



Environment Act 1995

1995 CHAPTER 25

PART IV

AIR QUALITY

87 Regulations for the purposes of Part IV.

- (1) Regulations may make provision—
 - (a) for, or in connection with, implementing the strategy;
 - (b) for, or in connection with, implementing—
 - (i) obligations of the United Kingdom under the [F1 EU] Treaties, or
 - (ii) international agreements to which the United Kingdom is for the time being a party,so far as relating to the quality of air; or
 - (c) otherwise with respect to the assessment or management of the quality of air.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may make provision—
 - (a) prescribing standards relating to the quality of air;
 - (b) prescribing objectives for the restriction of the levels at which particular substances are present in the air;
 - (c) conferring powers or imposing duties on local authorities;
 - (d) for or in connection with—
 - (i) authorising local authorities (whether by agreements or otherwise) to exercise any functions of a Minister of the Crown on his behalf;
 - (ii) directing that functions of a Minister of the Crown shall be exercisable concurrently with local authorities; or
 - (iii) transferring functions of a Minister of the Crown to local authorities;
 - (e) prohibiting or restricting, or for or in connection with prohibiting or restricting,—
 - (i) the carrying on of prescribed activities, or

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- (ii) the access of prescribed vehicles or mobile equipment to prescribed areas,
 whether generally or in prescribed circumstances;
 - (f) for or in connection with the designation of air quality management areas by orders made by local authorities in such cases or circumstances not falling within section 83 above as may be prescribed;
 - (g) for the application, with or without modifications, of any provisions of this Part in relation to areas designated by virtue of paragraph (f) above or in relation to orders made by virtue of that paragraph;
 - (h) with respect to—
 - (i) air quality reviews;
 - (ii) assessments under this Part;
 - (iii) orders designating air quality management areas; or
 - (iv) action plans;
 - (j) prescribing measures which are to be adopted by local authorities (whether in action plans or otherwise) or other persons in pursuance of the achievement of air quality standards or objectives;
 - (k) for or in connection with the communication to the public of information relating to quality for the time being, or likely future quality, of the air;
 - (l) for or in connection with the obtaining by local authorities from any person of information which is reasonably necessary for the discharge of functions conferred or imposed on them under or by virtue of this Part;
 - (m) for or in connection with the recovery by a local authority from prescribed persons in prescribed circumstances, and in such manner as may be prescribed, of costs incurred by the authority in discharging functions conferred or imposed on the authority under or by virtue of this Part;
 - (n) for a person who contravenes, or fails to comply with, any prescribed provision of the regulations to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or such lower level on that scale as may be prescribed in relation to the offence;
 - (o) for or in connection with arrangements under which a person may discharge any liability to conviction for a prescribed offence by payment of a penalty of a prescribed amount;
 - (p) for or in connection with appeals against determinations or decisions made, notices given or served, or other things done under or by virtue of the regulations.
- (3) Without prejudice to the generality of paragraph (h) of subsection (2) above, the provision that may be made by virtue of that paragraph includes provision for or in connection with any of the following, that is to say—
- (a) the scope or form of a review or assessment;
 - (b) the scope, content or form of an action plan;
 - (c) the time at which, period within which, or manner in which a review or assessment is to be carried out or an action plan is to be prepared;
 - (d) the methods to be employed—
 - (i) in carrying out reviews or assessments; or
 - (ii) in monitoring the effectiveness of action plans;
 - (e) the factors to be taken into account in preparing action plans;

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- (f) the actions which must be taken by local authorities or other persons in consequence of reviews, assessments or action plans;
 - (g) requirements for consultation;
 - (h) the treatment of representations or objections duly made;
 - (j) the publication of, or the making available to the public of, or of copies of,—
 - (i) the results, or reports of the results, of reviews or assessments; or
 - (ii) orders or action plans;
 - (k) requirements for—
 - (i) copies of any such reports, orders or action plans, or
 - (ii) prescribed information, in such form as may be prescribed, relating to reviews or assessments,to be sent to the Secretary of State or to the [^{F2}appropriate agency].
- (4) In determining—
- (a) any appeal against, or reference or review of, a decision of a local authority under or by virtue of regulations under this Part, or
 - (b) any application transmitted from a local authority under or by virtue of any such regulations,
- the body or person making the determination shall be bound by any direction given by a Minister of the Crown or SEPA to the local authority to the same extent as the local authority.
- (5) The provisions of any regulations under this Part may include—
- (a) provision for anything that may be prescribed by the regulations to be determined under the regulations and for anything falling to be so determined to be determined by such persons, in accordance with such procedure and by reference to such matters, and to the opinion of such persons, as may be prescribed;
 - (b) different provision for different cases, including different provision in relation to different persons, circumstances, areas or localities; and
 - (c) such supplemental, consequential, incidental or transitional provision (including provision amending any enactment or any instrument made under any enactment) as the Secretary of State considers appropriate.
- (6) Nothing in regulations under this Part shall authorise any person other than a constable in uniform to stop a vehicle on any road.
- (7) Before making any regulations under this Part, the Secretary of State shall consult—
- (a) the [^{F3}appropriate agency];
 - (b) such bodies or persons appearing to him to be representative of the interests of local government as he may consider appropriate;
 - (c) such bodies or persons appearing to him to be representative of the interests of industry as he may consider appropriate; and
 - (d) such other bodies or persons as he may consider appropriate.
- (8) Any power conferred by this Part to make regulations shall be exercisable by statutory instrument; and no statutory instrument containing regulations under this Part shall be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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- (9) If, apart from this subsection, the draft of an instrument containing regulations under this Part would be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.

Textual Amendments

- F1** 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))
- F2** Words in s. 87(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. 379](#) (with Sch. 7)
- F3** Words in s. 87(7)(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. 379](#) (with Sch. 7)

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