areas of the rivers Dee, Wye and Severn,
- the Secretary of State or the Welsh Ministers.
- (10) The Secretary of State may give a direction falling within subsection (9)(b) only after consulting the Welsh Ministers.
- (11) The Welsh Ministers may give a direction under this section only with the consent of the Secretary of State.]

#### Textual Amendments

- F1** Words in s. 40(2) omitted (31.12.2020) by virtue of [The Environment \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/458\)](#), regs. 1(1), **3(2)(a)(i)** (with reg. 8(1)(2)); 2020 c. 1, Sch. 5 para. 1(1)

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- F2** S. 40(2)(a) substituted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(2)(a)(ii)** (with reg. 8(1)(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Word in s. 40(2)(a) 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)(a)**
- F4** Words in s. 40(2)(b) inserted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(2)(a)(iii)** (with reg. 8(1)(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 40(4) omitted (31.12.2020) by virtue of The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(2)(b)(i)** (with reg. 8(1)(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F6** S. 40(4)(a) substituted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(2)(b)(ii)** (with reg. 8(1)(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Word in s. 40(4)(a) 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)(a)**
- F8** Words in s. 40(4)(b) inserted (31.12.2020) by The Environment (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/458), regs. 1(1), **3(2)(b)(iii)** (with reg. 8(1)(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F9** S. 40(9) added (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **sch. 3 para. 43(6)**; S.S.I. 2014/160, art. 2(1)(2)
- F10** S. 40(9)-(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. 371** (with Sch. 7)

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

- C1** S. 40 modified (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 5(2)**; S.I. 1998/3178, **art. 3**
- C2** S. 40 modified (E.W.) (2.1.2004) by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 (S.I. 2003/3242), regs. 1(a), **20(1)** (with reg. 1(c))
- C3** S. 40: 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.**
- C4** S. 40 modified (E.W.) (10.4.2017) by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (S.I. 2017/407), regs. 1(a), **36(1)** (with reg. 1(c))

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[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\(3\)](#)