

Analysis of the Environment Act 2021

ACNA 4004

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1. Introduction

1.1 Why is environmental legislation important?

The United Kingdom has a long and storied history when it comes to environmental protection and the resulting legislation. In England, occurrences such as the 'Great Stink', which involved the amounts of sewage in the River Thames in London interacting badly with the hot summer of 1858 to produce a foul smell, led to the Metropolitan Board of Works building a new sewer system (Historic England, 2023). As described by the Met Office (n.d), polluted fog, known as smog, was another issue that plagued London after the Industrial Revolution, with the most notorious example being the Great Smog of 1952, pictured left in Figure 1, which was bad enough that around 4,000 people are thought to have died as a result of it. After this, the Clean Air Acts of 1956 and 1968 and following legislation prevented any further smogs of that level to occur.

Here in Wales, the infamous Aberfan disaster, where coal spoil heaps collapsed above Aberfan village causing the deaths of 144 people (British Geological Survey, 2013), prompted the development of new legislation around the disposal of waste from mining, such as the Mines and Quarries (Tips) Act 1969 (The Geological Society, 2012).

It can be seen that environmental protection legislation plays an important role in preserving air and water quality, as well as maintaining biodiversity and ensuring safe waste disposal. This is important for human health and comfort as well as continued preservation of nature.

1.2 What is the Environment Act 2021?

The Environment Act 2021 was first introduced to the House of Commons as the Environment Bill in 2020, and finished making its way through parliament and obtained Royal Assent in 2021. It aims to create an environmental law framework for the United Kingdom, as a large amount of the previous legislation regarding the environment originated from the European Union (UK Parliament, 2017 & Local Government Association, 2023).

It sets out five principles by which it intends to function: that environmental protection must be integrated into policy from its creation, that environmental damage should be prevented, that precautionary measures should be taken against environmental damage, that damage should be rectified at its origin, and that the polluter should pay for damage.

The Act proceeds to focus on four main aspects of the environment. These are air quality, water, biodiversity, and waste reduction and efficiency. It also describes the creation of the Office for Environmental Protection, which is an administrative body that mainly operates in England and

Northern Ireland to ensure that organisations comply with environmental laws, and to monitor and assess the implementation of environmental laws (The Office for Environmental Protection, n.d.). Finally, it lays out a number of “conservation covenants” which are agreements between landowners and governing bodies saying that the landowners perform or not perform certain actions regarding their management of the land.

2. Aims of the Act

2.1 Waste Management and Resource Efficiency

The Act addresses various areas of waste management and efficient use of resources. First, it addresses producer responsibility, giving relevant national authorities the power to create legislation to decide what obligations that a producer has, and the producers’ responsibility for costs of disposal. It goes on to address resource efficiency, giving the national authorities ability to legislate around this topic. However, under this section, it is stated that any provisions made by Scotland, Wales and Northern Island must fall under legislative competence of each respective government. Legislative competence refers to the scope of the power that each government has to legislate their own rules under Westminster, such as Senedd Cymru’s devolved powers.

Charges for single use items and carrier bags are also part of this section of the Act, and a number of prospective regulations surrounding domestic and nondomestic waste in England have also been proposed. Disposal of hazardous waste in England, Wales and Northern Island is discussed, followed by amendments to the Environmental Protection Act 1990’s sections on waste exportation and rules about how regulations can be enacted.

2.2 Air Quality

The air quality section of the Act is relatively small, compared to other areas. It first gives some amendments to the Clean Air Act 1993’s section regarding smoke controlled areas, such as adding the ability to create penalties for emitting smoke in such areas in England, and to allow exempted fireplaces to be listed in Wales.

The next part of the Act is prospective, regarding the recalling of motor vehicles that do not comply with environmental legislation. This would allow the Secretary of State to issue compulsory recall notices on mechanically powered vehicles or components that do not meet environmental regulations.

2.3 Water Management

In this section, storm overflow, sewerage, water quality and land drainage are all covered.

Storm overflow is an important part of water management to get correct, as it involves the release of excess wastewater into the sea. Blockages in pipes can cause overflows during dry periods, which are therefore not diluted by rainwater, causing contamination of the nearby environment (Natural Resources Wales, 2022). The Act states that in England, storm overflows should be reduced, and that negative impacts of storm overflow discharges should be minimised. In addition, sewerage services must provide annual reports containing details of storm overflows that year. Still as a prospective, it is also suggested that sewerage services in England must publicly declare when and where storm overflows have taken place, and monitor water quality after a storm overflow has taken place.

The Secretary of State in England, the Welsh Ministers in Wales and the Department of Agriculture, Environment, and Rural Affairs in Northern Island are all given powers to make regulations regarding what chemicals are present in groundwater and surface water, and to create standards to lay out how much of different substances are allowed to be present, in their respective areas of control.

Water UK has suggested that a focus on domestic water efficiency and reduction of single use plastics, which are a major water pollutant, comprising 80% of marine debris (IUCN, 2021). They suggest, amongst other things, changing building regulations to create more water efficient buildings, and using the “polluter pays” principle set out by the Environment Act 2021 to incentivise producers of wet wipes to modify designs of their products so they will break down more easily, causing fewer blockages (Water UK, 2021).

Amendments to several Land Drainage Acts are then made regarding the valuation of land, and it is stated that His Majesty’s Revenue and Customs may disclose information they hold regarding the revenue and customs of a piece of land to a “qualifying person”, such as a drainage board or a Welsh minister.

2.4 Biodiversity

A crucial part of the prevention of environmental damage principle laid out at the beginning of this act is protecting biodiversity, as the ecosystems that the concept of biodiversity is commonly accepted to refer to provide a wide range of vital ecosystem services that all organisms benefit from, directly or indirectly, such as nutrient cycling, water purification, flood prevention and food production (European Commission, 2022).

The Act introduces a range of legislation relating to the protection of biodiversity, primarily regarding England. A change that should be noted is an amendment to the Natural Environment and Rural Communities Act 2006, in Section 40, duty to conserve biodiversity, where the words

“and enhance” are added after “conserve”. The Act legislates that conserving biodiversity is not enough alone, and that enhancement should also be an aim.

Guidance is provided towards local and special conservation strategies in England, with much use of strategies in the biodiversity section over all. Some stricter rules are implemented towards local authorities needing to consult members of the public prior to removing street trees, unless the tree is dangerous or dead.

3. Conclusion

Legislation plays an important role in preventing and repairing the environment, and a lot remains to be seen about the Environment Act 2021 and how effective it will be. Different parts of the Act apply to different countries within the United Kingdom, leaving the setting of targets and regulations up to different national authorities, with much of the Act applying to England alone. Future development of the Act and legislation created under it could greatly benefit the environment, but many, such as Burns (2023) suggest that unless the government ministers are fully committed to backing it, it may result in lack of ambition and lapses in quality. With such a wide scope contained under a single act, it must be closely monitored how different aspects of the Act are carried out.

4. Reference List

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