



Environment Act 2021

2021 CHAPTER 30

PART 4

AIR QUALITY AND ENVIRONMENTAL RECALL

Air quality

72 Local air quality management framework

Schedule 11 contains amendments of Part 4 of the Environment Act 1995 (air quality).

73 Smoke control areas: amendments of the Clean Air Act 1993

Schedule 12 makes provision—

- (a) for imposing financial penalties for the emission of smoke in smoke control areas in England,
- (b) about offences relating to the sale and acquisition of solid fuel in England,
- (c) for applying smoke control orders to vessels in England, and
- (d) for authorised fuels and exempted fireplaces to be listed in Wales.

Environmental recall of motor vehicles etc

74 Environmental recall of motor vehicles etc

- (1) The Secretary of State may by regulations make provision for, about or connected with the recall of relevant products that do not meet relevant environmental standards.
- (2) A “relevant product” is a product specified or described in the regulations.
- (3) Only the following types of product may be specified or described in the regulations—
 - (a) a mechanically propelled vehicle;
 - (b) a part of a mechanically propelled vehicle;

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- (c) an engine that is, or forms part of, machinery that is transportable (including by way of self-propulsion);
 - (d) a part of such an engine, or any other part of such machinery that is connected with the operation of the engine.
- (4) A “relevant environmental standard” means a standard that—
 - (a) by virtue of any enactment, a relevant product must meet,
 - (b) is relevant to the environmental impact of that product, and
 - (c) is specified in the regulations,and the regulations may provide that a reference in the regulations to a standard is to be construed as a reference to that standard as it has effect from time to time.
- (5) In subsection (4)(a) “enactment” has the same meaning as in the European Union (Withdrawal) Act 2018.
- (6) In subsection (4)(b) “environmental impact”, in relation to a relevant product, includes any impact on the environment caused by noise, heat or vibrations or any other kind of release of energy or emissions resulting from the use of the product.
- (7) Regulations under subsection (1) are subject to the affirmative procedure.
- (8) Sections 75 to 77 make further provision about regulations under subsection (1).

75 Compulsory recall notices

- (1) Regulations under section 74(1) may make provision for, about or connected with a power of the Secretary of State to give a compulsory recall notice to a manufacturer or distributor of a relevant product.
- (2) A “compulsory recall notice” is a notice that requires the recipient of the notice to organise the return of a relevant product to the recipient, or to any other person specified in the notice, from persons who have been supplied (whether or not directly by the recipient) with the product.
- (3) Provision for the Secretary of State to give a compulsory recall notice in relation to a relevant product must not permit the giving of such a notice unless the Secretary of State has reasonable grounds for believing the product does not meet a relevant environmental standard.
- (4) The regulations may provide that, where a relevant product forms part of another product, a compulsory recall notice may require its recipient to organise the return of that other product (whether or not it is a relevant product).
- (5) The regulations may provide that a compulsory recall notice may impose supplementary requirements on its recipient.
- (6) The regulations may confer a power on the Secretary of State to give a recipient of a compulsory recall notice a further notice (a “supplementary notice”) that imposes supplementary requirements on its recipient.
- (7) The following are examples of supplementary requirements—
 - (a) to secure that at least a specified proportion of products subject to a compulsory recall notice that are manufactured or distributed by the recipient are returned in accordance with the notice;
 - (b) to publicise a compulsory recall notice;

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- (c) to provide information to the Secretary of State;
 - (d) a prohibition on supplying, or offering or agreeing to supply, a product subject to a compulsory recall notice;
 - (e) to pay such compensation to a person who returns a product subject to a compulsory recall notice as may be specified;
 - (f) to make other specified arrangements for the purpose of mitigating the effect of returning a product on the person who returns it;
 - (g) to destroy, or arrange for the destruction of, a returned product;
 - (h) to take steps to modify, or arrange for the modification of, a returned product for the purpose of ensuring that the product complies with relevant environmental standards;
 - (i) to organise the return of a returned product to the person who initially returned it;
 - (j) to otherwise dispose of the product in such manner as may be specified.
- (8) In subsection (7) “specified” means specified, or described, in a compulsory recall notice or a supplementary notice.
- (9) The regulations may—
- (a) make provision about appeals against a decision to give a compulsory recall notice or a supplementary notice;
 - (b) make provision about the withdrawal of compulsory recall notices and supplementary notices (including provision about the effect of withdrawal).

76 Further provision about regulations under section 74

- (1) Regulations under section 74(1) may impose a duty on a manufacturer or distributor of a relevant product to notify the Secretary of State if the person has reason to consider that the product does not meet a relevant environmental standard.
- (2) The regulations may confer a power on the Secretary of State—
- (a) to require the provision of information by a manufacturer or distributor of a relevant product for the purpose of enabling the Secretary of State to consider whether, or how, to exercise a power to give a compulsory recall notice or a supplementary notice;
 - (b) to require the provision of samples of relevant products by such a manufacturer or distributor for that purpose.
- (3) The regulations may make provision for, about or connected with the enforcement of requirements imposed by or under the regulations including provision—
- (a) for, about or connected with the designation of a person to exercise functions in connection with the enforcement of the requirements (“the enforcement authority”);
 - (b) for the functions of the enforcement authority to be exercised on its behalf by persons authorised in accordance with the regulations;
 - (c) requiring the provision of information by a manufacturer or distributor of a relevant product for purposes connected with the enforcement of the requirements;
 - (d) requiring the provision of samples of relevant products by such a manufacturer or distributor for those purposes;

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- (e) for, about or connected with the imposition of financial penalties by the enforcement authority;
 - (f) for the amount of financial penalties to be determined by the enforcement authority in accordance with the regulations;
 - (g) for such a determination to be made by reference to factors specified in the regulations which may include, for example, the turnover of a business or the costs of complying with the requirement being enforced (and the regulations may provide that the amount of a financial penalty may exceed the amount of those costs);
 - (h) about appeals against the imposition of a financial penalty.
- (4) The regulations may confer powers on the enforcement authority—
- (a) to enter the premises of a manufacturer or distributor of a relevant product;
 - (b) to take documents or records from those premises (or make copies of such documents or records);
 - (c) to take samples of relevant products found on those premises,
- where the authority has reasonable grounds for suspecting that the manufacturer or distributor has failed to comply with a requirement imposed by or under the regulations.
- (5) The regulations may make provision about warrants in connection with any power conferred by virtue of subsection (4).

77 **Interpretation of sections 74 to 76**

In sections 74 to 76—

- “compulsory recall notice” has the meaning given by section 75(2);
- “distributor” has the meaning given by regulations under section 74(1), but may only include a person acting in the course of business;
- “manufacturer” has the meaning given by regulations under section 74(1) which may define that term by reference (in particular) to—
 - (a) a person’s involvement in the manufacture of a relevant product, or
 - (b) a person’s relationship with a person involved in the manufacture of a relevant product;
- “relevant environmental standard” has the meaning given by section 74(4);
- “relevant product” has the meaning given by section 74(2);
- “supplementary notice” has the meaning given by section 75(6).