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## STATUTORY INSTRUMENTS

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# 2019 No. 458

## The Environment (Amendment etc.) (EU Exit) Regulations 2019

### PART 2

#### Amendment of primary legislation

#### The Environment Act 1995

- 3.—(1) The Environment Act 1995 <sup>M1</sup> is amended as follows.
- (2) In section 40 <sup>M2</sup>—
- (a) in subsection (2)—
    - (i) in the opening words, omit “for the implementation of”;
    - (ii) for paragraph (a) substitute—
      - “(a) for securing that any retained EU obligation is met, or”;
    - (iii) in paragraph (b), at the beginning insert “ for the implementation of”;
  - (b) in subsection (4)—
    - (i) in the opening words, omit “for the implementation of”;
    - (ii) for paragraph (a) substitute—
      - “(a) for securing that any retained EU obligation is met, or”;
    - (iii) in paragraph (b), at the beginning insert “ for the implementation of”.
- (3) In section 41 <sup>M3</sup>—
- (a) in subsection (1)—
    - (i) paragraph (c) is omitted (as it applies in relation to England and as it applies in relation to Wales);
    - (ii) after paragraph (c) insert—
      - “(ca) as a means of recovering costs incurred by it in performing functions conferred by the Hazardous Waste (England and Wales) Regulations 2005, the Agency may require the payment to it of such charges as may from time to time be prescribed;
      - (cb) as a means of recovering costs incurred by it in performing functions conferred by the Hazardous Waste (Wales) Regulations 2005, the Natural Resources Body for Wales may require the payment to it of such charges as may from time to time be prescribed;”;
    - (iii) in paragraph (f) as it applies to England and Wales, for the words from “regulations made for the purposes of” to “(as amended from time to time)” substitute “ retained EU law which implemented Council Directive 2006/117/Euratom on the supervision

and control of shipments of radioactive waste and spent fuel (as it had effect immediately before [<sup>F1</sup>IP completion day]) ”;

- (iv) in paragraph (g), for the words from “regulations made for the purpose of” to “as amended from time to time,” substitute “ retained EU law which implemented Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators (as it had effect immediately before [<sup>F2</sup>IP completion day]) ”;

- (v) after paragraph (k) insert—

“(l) as a means of recovering costs incurred by it in performing functions conferred by Regulation (EC) No 1005/2009 on substances that deplete the ozone layer, the Agency, the Natural Resources Body for Wales or SEPA may require the payment to it of such charges as may from time to time be prescribed;

(m) as a means of recovering costs incurred by it in performing functions conferred by Regulation (EU) No 517/2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006, the Agency, the Natural Resources Body for Wales or SEPA may require the payment to it of such charges as may from time to time be prescribed;”;

- (b) in subsection (2)(g), for “obligations of the United Kingdom under the EU Treaties” substitute “ retained EU obligation ”.

- (4) In section 41A(1) <sup>M4</sup>, for paragraph (a) substitute—

“(a) as a means of recovering costs incurred by it in performing functions conferred under or by virtue of—

(i) the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I. 2005/925) <sup>M5</sup>,

(ii) the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 (S.I. 2010/1996) <sup>M6</sup>;

(iii) the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038) <sup>M7</sup>.”

- (5) In section 56(1) <sup>M8</sup>—

- (a) in the definition of “environmental licence” in relation to an appropriate agency—

(i) in paragraph (aa)(i), for “regulations made for the purpose of implementing the EU ETS Directive” substitute “ the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I. 2005/925) and the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038) ”;

(ii) in paragraph (h), for “any provision which gives effect in England and Wales to” substitute “ retained EU law which, in England and Wales, implemented ”;

- (b) in the definition of “environmental licence” in relation to SEPA, in paragraph (ja), for the words from “or accumulators to” to the end, substitute “ (including accumulators) as defined in regulation 2 of those Regulations, and where those batteries have been collected in accordance with Article 8 of Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators ”;

- (c) omit the definition of “the EU ETS Directive”.

- (6) In section 80(2)—

- (a) in the opening words, omit “implementing”;

- (b) for paragraph (a) substitute—

- “(a) securing that any retained EU obligation is met, or”;
  - (c) in paragraph (b), at the beginning insert “ the implementation of ”.
- (7) In section 85(5)—
  - (a) in the opening words, omit “for the implementation of”;
  - (b) for paragraph (a) substitute—
    - “(a) for securing that any retained EU obligation is met, or”;
  - (c) in paragraph (b), at the beginning insert “ for the implementation of ”.
- (8) In section 86(8)—
  - (a) in the opening words, omit “for the implementation of”;
  - (b) for paragraph (a) substitute—
    - “(a) for securing that any retained EU obligation is met, or”;
  - (c) in paragraph (b), at the beginning insert “ for the implementation of ”.
- (9) In section 87(1)(b)—
  - (a) omit “, implementing”;
  - (b) for sub-paragraph (i) substitute—
    - “(i) securing that any retained EU obligation is met, or”;
  - (c) in sub-paragraph (ii), at the beginning insert “ the implementation of any ”.
- (10) In section 93(3)(a), for “obligations of the United Kingdom under the EU Treaties” substitute “retained EU obligations”.
- (11) In section 94(2)(a)(i), for “obligations of the United Kingdom under the EU Treaties” substitute “retained EU obligations”.
- (12) In section 108(15) <sup>M9</sup>—
  - (a) in the definition of “pollution control functions” in relation to the Agency, the Natural Resources Body for Wales or SEPA, for paragraph (m) substitute—
    - “EU-derived domestic legislation (as defined by section 2 of the European Union (Withdrawal) Act 2018) to the extent that it relates to pollution;”;
  - (b) in the definition of “pollution control functions” in relation to a local enforcing authority, for paragraph (c) substitute—
    - “by or under EU-derived domestic legislation (as defined by section 2 of the European Union (Withdrawal) Act 2018) to the extent that it relates to pollution;”.
- (13) In section 111(5) <sup>M10</sup>, for the definition of “relevant regulations” substitute—  
““relevant regulations” means—
  - (a) the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I. 2005/925);
  - (b) the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 (S.I. 2010/1966);
  - (c) the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038).”.
- (14) In section 122—
  - (a) for subsection (3) substitute—
    - “(3) Subsections (4) and (5) apply to any direction which is—
      - (a) given to—

- (i) the Agency or SEPA under any provision of this Act or any other enactment, or
- (ii) any other body or person under any provision of this Act, and
- (b) to any extent given—
  - (i) before [<sup>F3</sup>IP completion day], for the implementation of any obligation of the United Kingdom under the EU Treaties, or
  - (ii) for securing that any retained EU obligation is met.”;
- (b) in subsection (4), for the words from “the obligations mentioned” to “continue to be implemented” substitute “any relevant retained EU obligation continues to be met”.

- F1** Words in [reg. 3\(3\)\(a\)\(iii\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), [12\(2\)\(a\)](#)
- F2** Words in [reg. 3\(3\)\(a\)\(iv\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), [12\(2\)\(a\)](#)
- F3** Words in [reg. 3\(14\)\(a\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), [12\(2\)\(b\)](#)

#### Commencement Information

- I1** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see reg. 1(1)

#### Marginal Citations

- M1** [1995 c. 25](#).
- M2** Section 40(2) and (4) was amended by [S.I. 2011/1043](#).
- M3** In section 41, subsection (1)(c) was amended for England and Wales by [S.I. 2005/894](#), 2005/1806, 2011/988, 2013/755, 2018/942; subsection (1)(f) was amended for England and Wales by [S.I. 2008/3087](#), 2013/755; subsection (1)(g) was amended by [S.I. 2009/890](#), 2011/2911, 2013/755; subsection (1)(k) was inserted by [S.I. 2017/1200](#); subsection (2)(g) was amended for Scotland by [S.S.I. 2003/235](#) and [S.I. 2011/1043](#).
- M4** Section 41A(1) was inserted by [S.I. 2005/925](#) and amended by [S.I. 2012/2788](#), 2013/1821 and 3135.
- M5** [S.I. 2005/925](#), revoked with savings by [S.I. 2012/3038](#).
- M6** [S.I. 2010/1996](#), revoked with savings by [S.I. 2012/3038](#).
- M7** [S.I. 2012/3038](#), to which there are amendments not relevant to these Regulations.
- M8** Section 56(1) was amended by [S.I. 2011/988](#), 2012/2788, 2013/755, 2016/475 and [S.S.I. 2009/247](#); there are other amending instruments but none is relevant.
- M9** Section 108(15) was amended by [S.I. 2013/755](#); there are other amending instruments but none is relevant.
- M10** Section 111(5) was amended by [S.I. 2012/2788](#); there are other amending instruments but none is relevant.

**Changes to legislation:**

There are currently no known outstanding effects for the The Environment (Amendment etc.) (EU Exit) Regulations 2019, Section 3.