



Control of Pollution Act 1974

1974 CHAPTER 40

PART I

WASTE ON LAND

Modifications etc. (not altering text)

- C1** Part I (ss.1–30): power to transfer functions conferred by [Local Government Act 1985](#) (c. 51, SIF 81:1), [s. 10\(4\)](#)
Pt. I (ss. 1-30) applied (with modifications) (1.5.1994) by [S.I. 1994/1056](#), regs. 1(3), 19, [Sch. 4 para. 10](#) (as amended (15.5.2006) by [S.I. 2006/937](#), reg. 6(10)(b))
- C2** Pt. I (ss. 1-30) modified (1.2.1996) by [1995 c. 25, s. 5\(5\)\(c\)](#) (with ss. 115, 117); [S.I. 1996/186, art. 2](#)
Pt. I modified (1.4.1996) by [1995 c. 25, s. 33\(5\)\(b\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Waste disposal arrangements

^{F1}

Textual Amendments

- F1** S. 1 repealed (1.5.1994) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), s. 162(2), [Sch. 16 Pt. II](#); [S.I. 1994/1096, art. 2\(1\)](#)

Waste disposal plans

^{F2}

Status: Point in time view as at 11/08/2004.

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Textual Amendments

- F2** S. 2 repealed (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. II, S.I. 1991/1319](#), art. 2

Licensing of disposal of controlled waste.

[^{F3}3] **Prohibition of unlicensed disposal of waste.**

- (1) Except in prescribed cases, a person shall not—
- (a) deposit controlled waste on any land or cause or knowingly permit controlled waste to be deposited on any land; or
 - (b) use any plant or equipment, or cause or knowingly permit any plant or equipment to be used, for the purpose of disposing of controlled waste or of dealing in a prescribed manner with controlled waste,
- unless the land on which the waste is deposited or, as the case may be, which forms the site of the plant or equipment is occupied by the holder of a licence issued in pursuance of section 5 of this Act (in this Part of this Act referred to as a “disposal licence”) which authorises the deposit or use in question and the deposit or use is in accordance with the conditions, if any, specified in the licence.
- (2) Except in a case falling within the following subsection, a person who contravenes any of the provisions of the preceding subsection shall, subject to subsection (4) of this section, be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.
- (3) A person who contravenes paragraph (a) of subsection (1) of this section in a case where—
- (a) the waste in question is of a kind which is poisonous, noxious or polluting; and
 - (b) its presence on the land is likely to give rise to an environmental hazard; and
 - (c) it is deposited on the land in such circumstances or for such a period that whoever deposited it there may reasonably be assumed to have abandoned it there or to have brought it there for the purpose of its being disposed of (whether by himself or others) as waste,
- shall, subject to the following subsection, be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding £400 or both or, on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.
- (4) It shall be a defence for a person charged with an offence under this section to prove—
- (a) that he—
 - (i) took care to inform himself, from persons who were in a position to provide the information, as to whether the deposit or use to which the charge relates would be in contravention of subsection (1) of this section, and
 - (ii) did not know and had no reason to suppose that the information given to him was false or misleading and that the deposit or use might be in contravention of that subsection; or

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- (b) that he acted under instructions from his employer and neither knew nor had reason to suppose that the deposit or use was in contravention of the said subsection (1); or
- (c) in the case of an offence of making, causing or permitting a deposit or use otherwise than in accordance with conditions specified in a disposal licence, that he took all such steps as were reasonably open to him to ensure that the conditions were complied with; or
- (d) that the acts specified in the charge were done in an emergency in order to avoid danger to the public and that, as soon as reasonably practicable after they were done, particulars of them were furnished to the disposal authority in whose area the acts were done.

[In this section and subsections (5) and (6) of the following section “land” includes land^{F4}(5) covered with waters where the land is above the low-water mark of ordinary spring tides and the waters are not inland waters (within the meaning of Chapter I of Part III of the Water Act 1989).]]

Textual Amendments

- F3** S. 3 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 162, [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)
- F4** S. 3(5) inserted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 48\(2\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), [58](#)

Modifications etc. (not altering text)

- C3** Ss. 3-10: functions transferred (12.10.1995) by [1995 c. 25, s. 21\(1\)\(c\)](#) (with ss. 7(6), 115, 117); S.I. 1995/2649, [art. 2](#)
- C4** S. 3(1) excluded (E.W.) (1.4.1991) and (S.) (1.4.1992) by S.I. 1991/508, [reg. 2\(1\)](#).
- C5** S. 3(1) modified (27.7.1999) by [1999 c. 24, s. 4\(6\)\(a\)](#)

[^{F5}4 Provisions supplementary to s. 3.

- (1) Where activities for which a disposal licence is required apart from this subsection have been carried on on any land during the period of six months ending with the date when subsection (1) of the preceding section comes into force, nothing in that subsection shall apply to the carrying on of those activities on the land during the period of one year beginning with that date and, where at the end of that period an appeal is pending in pursuance of section 10 of this Act against a rejection of an application for a disposal licence in respect of those activities on the land or against a decision to issue such a licence which specifies conditions, until the appeal is determined.
- (2) Nothing in subsection (1) of the preceding section applies to household waste from a private dwelling which is deposited, disposed of or dealt with within the curtilage of the dwelling by or with the permission of the occupier of the dwelling.
- (3) It shall be the duty of the Secretary of State, in exercising the power conferred on him by subsection (1) of the preceding section to prescribe excepted cases, to have regard in particular to the expediency of excluding from the controls imposed by virtue of that subsection—

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- (a) any deposits which are small enough to be properly excluded from those controls or are of such a temporary nature that they may be so excluded;
- (b) any uses of plant or equipment which are innocuous enough to be so excluded;
- (c) cases for which adequate controls are provided by an enactment other than that subsection;

and without prejudice to the generality of section 104(1)(a) of this Act the said power may be so exercised as to prescribe different excepted cases for different areas.

[References to land in the preceding section and this section include references to water ^{F6}(4) which covers any land above low-water mark of ordinary spring tides and is not water [^{F7}in a stream]][^{F7}in inland waters] within the meaning of Part II of this Act.]

- (5) For the purposes of subsection (3) of the preceding section—
 - (a) the presence of waste on land gives rise to an environmental hazard if the waste has been deposited in such a manner or in such a quantity (whether that quantity by itself or cumulatively with other deposits of the same or different substances) as to subject persons or animals to a material risk of death, injury or impairment of health or as to threaten the pollution (whether on the surface or underground) of any water supply; and
 - (b) the fact that waste is deposited in containers shall not of itself be taken to exclude any risk which might be expected to arise if the waste were not in containers.
- (6) In the case of any deposit of waste, the degree of risk relevant for the purposes of the preceding subsection shall be assessed with particular regard—
 - (a) to the measures, if any, taken by the person depositing the waste, or by the owner or occupier of the land, or by others, for minimising the risk; and
 - (b) to the likelihood of the waste, or any container in which it is deposited, being tampered with by children or others.

Textual Amendments

- F5** S. 4 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990](#) (c. 43), s. 162, [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)
- F6** S. 4(4) repealed (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)
- F7** Words “in inland waters” substituted (S.) for “in a stream” by [Water Act 1989](#) (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)–(10), 190, 193(1), Sch. 23 para. 2, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), [58](#)

Modifications etc. (not altering text)

- C6** Ss. 3-10: functions transferred (12.10.1995) by [1995 c. 25, s. 21\(1\)\(c\)](#) (with ss. 7(6), 115, 117); S.I. 1995/2649, [art. 2](#)

^{F8}5 Licences to dispose of waste.

- (1) An application for a disposal licence in respect of any land in the area of a disposal authority must be made in writing to the authority ^{F9}. . .

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- (2) A disposal licence shall not be issued for a use of land, plant or equipment for which planning permission is required in pursuance of [^{F10}the Town and Country Planning Act 1990] or, in Scotland, [^{F11}the Town and Country Planning (Scotland) Act 1997] unless such permission is in force; ^{F9} . . .
- (3) [^{F12}Where an application has been received] for a disposal licence for a use of land, plant or equipment for which such planning permission as aforesaid is in force, it shall be the duty of [^{F12}the appropriate Agency] not to reject the application unless [^{F12}that Agency] is satisfied that its rejection is necessary for the purpose of preventing pollution of water or danger to public health.
- (4) Where [^{F13}the appropriate Agency] proposes to issue a disposal licence, it shall be the duty of [^{F13}that Agency] before it does so—
- [^{F14}(a) to refer the proposal to any collection authority whose area includes any part of the relevant land; and]
- (b) to consider any representations about the proposal which, during the period of twenty-one days beginning with that on which the proposal is received by a body ^{F9} . . . mentioned in paragraph (a) of this subsection or during such longer period as [that Agency] and that body ^{F9} . . . agree in writing, [^{F13}that Agency] receives from that body ^{F9} . . . (including in particular any representations about the conditions which that body ^{F9} . . . considers should be specified in the licence);
- ^{F15} . . .
- ^{F16}(5) . . .
- (6) A person who, in an application for a disposal licence, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

Textual Amendments

- F8** S. 5 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 162, [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)
- F9** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 34 Pt. II](#)
- F10** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11\)](#), SIF 123:1, 2), s. 4, [Sch. 2 para. 31\(1\)](#)
- F11** Words in s. 5(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 23](#)
- F12** Words in s. 5(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 19(2)(a)(b) (Sch. 22 para. 19 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F13** Words in s. 5(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 19\(3\)\(a\)\(b\)\(d\)](#) (Sch. 22 para. 19 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F14** S. 5(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 19\(3\)\(c\)](#) (Sch. 22 para. 19 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

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- F15** Words following s. 5(4)(b) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 19(3)(e), **Sch. 24** (Sch. 22 para. 19 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); **S.I. 1996/186, art. 3**
- F16** S. 5(5) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 19(4), **Sch. 24** (Sch. 22 para. 19 *isprospectively* repealed by Sch. 24 of the same 1995 Act)(with ss. 7(6), 115, 117); **S.I. 1996/186, art. 3**

Modifications etc. (not altering text)

- C7** Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); **S.I. 1995/2649, art. 2**
- C8** S. 5(2) modified (E.W.) by **Town and Country Planning Act 1990 (c. 8), s. 191(7)(b)** (as substituted (25.11.1991 for specified purposes, 27.7.1992 otherwise) by **Planning and Compensation Act 1991 (c. 34), s. 10(1)** (with s. 84(5)); **S.I. 1991/2728, art. 2**; **S.I. 1992/1630, art. 2** (with art. 3)
- C9** S. 5(2) modified (S.) by **Town and Country Planning (Scotland) Act 1972 (c. 52), s. 90(7)(b)** (as substituted (10.8.1992 for specified purposes, 25.9.1992 otherwise) by **Planning and Compensation Act 1991 (c. 34), ss. 42(1), 84(2)** (with s. 84(5)); **S.I. 1992/1937, arts. 3, 4** (with art. 5))
S. 5(2) extended (27.5.1997) (S.) by 1997 c. 8, **ss. 150(7)(b), 278(2)**

[^{F17}6 Provisions supplementary to s. 5.

- (1) Provision may be made by regulations . . . ^{F18} as to the conditions specified in a disposal licence which shall be disregarded for the purposes of sections 3(1) and 31(2)(a) of this Act.
- (2) . . . ^{F18}, a disposal licence may include such conditions as [^{F19}the appropriate Agency] sees fit to specify in the licence; and without prejudice to the generality of the preceding provisions of this subsection, any such conditions may relate to—
- (a) the duration of the licence;
 - (b) the supervision by the holder of the licence of activities to which the licence relates;
 - (c) the kinds and quantities of waste which may be dealt with in pursuance of the licence or which may be so dealt with during a specified period, the methods of dealing with them and the recording of information relating to them;
 - (d) the precautions to be taken on any land to which the licence relates;
 - (e) the steps to be taken with a view to facilitating compliance with any conditions of such planning permission as is mentioned in subsection (2) of the preceding section;
 - (f) the hours during which waste may be dealt with in pursuance of the licence; and
 - (g) the works to be carried out, in connection with the land, plant or equipment to which the licence relates, before the activities authorised by the licence are begun or while they are continuing;

and it is hereby declared that a condition may require the carrying out of works or the doing of any other thing which [^{F19}that Agency] considers appropriate in connection with the licence notwithstanding that the licence holder is not entitled as of right to carry out the works or do the thing.

- (3) The holder of a disposal licence who without reasonable excuse contravenes a condition of the licence which in pursuance of regulations made by virtue of subsection (1) of this section is to be disregarded for the purposes mentioned in that subsection shall be guilty of an offence and liable on summary conviction to a fine not

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exceeding [^{F20}£400][^{F20}level 5 on the standard scale]; but no proceedings for such an offence shall be brought in England and Wales except by or with the consent of the Director of Public Prosecutions or by [^{F21}the Environment Agency].

- (4) It shall be the duty of [^{F22}the Environment Agency and of SEPA]—
- [^{F23}(a) to maintain a register containing copies of all disposal licences which are for the time being in force in respect of land in England and Wales or, as the case may be, Scotland;]
 - (b) to secure that the register is open to inspection . . . ^{F24} by members of the public free of charge at all reasonable hours; and
 - (c) to afford members of the public reasonable facilities for obtaining from [^{F22}that Agency], on payment of reasonable charges, copies of entries in the register.
- (5) If within the period of two months beginning with the date on which [^{F25}a duly made application for a disposal licence was received], or within such longer period as [^{F25}the appropriate Agency] and the applicant may at any time agree in writing, [^{F25}the appropriate Agency] has neither issued a licence in consequence of the application nor given notice to the applicant that [^{F25}that Agency] has rejected the application, [^{F25}that Agency] shall be deemed to have rejected the application.
- (6) References to land in the preceding section and this section include such water as is mentioned in section 4(4) of this Act.

Textual Amendments

- F17** S. 6 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 162, [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)
- F18** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 34 Pt. II](#)
- F19** Words in s. 6(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 20\(2\)\(a\)\(b\)](#) (Sch. 22 para. 20 *is prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F20** Words “level 5 on the standard scale” substituted (11.4.1983) for words “£400” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))
- F21** Words in s. 6(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 20\(3\)](#) (Sch. 22 para. 20 *is prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F22** Words in s. 6(4) and (4)(c) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 20\(4\)\(a\)](#) and (c) (Sch. 22 para. 20 *is prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F23** S. 6(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 20\(4\)\(b\)](#) (Sch. 22 para. 20 *is prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F24** Words in s. 6(4)(b) omitted (1.4.1996) by S.I. 1996/593, art. 3, [Sch. 2 para. 2](#)
- F25** Words in s. 6(5) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 20\(5\)\(a\)\(b\)\(c\)](#) (Sch. 22 para. 20 *is prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

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Modifications etc. (not altering text)

C10 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, s. 21(1)(c) (with ss. 7(6), 115, 117); S.I. 1995/2649, art. 2

[^{F267} Variation of conditions and revocation of licences.

- (1) While a disposal licence. . . ^{F27} is in force, then—
- (a) subject to any regulations in force by virtue of subsection (1) of the preceding section, [^{F28}the appropriate agency]] may—
 - (i) on its own initiative, serve a notice on the holder of the licence modifying the conditions specified in the licence to any extent which, in the opinion of [^{F28}that agency], is desirable and is unlikely to require unreasonable expenditure by the licence holder, and
 - (ii) on the application of the licence holder, serve a notice on him modifying the said conditions to the extent requested in the application;

and

 - (b) it shall be the duty of [^{F28}that agency] to serve a notice on the licence holder modifying the conditions specified in the licence—
 - (i) subject to subsection (4) of this section, to the extent which in the opinion of the authority is required for the purpose mentioned in section 9(1)(a) of this Act, and
 - (ii) to the extent required by any regulations in force as aforesaid.
- (2) Subsection (4) . . . ^{F29} of section 5 of this Act shall with the necessary modifications apply to a proposal to serve a notice in pursuance of paragraph (a) or paragraph (b) (i) of the preceding subsection as it applies to a proposal to issue a disposal licence, except that—
- ^{F30}(a) the Environment Agency or SEPA, as the case may be, may postpone the reference in pursuance of the said subsection (4) so far as it considers that by reason of an emergency it is appropriate to do so; and
 - (b) the Environment Agency or SEPA, as the case may be, may disregard any collection authority for the purposes of the preceding provisions of this subsection in relation to a modification which, in the opinion of that Agency, will not affect that authority.]
- (3) Section 5(6) of this Act shall apply to an application in pursuance of subsection (1)(a) (ii) of this section as it applies to an application for a disposal licence.
- (4) Where a disposal licence. . . ^{F31} is in force and it appears to [^{F32}the appropriate Agency]—
- (a) that the continuation of activities to which the licence relates would cause pollution of water or danger to public health or would be so seriously detrimental to the amenities of the locality affected by the activities that the continuation of them ought not to be permitted; and
 - (b) that the pollution, danger or detriment cannot be avoided by modifying the conditions specified in the licence,
- it shall be the duty of [^{F32}that Agency] by a notice served on the holder of the licence to revoke the licence.

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- (5) A notice served in pursuance of this section shall state the time at which the modification or revocation in question is to take effect.

Textual Amendments

- F26** S. 7 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 162, [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)
- F27** Words in s. 7(1) repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), [Sch. 22 para. 21\(2\)\(a\)](#), [Sch. 24](#) (Sch. 22 para. 21 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F28** Words in s. 7(1) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 21\(2\)\(b\)](#) (Sch. 22 para. 21 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F29** Words in s. 7(2) repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), [Sch. 22 para. 21\(3\)\(a\)](#), [Sch. 24](#) (Sch. 22 para. 21 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F30** S. 7(2)(a)(b) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 21\(3\)\(b\)](#) (Sch. 22 para. 21 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F31** Words in s. 7(4) repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), [Sch. 22 para. 21\(4\)\(a\)](#), [Sch. 24](#) (Sch. 22 para. 21 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F32** Words in s. 7(4) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 21\(4\)\(b\)](#) (Sch. 22 para. 21 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

Modifications etc. (not altering text)

- C11** S. 7 modified (27.7.1999) by [1999 c. 24](#), s. 4(6)(b)
- C12** Ss. 3-10: functions transferred (12.10.1995) by [1995 c. 25](#), s. 21(1)(c) (with ss. 7(6), 115, 117); S.I. 1995/2649, [art. 2](#)

[^{F33}8] **Transfer and relinquishment of licences.**

- (1) The holder of a disposal licence may, after giving notice to [^{F34}the appropriate Agency]] that he proposes to transfer it on a day specified in the notice to a person whose name and address are so specified, transfer the licence to that person; but a licence in respect of which such a notice is given shall cease to have effect on the expiration of the period of ten weeks beginning with the date on which [^{F34}that Agency] receives the notice if during the period of eight weeks beginning with that date [^{F34}that Agency] gives notice to the transferee that it declines to accept him as the holder of the licence.
- (2) If by operation of law the right of the holder of a disposal licence to occupy the relevant land is transferred to some other person, that person shall be deemed to be the holder of the licence during the period of ten weeks beginning with the date of the transfer.
- (3) Except as provided by the preceding provisions of this section, references in this Part of this Act to the holder of a disposal licence are references to the person to whom the licence was issued.

Status: Point in time view as at 11/08/2004.

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- (4) The holder of a disposal licence may cancel the licence by delivering it to ^{F35}the appropriate Agency] and giving notice to ^{F35}that Agency] that he no longer requires the licence.

Textual Amendments

- F33** S. 8 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 162, [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)
- F34** Words in s. 8(1) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 22\(2\)](#) (Sch. 22 para. 22 *is prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F35** Words in s. 8(4) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 22\(3\)](#) (Sch. 22 para. 22 *is prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

Modifications etc. (not altering text)

- C13** Ss. 3-10: functions transferred (12.10.1995) by [1995 c. 25, s. 21\(1\)\(c\)](#) (with ss. 7(6), 115, 117); S.I. 1995/2649, [art. 2](#)

^{F369} Supervision of licensed activities.

- (1) While a disposal licence is in force it shall be the duty of ^{F37}the appropriate Agency]] to take the steps needed—
- for the purpose of ensuring that the activities to which the licence relates do not cause pollution of water or danger to public health or become seriously detrimental to the amenities of the locality affected by the activities; and
 - for the purpose of ensuring that the conditions specified in the licence are complied with.
- (2) For the purpose of performing the duty which is imposed on ^{F38}the Environment Agency or SEPA, as the case may be,] by the preceding subsection in connection with a licence, any officer of ^{F38}that Agency] authorised in writing in that behalf by ^{F38}that Agency] may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the relevant land and on any plant or equipment to which the licence relates.
- (3) Where ^{F39}the Environment Agency or SEPA] incurs any expenditure by virtue of the preceding subsection, ^{F40}it] may recover the amount of the expenditure from the holder of the disposal licence in question, or if the licence has been revoked or cancelled from the last holder of it, except where the holder or last holder of the licence shows that there was no emergency requiring any work or except such of the expenditure as he shows was unnecessary.
- (4) Where it appears to ^{F41}the appropriate Agency] that a condition specified in a disposal licence . . . ^{F42}is not being complied with, then, without prejudice to any proceedings in pursuance of section 3 or 6(3) of this Act in consequence of any failure to comply with the condition, ^{F41}that Agency] may—
- serve on the licence holder a notice requiring him to comply with the condition before a time specified in the notice; and

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- (b) if in the opinion of [^{F41}that agency] the licence holder has not complied with the condition by that time, serve on him a further notice revoking the licence at a time specified in the further notice.

Textual Amendments

- F36** S. 9 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 162, [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)
- F37** Words in s. 9(1) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 23\(2\)](#) (Sch. 22 para. 23 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F38** Words in s. 9(2) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 23\(3\)](#) (Sch. 22 para. 23 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F39** Words in s. 9(3) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 23\(4\)\(a\)](#) (Sch. 22 para. 23 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F40** Word in s. 9(3) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 23\(4\)\(b\)](#) (Sch. 22 para. 23 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F41** Words in s. 9(4) substituted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 23\(5\)\(a\)\(c\)](#) (Sch. 22 para. 23 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)
- F42** Words in s. 9(4) repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), [Sch. 22 para. 23\(5\)\(b\)](#), [Sch. 24](#) (Sch. 22 para. 23 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

Modifications etc. (not altering text)

- C14** S. 9 modified (27.7.1999) by [1999 c. 24](#), s. 4(6)(c)
- C15** Ss. 3-10: functions transferred (12.10.1995) by [1995 c. 25](#), s. 21(1)(c) (with ss. 7(6), 115, 117); S.I. 1995/2649, [art. 2](#)

[^{F43}10 Appeals to Secretary of State from decisions with respect to licences.

(1) Where—

- (a) an application for a disposal licence or a modification of a disposal licence is rejected; or
- (b) a disposal licence which specifies conditions is issued; or
- (c) the conditions specified in a disposal licence are modified; or
- (d) a disposal licence is revoked,

the applicant for the licence or, as the case may be, the holder or last holder of it may, in accordance with regulations, appeal from the decision in question to the Secretary of State; and where on such an appeal the Secretary of State determines that the decision is to be altered it shall be the duty of [^{F44}the appropriate Agency]] to give effect to the determination.

- (2) While an appeal in pursuance of the preceding subsection is pending in a case falling within paragraph (c) or (d) of that subsection, the decision in question shall, subject to the following subsection, be ineffective; and if the appeal is dismissed or withdrawn

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the decision shall be effective again from the end of the day on which the appeal is dismissed or withdrawn.

- (3) The preceding subsection shall not apply ^{F45}if the decision in question is a decision] as respects which the notice relating to the decision which was served on the holder of the relevant licence in pursuance of section 7 or section 9(4)(b) of this Act includes a statement that ^{F45}in the opinion of the body making the decision in question] it is necessary for the purpose of preventing pollution of water or danger to public health that the preceding subsection should not apply to the decision; but if on the application of the holder or former holder of the relevant licence the Secretary of State determines that ^{F45}that body acted] unreasonably in including such a statement in the said notice, then—
 - (a) if the appeal in question is still pending at the end of the day on which the determination is made, the preceding subsection shall apply to the decision from the end of that day; and
 - (b) the holder or former holder of the licence shall be entitled to recover compensation from ^{F45}the appropriate Agency] in respect of any loss suffered by him in consequence of the statement;

and any dispute as to a person’s entitlement to compensation in pursuance of paragraph (b) of this subsection or as to the amount of the compensation shall be determined by arbitration.

Textual Amendments

F43 S. 10 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43\), s. 162, Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)

F44 Words in s. 10(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 24\(2\)](#) (Sch. 22 para. 24 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S. I. 1996/186, [art. 3](#)

F45 Words in s. 10(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 24\(3\)](#) (Sch. 22 para. 24 *prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

Modifications etc. (not altering text)

C16 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, [s. 21\(1\)\(c\)](#) (with ss. 7(6), 115, 117); S.I. 1995/2649, [art. 2](#)

^{F46}11

Textual Amendments

F46 S. 11(1)-(11) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), [Sch. 22 para. 25, Sch. 24](#) (Sch. 22 para. 25 *isprospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

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Collection and disposal of controlled waste

[^{F47}12 Collection of waste.

- (1) It shall be the duty of each collection authority—
 - (a) subject to subsection (3) of this section, to arrange for the collection of all household waste in its area except waste—
 - (i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and
 - (ii) as to which the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste; and
 - (b) if requested by the occupier of premises in its area to collect any commercial waste from the premises, to arrange for the collection of the waste.
- (2) Each [^{F48}English county disposal authority]] and each collection authority may, if requested by the occupier of premises in its area to collect any industrial waste from the premises, arrange for the collection of the waste; but an English collection authority shall not be entitled to exercise the powers conferred on it by this subsection except with the consent of the relevant disposal authority.
- (3) No charge shall be made for the collection of household waste in pursuance of the preceding provisions of this section except in prescribed cases; and in any of those cases—
 - (a) the duty to arrange for the collection of the waste in question which is imposed on the collection authority by subsection (1)(a) of this section shall not arise until a person who controls the waste requests the authority to collect it; and
 - (b) the authority may recover a reasonable charge for the collection of the waste from the person who made the request in respect of it in pursuance of the preceding paragraph.
- (4) A person at whose request waste other than household waste is collected in pursuance of the preceding provisions of this section shall be liable to pay a reasonable charge for the collection and disposal of the waste to the authority which arranged for its collection; and it shall be the duty of that authority to recover the charge unless in the case of a charge in respect of commercial waste the authority considers it inappropriate to do so.
- (5) It shall be the duty of each collection authority—
 - (a) to make such arrangements for the emptying of privies serving one or more private dwellings in its area as the authority considers appropriate and to make no charge for emptying done in pursuance of the arrangements;
 - (b) if requested by the person who controls a cesspool serving only one or more private dwellings in its area to empty the cesspool, to remove such of the contents of the cesspool as the authority considers appropriate on payment if the authority so requires of a reasonable charge;and a collection authority may, if requested by the person who controls any other privy or cesspool in its area to empty the privy or cesspool, remove matter from it on payment as aforesaid.

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In this subsection “privy” means a latrine which has a moveable receptacle for faecal matter and “cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings.

- (6) An [^{F49}English county disposal authority] and any collection authority may—
- (a) construct, lay and maintain, within or outside its area, pipes and associated works for the purpose of collecting waste in pursuance of this section;
 - (b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works connecting with pipes provided by the authority in pursuance of the preceding paragraph.
- (7) Parts V and VI of Schedule 3 to the ^{M1}Water Act 1945 (which relate to the laying of mains and the breaking up of streets) shall apply in relation to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection as those Parts apply in relation to water mains and pipes but as if—
- (a) sections 19(4) and 21 of that Schedule (which relate to the erection of street notices and the laying of service pipes) were omitted, and in section 22 of that Schedule the words “which they are authorised to lay” were omitted; and
 - (b) for any reference to undertakers or limits of supply there were substituted respectively a reference to the authority in question and the area of the authority; and
 - (c) for the reference to the special Act in section 25(4) of that Schedule there were substituted a reference to this subsection;
- and the ^{M2}Pipe-lines Act 1962 shall not apply to pipes or associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection.
- (8) A collection authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with household waste before it is collected under arrangements made by the authority in pursuance of subsection (1)(a) of this section; and an [^{F49}English county disposal authority] and any collection authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with commercial or industrial waste before it is collected under arrangements made by the authority in pursuance of subsection (1)(b) or subsection (2) of this section.
- (9) Subject to section 14(1) and (9) of this Act, anything collected under arrangements made by an authority in pursuance of this section shall belong to the authority and may be dealt with accordingly.
- (10) In the application of this section to Scotland—
- (a) in subsection (5), paragraph (b) and the references to a cesspool occurring later in that subsection shall be omitted;
 - (b) for subsection (7) there shall be substituted the following subsection:—
- (7) Sections 2, 3, 4 and 41 of the ^{M3}Sewerage (Scotland) Act 1968 (which relate to the maintenance etc. of public sewers and other works and the breaking open of streets etc.) shall apply in relation to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection as those sections apply in relation to public sewers but as if—
- (a) the said section 2 conferred a power, and did not impose a duty, on a local authority to do the things mentioned in that section; and

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- (b) in the said section 4, the words from “but, before any person” to the end were omitted;
- and the ^{M4}Pipe-lines Act 1962 shall not apply to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection.
- (c) in subsection (9), for the reference to section 14(1) and (9) of this Act there shall be substituted a reference to section 15(4) of this Act.
- (11) References to waste in the preceding provisions of this section include waste on premises occupied by the Crown but exclude waste as to which the Commissioners executing the ^{M5}Crown Estate Paving Act 1851 (which among other things relates to premises in the Regent’s Park) make arrangements for its collection; but a disposal or collection authority shall not be entitled by virtue of this subsection to exercise, in relation to such premises or waste on such premises, any power conferred on the authority by virtue of sections 91 to 93 of this Act.

Textual Amendments

- F47** S. 12 repealed (1.4.1992) (save in so far as it relates to industrial waste in England and Wales) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. II](#); S.I. 1992/266, [art. 3](#).
- F48** Words substituted with effect from 1.4.1986 as provided by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 9, [Sch 6 para. 3\(2\)](#)
- F49** Words substituted (1.4.1986) as provided by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 9, [Sch. 6 para. 3\(2\)](#)

Modifications etc. (not altering text)

- C17** By [S.I. 1985/1884, art. 5, Sch. 2 para. 8\(a\)](#) (which was made under the power in s. 10(1)(3)(6) (7) of [Local Government Act 1985 \(c. 51, SIF 81:1\)](#) which power by virtue of s.10(7) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 12(2) shall be modified to have effect as if after “English county disposal authority” there were inserted “, each London waste disposal authority”, for the words “an English collection authority” there were substituted the words “a collection authority in England whose area is included in the area of a disposal authority” and for the words “the relevant disposal authority” there were substituted “the disposal authority”
- C18** By [S.I. 1985/1884, art. 5, Sch. 2 para. 8\(b\)](#) (which was made under the power in s. 10(1)(3)(6) (7) of [Local Government Act 1985 \(c. 51, SIF 81:1\)](#) which power by virtue of s. 10(3) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 12(6)(8) shall be modified to have effect as if after “English county disposal authority” there were inserted “, a London waste disposal authority”

Marginal Citations

- M1** 1945 c. 42.
M2 1962 c. 58.
M3 1968 c. 47.
M4 1962 c. 58.
M5 1851 c. 95.

[^{F50}13 Dustbins etc. **E+W**

- [Where a collection authority has a duty by virtue of subsection (1)(a) of the preceding ^{F51}(1) section to arrange for the collection of household waste from any premises, the authority may, by a notice served on the occupier of the premises, require him to place

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the waste for collection in receptacles which are of a kind and number reasonably specified in the notice.

- (1A) A person who fails to comply with any of the requirements of such a notice shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [F52level 3 on the standard scale]].
- (2) A notice served by an authority in pursuance of the preceding subsection may provide for the receptacles in question to be provided by the authority free of charge or—
- (a) if the recipient of the notice agrees, by the authority on payment by the recipient of the notice of such a single payment or such periodical payments as he agrees with the authority; or
 - (b) by the recipient of the notice if he does not enter into an agreement in pursuance of the preceding paragraph within a period specified in the notice or the notice does not propose such an agreement.
- (3) Where by virtue of such a notice the recipient of it is required to provide any receptacles he may within the period of twenty-one days beginning with the last day of the period specified in the notice in pursuance of paragraph (b) of the preceding subsection or, where no period is so specified, beginning with the day on which the notice is served on him, appeal to a magistrates' court against the notice on the ground that [F53any requirement specified in] the notice is unreasonable or on the ground that the receptacles in which household waste in the premises in question is placed for collection are adequate; and where an appeal against a notice is brought in pursuance of this subsection—
- (a) the notice shall be of no effect pending the determination of the appeal; and
 - (b) the court shall either quash or modify the notice or dismiss the appeal; and
 - (c) no question as to whether [F54any requirement] specified in the notice is unreasonable shall be entertained in any proceedings for an offence under this section in respect of the notice.
- (4) An [F55English disposal authority] and any collection authority may at the request of any person supply him with receptacles for commercial waste or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied in pursuance of this subsection unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.
- [F56(5) If it appears to a collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality in which the premises are situated, the authority may, by a notice served on the occupier of the premises, require him to provide at the premises receptacles for the storage of such waste which are of a kind and number reasonably specified in the notice.
- (5A) A person who fails to comply with any requirement specified in a notice shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [F52level 3 on the standard scale]].
- (6) A person on whom a notice is served in pursuance of the preceding subsection may, within the period of twenty-one days beginning with the day on which the notice is served on him, appeal to a magistrates' court against the notice on the grounds that [F57any requirement] specified in the notice is unreasonable or that the waste is not

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likely to cause a nuisance or be detrimental to the amenities of the locality in which the premises are situated; and where an appeal against a notice is brought in pursuance of this subsection, paragraph (a) to (c) of subsection (3) of this section shall apply in relation to the notice as they apply in relation to such a notice as is mentioned in that subsection.

[^{F58}(7) A notice under subsection (1) or (5) of this section may make provision with respect to—

- (a) the size, construction and maintenance of receptacles for controlled waste;
- (b) the placing of the receptacles on premises for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
- (c) the placing of the receptacles for that purpose on highways;
- (d) the substances which may and may not be put into the receptacles and the precautions to be taken where particular substances are put into them; and
- (e) the steps to be taken by occupiers of premises for the purposes of facilitating the collection of waste from receptacles for controlled waste which are provided in connection with the premises.

(7A) A notice under subsection (1) or (5) of this section shall not require receptacles to be placed on a highway unless—

- (a) the relevant highway authority have given their consent to their being so placed; and
- (b) arrangements have been made as to the liability for any damage arising out of their being so placed.]

(8) References to receptacles in the preceding provisions of this section include references to holders for receptacles.

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

- F50** S. 13 repealed (1.4.1992) (save in so far as it relates to industrial waste in England and Wales) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. II](#); S.I. 1992/266, [art. 3](#).
- F51** S. 13(1)(1A) substituted for s. 13(1) by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 10\(1\)](#)
- F52** Words “level 3 on the standard scale” substituted (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), s. 54)
- F53** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 10\(2\)\(a\)](#)
- F54** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 10\(2\)\(b\)](#)
- F55** Words substituted (1.4.1986) as provided by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 9, [Sch. 6 para. 3\(2\)](#)
- F56** S. 13(5)(5A) substituted for s. 13(5) by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 10\(3\)](#)
- F57** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 10\(4\)](#)

Status: Point in time view as at 11/08/2004.

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F58 S. 13(7)(7A) substituted for s. 13(7) by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 10\(5\)](#)

Modifications etc. (not altering text)

C19 By [S.I. 1985/1884, art. 5, Sch. 2 para. 9](#) (which was made under the power in s. 10(1)(3)(6) (7) of [Local Government Act 1985 \(c. 51, SIF 81:1\)](#) which power by virtue of s. 10(3) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 13(4) shall be modified to have effect as if after “English county disposal authority” there were inserted “, a London waste disposal authority”

[^{F345}**13** **Dustbins etc.** **S**]

[Where a collection authority has a duty by virtue of subsection (1)(a) of the preceding ^{F346}(1) section to arrange for the collection of household waste from any premises, the authority may, by a notice served on the occupier of the premises, require him to place the waste for collection in receptacles which are of a kind and number reasonably specified in the notice.

(1A) A person who fails to comply with any of the requirements of such a notice shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [^{F347}level 3 on the standard scale]].

(2) A notice served by an authority in pursuance of the preceding subsection may provide for the receptacles in question to be provided by the authority free of charge or —

- (a) if the recipient of the notice agrees, by the authority on payment by the recipient of the notice of such a single payment or such periodical payments as he agrees with the authority; or
- (b) by the recipient of the notice if he does not enter into an agreement in pursuance of the preceding paragraph within a period specified in the notice or the notice does not propose such an agreement.

(3) Where by virtue of such a notice the recipient of it is required to provide any receptacles he may within the period of twenty-one days beginning with the last day of the period specified in the notice in pursuance of paragraph (b) of the preceding subsection or, where no period is so specified, beginning with the day on which the notice is served on him, appeal to a magistrates’ court against the notice on the ground that [^{F348}any requirement specified in] the notice is unreasonable or on the ground that the receptacles in which household waste in the premises in question is placed for collection are adequate; and where an appeal against a notice is brought in pursuance of this subsection—

- (a) the notice shall be of no effect pending the determination of the appeal; and
- (b) the court shall either quash or modify the notice or dismiss the appeal; and
- (c) no question as to whether [^{F349}any requirement] specified in the notice is unreasonable shall be entertained in any proceedings for an offence under this section in respect of the notice.

(4) An [^{F350}English disposal authority] and any collection authority may at the request of any person supply him with receptacles for commercial waste or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied in pursuance of this subsection unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.

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- [^{F351}(5) If it appears to a collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality in which the premises are situated, the authority may, by a notice served on the occupier of the premises, require him to provide at the premises receptacles for the storage of such waste which are of a kind and number reasonably specified in the notice.
- (5A) A person who fails to comply with any requirement specified in a notice shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [^{F347}level 3 on the standard scale]].
- (6) A person on whom a notice is served in pursuance of the preceding subsection may, within the period of twenty-one days beginning with the day on which the notice is served on him, appeal to a magistrates' court against the notice on the grounds that [^{F352}any requirement] specified in the notice is unreasonable or that the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality in which the premises are situated; and where an appeal against a notice is brought in pursuance of this subsection, paragraph (a) to (c) of subsection (3) of this section shall apply in relation to the notice as they apply in relation to such a notice as is mentioned in that subsection.
- [^{F353}(7) A notice under subsection (1) or (5) of this section may make provision with respect to—
- (a) the size, construction and maintenance of receptacles for controlled waste;
 - (b) the placing of the receptacles on premises for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
 - (c) the placing of the receptacles for that purpose on [^{F354}roads];
 - (d) the substances which may and may not be put into the receptacles and the precautions to be taken where particular substances are put into them; and
 - (e) the steps to be taken by occupiers of premises for the purposes of facilitating the collection of waste from receptacles for controlled waste which are provided in connection with the premises.
- (7A) A notice under subsection (1) or (5) of this section shall not require receptacles to be placed on a [^{F355}road] unless—
- (a) the [^{F356}roads authority] have given their consent to their being so placed; and
 - (b) arrangements have been made as to the liability for any damage arising out of their being so placed.]
- (8) References to receptacles in the preceding provisions of this section include references to holders for receptacles.

Textual Amendments

- F345** S. 13 repealed (1.4.1992) (save in so far as it relates to industrial waste in England and Wales) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. II](#); S.I. 1992/266, [art. 3](#).
- F346** S. 13(1)(1A) substituted for s. 13(1) by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 10\(1\)](#)
- F347** Words “level 3 on the standard scale” substituted (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

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- F348** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 10\(2\)\(a\)](#)
- F349** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 10\(2\)\(b\)](#)
- F350** Words substituted (1.4.1986) as provided by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 9, Sch. 6 para. 3\(2\)](#)
- F351** S. 13(5)(5A) substituted for s. 13(5) by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 10\(3\)](#)
- F352** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 10\(4\)](#)
- F353** S. 13(7)(7A) substituted for s. 13(7) by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 10\(5\)](#)
- F354** Words in s. 13(7)(c) substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 74\(2\)\(a\)](#)
- F355** Words in s. 13(7A) substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 74\(2\)\(a\)\(i\)](#)
- F356** Words in s. 13(7A)(a) substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 74\(2\)\(b\)\(ii\)](#)

Modifications etc. (not altering text)

- C157** By [S.I. 1985/1884, art. 5, Sch. 2 para. 9](#) (which was made under the power in s. 10(1)(3)(6) (7) of [Local Government Act 1985 \(c. 51, SIF 81:1\)](#) which power by virtue of s. 10(3) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 13(4) shall be modified to have effect as if after “English county disposal authority” there were inserted “, a London waste disposal authority”

[^{F59}14 Disposal of waste in England and Wales.

- (1) Subject to the following subsection, it shall be the duty of each English collection authority to deliver to the relevant disposal authority, at such places as the disposal authority directs, all waste which is collected by the collection authority in pursuance of section 12 of this Act except waste paper which the collection authority decides is not to be delivered to the disposal authority; and anything delivered to a disposal authority in pursuance of this subsection shall belong to that authority and may be dealt with accordingly.
- (2) An English collection authority and the relevant disposal authority may agree that, subject to such conditions as to payment or otherwise as may be specified in the agreement, waste to which the agreement relates shall not be delivered to the disposal authority in pursuance of the preceding subsection but shall be dealt with under arrangements made by the collection authority for the purpose of enabling the waste to be used again or substances to be reclaimed from it.
- (3) Without prejudice to the powers of collection authorities apart from this subsection, a collection authority shall have power to provide plant and equipment for the sorting and baling of waste paper retained by the authority in pursuance of subsection (1) of this section or for sorting or processing waste retained by the authority in pursuance of the preceding subsection.
- (4) It shall be the duty of each disposal authority to arrange for the disposal of the waste collected by it in pursuance of section 12 of this Act or delivered to it in pursuance of subsection (1) of this section; and, without prejudice to the authority’s powers apart from the following provisions of this subsection [^{F60}but subject to subsection (6) of

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section 77 of the Environmental Protection Act 1990 as respects any time after the date applicable to the authority under paragraph (a) or (b) of that subsection]], the powers exercisable by the authority for the purpose of performing that duty shall include power—

- (a) to provide, within or outside its area, places at which to deposit waste before the authority transfers it to a place or plant or equipment provided in pursuance of the following paragraph; and
 - (b) to provide, within or outside its area, places at which to dispose of the waste and plant or equipment for processing it or otherwise disposing of it.
- (5) Subsections (6) and (7) of section 12 of this Act shall have effect in relation to a disposal authority as if the reference in paragraph (a) of the said subsection (6) to the collection of waste in pursuance of that section included the disposal of waste in pursuance of this section and the disposal of anything produced from waste belonging to the authority.
- (6) A disposal authority or a collection authority may permit another person to use facilities provided by the authority in pursuance of the preceding provisions of this section and may provide for the use of another person any such facilities as the authority has power to provide in pursuance of those provisions; and—
- (a) subject to the following paragraph, it shall be the duty of the authority to make a reasonable charge in respect of the use by another person of the facilities unless the authority considers it appropriate not to make a charge;
 - (b) no charge shall be made in pursuance of this subsection in respect of household waste; and
 - (c) anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.
- (7) A collection authority and the relevant disposal authority may enter into an agreement for the making by either authority to the other of such payments as may be determined by or under the agreement in respect of waste collected by the collection authority in pursuance of section 12 of this Act including, without prejudice to the generality of the preceding provisions of this subsection, an agreement for the making of payments to the collection authority in respect of such arrangements as are mentioned in subsection (2) of this section.
- (8) Except as otherwise agreed in pursuance of the preceding subsection, the relevant disposal authority shall—
- (a) be entitled to receive from an English collection authority such sums as are needed to defray the reasonable cost to the disposal authority of disposing of commercial and industrial waste delivered to the disposal authority by the collection authority in pursuance of this section; and
 - (b) pay to an English collection authority a reasonable contribution towards expenditure reasonably incurred by the collection authority in delivering waste to the disposal authority in pursuance of subsection (1) of this section where the place of delivery is unreasonably far from the collection authority's area;

and any question arising in pursuance of paragraph (a) of this subsection as to what cost is reasonable or in pursuance of paragraph (b) of this subsection as to whether a contribution is reasonable or expenditure was reasonably incurred or as to whether a place is unreasonably far from a collection authority's area shall, in default of agreement between the two authorities in question, be determined by arbitration.

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- (9) References to waste in subsections (1), (2), (4), (7) and (8) of this section do not include matter removed from privies or cesspools in pursuance of section 12(5) of this Act, and it shall be the duty of a collection authority by which matter is so removed—
- (a) to deliver the matter, in accordance with any directions of the [F61sewerage undertaker] of which the area includes that of the collection authority, at a place specified in the directions (which must be in or within a reasonable distance from the collection authority’s area) to the [F61sewerage undertaker] or to another person so specified;
 - (b) to give to the [F61sewerage undertaker] from time to time a notice stating the quantity of the matter which the collection authority expects to deliver to or as directed by the [F61sewerage undertaker] in pursuance of the preceding paragraph during a period specified in the notice.
- (10) Any question arising in pursuance of paragraph (a) of the preceding subsection as to whether a place is within a reasonable distance from a collection authority’s area shall, in default of agreement between the collection authority and the [F62sewerage undertaker] in question, be determined by arbitration; and anything delivered to a [F62sewerage undertaker] in pursuance of that subsection shall belong to [F63the undertaker] and may be dealt with accordingly.
- [F64(11) For the purposes of so much of the Water Act 1989 as relates to charging by sewerage undertakers the reception and disposal by a sewerage undertaker or other person of matter delivered to it or him by another sewerage undertaker in pursuance of subsection (9) of this section shall be treated as a service provided for that other undertaker by the sewerage undertaker in the course of carrying out its functions.]
- (12) This section does not apply to Scotland.

Textual Amendments

- F59** S. 14 repealed (1.4.1992 for specified purposes (save in so far as it relates to industrial waste in England and Wales), 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. II](#); S.I. 1992/266, art. 3, S.S.I. 2015/72, art. 2(2)(a)
- F60** Words in s. 14(4) inserted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 77(8); S.I. 1991/1319, art. 2.
- F61** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 48\(5\)\(a\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), 58
- F62** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 48\(5\)\(b\)\(i\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), 58
- F63** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 48\(5\)\(b\)\(ii\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), 58
- F64** S. 14(11) substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 48\(5\)\(c\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), 58

Modifications etc. (not altering text)

- C20** S. 14(1) is modified and has effect as if in subsection (1) after “English collection authority” there were inserted “and each collection authority in the area of a London waste disposal authority” by [S.I. 1985/1884, art. 5 Sch. 2 para. 10\(a\)\(i\)](#)
- C21** S. 14 is modified and has effect as if in subsection (1) for “the relevant disposal authority” there were substituted “the disposal authority whose area includes that of the collection authority (“the relevant authority”)” and for the words “disposal authority” in each place where they subsequently occur there were substituted “relevant disposal authority” by [S.I. 1985/1884, art. 5, Sch. 2 para. 10\(a\)\(ii\)\(iii\)](#)

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- C22** S. 14(2) is modified and has effect as if for “an English collection authority” there were substituted “a collection authority” by [S.I. 1985/1884, art. 5, Sch. 2 para. 10\(b\)](#)
- C23** S. 14(8) is modified and has effect as if for “an English collection authority” there were substituted “a collection authority” by [S.I. 1985/1884, art. 5, Sch. 2 para. 10\(b\)](#)

^{F65}**15**

Textual Amendments

- F65** S. 15 repealed (1.4.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. II](#); [S.I. 1992/266, art. 3](#).

16 Removal of waste deposited in breach of licensing provisions.

- (1) If any controlled waste is deposited on any land [^{F66}in contravention of section 3(1) of this Act, any authority to which this section applies may] serve a notice on the occupier of the land requiring him—
- (a) to remove the waste from the land within a period specified in the notice, which shall not be less than twenty-one days beginning with the date of service of the notice; or
 - (b) to take within such a period such steps as are so specified with a view to eliminating or reducing the consequences of the deposit of the waste,
- or requiring him both to remove the waste as mentioned in paragraph (a) of this subsection and to take such steps as are mentioned in paragraph (b) of this subsection within such a period as aforesaid.
- (2) A person served with a notice in pursuance of the preceding subsection may within the twenty-one days aforesaid appeal to a magistrates’ court against the notice; and on any such appeal the court shall quash the notice if it is satisfied that—
- (a) the appellant neither deposited nor caused nor knowingly permitted the deposit of the waste on the land; or
 - (b) service of the notice on the appellant was not authorised by the preceding subsection; or
 - (c) there is a material defect in the notice;
- and in any other case shall either modify the notice or dismiss the appeal.
- (3) Where a person appeals against a notice in pursuance of this section, the notice shall be of no effect pending the determination of the appeal; and where the court modifies the notice or dismisses the appeal it may extend the period specified in the notice.
- (4) If a person on whom a notice is served in pursuance of subsection (1) of this section fails to comply with the notice, then—
- (a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F67}£400][^{F67}level 5 on the standard scale] and a further fine not exceeding £50 for each day on which the failure continues after conviction for the offence and before the authority which served the notice has begun to exercise its powers in pursuance of the following paragraph; and

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- (b) the said authority may do what that person was required by the notice to do and may recover from him any expenses reasonably incurred by the authority in doing it.
- (5) If it appears to such an authority as is mentioned in subsection (1) of this section that waste has been deposited as there mentioned and that—
- (a) in order to remove or prevent pollution of water or danger to public health it is necessary forthwith to remove the waste or to take other steps with a view to eliminating or reducing the consequences of the deposit of it or necessary forthwith to remove the waste and to take such other steps; or
- (b) there is no occupier of the land in question; or
- (c) the occupier of the land neither made nor knowingly permitted the deposit of the waste,
- the authority may remove the waste from the land or take such other steps as aforesaid or, as the case may require, may remove it and take such other steps.
- (6) Where an authority exercises in respect of any land a power conferred on it by the preceding subsection it shall be entitled to recover the cost of doing so and of disposing of any waste removed in the exercise of the power—
- (a) in a case falling within paragraph (a) of that subsection, from the occupier of the land unless he proves that he neither made nor caused nor knowingly permitted the deposit in question;
- (b) in any case, from any person who deposited or caused or knowingly permitted the deposit of any of the waste in question on the land,
- except such of the cost as the occupier or other person shows was incurred unnecessarily.
- (7) Any waste removed by an authority in pursuance of this section shall belong to the authority and may be dealt with accordingly.
- [^{F68}(8) The authorities to which this section applies are—
- (a) the appropriate Agency;
- (b) any collection authority in whose area the land mentioned in subsection (1) above is situated.]

Textual Amendments

- F66** Words in s. 16(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 26(2)** (Sch. 22 para. 26 is *prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F67** Words in s. 16(4)(a) substituted (11.4.1983) by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48), ss. 38, 46** and (S.) **Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G** (as inserted by **Criminal Justice Act 1982 (c. 48), s. 54**)
- F68** S. 16(8) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 26(3)** (Sch. 22 para. 26 is *prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

- C24** S. 16: transfer of functions (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

Status: Point in time view as at 11/08/2004.

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17 Special provisions with respect to certain dangerous or intractable waste.

- (1) If the Secretary of State considers that controlled waste of any kind is or may be so dangerous or difficult to dispose of that special provision in pursuance of this subsection is required for the disposal of waste of that kind by disposal authorities or other persons, it shall be his duty to make provision by regulations for the disposal of waste of that kind (hereafter in this section referred to as “special waste”); and, without prejudice to the generality of the Secretary of State’s power to make regulations in pursuance of the preceding provisions of this subsection, any such regulations may include provision—
- (a) for the giving of directions by disposal authorities with respect to matters connected with the disposal of special waste;
 - (b) for securing that special waste is not, while awaiting disposal in pursuance of the regulations, kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;
 - (c) for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to a prescribed authority;
 - (d) for the keeping of records by persons who produce or dispose of special waste or transfer it to another person for disposal, for the inspection of the records and for the furnishing by such persons to prescribed authorities of copies of or information derived from the records;
 - (e) providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence (which shall not exceed, on summary conviction, a fine of £400 and, on conviction on indictment, imprisonment for a term of two years and a fine).
- (2) Without prejudice to the generality of the power to make regulations conferred by the preceding subsection, regulations made in pursuance of that subsection may include provision—
- (a) requiring special waste of particular kinds to be disposed of only by disposal authorities or, in the case of special waste of a kind which the Secretary of State considers involves or may involve such a risk of damage to persons or animals or vegetation that it should be disposed of only by him, to be disposed of only by the Secretary of State;
 - (b) for the supervision by disposal authorities (whether by the application with modifications of provisions of section 9 of this Act or otherwise) of activities authorised by virtue of the regulations;
 - (c) as to the recovery of expenses or other charges for disposals by disposal authorities or the Secretary of State in pursuance of the regulations;
 - (d) as to appeals to the Secretary of State from decisions of disposal authorities in pursuance of the regulations.
- (3) Provision may also be made by regulations—
- (a) for the giving of a direction, in respect of any place in respect of which a disposal licence or a resolution in pursuance of section 11 of this Act is in force, requiring the holder of the licence or the authority which passed the resolution to accept and dispose of at the place, on such terms as are specified in the direction (including terms as to the making of payments to the recipient of the direction), such special waste as is so specified;

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- (b) as to the consents to be obtained and the other steps to be taken before a direction may be given in pursuance of the regulations and as to appeals to the Secretary of State against a direction so given;
- (c) providing that a failure to comply with such a direction shall be an offence punishable on summary conviction by a fine not exceeding [^{F69}£400][^{F69}level 5 on the standard scale] or such less amount as is prescribed and that a person shall not be guilty of an offence under any prescribed enactment by reason only of anything necessarily done or omitted in order to comply with such a direction.

Textual Amendments

F69 Words "level 5 on the standard scale" substituted (11.4.1983) for words "£400" by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)

Modifications etc. (not altering text)

C25 S. 17 extended by S.I. 1980/1709, reg. 3(1)

C26 S. 17(1)(a), (2)(b)-(d): transfer of functions (12.10.1995) by 1995 c. 25, s. 21(1)(c) (with ss. 7(6), 115, 117); S.I. 1995/2649, art. 2

Waste other than controlled waste

[^{F70}18] **Application of preceding provisions to other waste.**

- (1) The Secretary of State may, after consultation with such bodies as he considers appropriate, make regulations providing that prescribed provisions of sections 1 to 11 and 14 to 17 of this Act shall have effect in a prescribed area—
 - (a) as if references in those provisions to controlled waste or controlled waste of a kind specified in the regulations included references to such waste as is mentioned in section 30(3)(c)(ii) of this Act which is of a kind so specified; and
 - (b) with such other modifications as are prescribed;
 and regulations made in pursuance of this subsection may make such modifications of any enactment other than the sections aforesaid as the Secretary of State considers appropriate in connection with the regulations.
- (2) A person who—
 - (a) deposits on any land any waste other than controlled waste; or
 - (b) causes or knowingly permits the deposit on any land of any waste other than controlled waste,

in a case where, if the waste were controlled waste and any disposal licence relating to the land were not in force, he would be guilty of an offence under section 3(3) of this Act shall be guilty of such an offence and punishable accordingly unless the act charged was done in pursuance of and in accordance with the terms of any consent, licence, approval or authority granted under any enactment (excluding any planning permission under the enactments relating to town and country planning); and in this subsection "land" includes such water as is mentioned in section 4(4) of this Act.

Status: Point in time view as at 11/08/2004.

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- (3) Subsection (2) of section 12 and subsection (4) of section 13 of this Act shall apply to waste other than controlled waste as the subsections apply to controlled waste.]

Textual Amendments

- F70** S. 18 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided in art. 3 of S.I. 1994/1096, 1.4.2015 for S. so far as not already in force) by [Environmental Protection Act 1990](#) (c. 43), s. 162(2), [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)

19 Powers of disposal authorities as respects other waste.

Each disposal authority shall have power to collect information about, and to make arrangements for the disposal of, waste which is situated or likely to be situated in its area and is not controlled waste; but nothing in sections 91 to 94 of this Act shall apply to functions conferred on an authority or information collected by an authority in pursuance of this section.

Reclamation etc. of waste

20 Reclamation of waste.

Without prejudice to the powers of disposal authorities apart from this section, any disposal authority may—

- (a) do such things as the authority considers appropriate for the purpose of—
 - (i) enabling waste belonging to the authority, or belonging to another person who requests the authority to deal with it in pursuance of this section, to be used again, or
 - (ii) enabling substances to be reclaimed from such waste;
- (b) buy or otherwise acquire waste with a view to its being used again or to the reclamation of substances from it; and
- (c) use, sell or otherwise dispose of waste belonging to the authority or anything produced from such waste.

21 Production of heat and electricity from waste etc.

- (1) A disposal authority may, subject to [^{F71}subsection (2)] of this section,—
- (a) use waste belonging to the authority for the purpose of producing from it heat or electricity or both;
 - (b) establish and operate, within or outside its area, such generating stations and other installations as the authority thinks fit for the purpose aforesaid; and
 - (c) where the authority operates an installation in which waste is usually used as the main fuel for the purpose of producing heat or electricity, then—
 - (i) in the case of an installation for producing heat, use other fuel in addition to waste to produce the heat, and
 - (ii) in the case of an installation for producing electricity, use other fuel to assist in burning the waste to produce the electricity,

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and, in an emergency, use other fuel instead of waste to produce the heat or electricity;

and a disposal authority may use, sell or otherwise dispose of any heat [^{F72}or electricity] produced by the authority by virtue of this section.

[^{F73}(2) Nothing in subsection (1) of this section shall be construed as exempting a disposal authority from the requirements of Part I of the Electricity Act 1989.]

(4) Subsection (6) of section 12 of this Act (except paragraph (b) of that subsection) and subsection (7) of that section (except so much of it as relates to the ^{M6}Pipe-lines Act 1962) shall have effect in relation to a disposal authority as if the reference in the said subsection (6) to the collection of waste in pursuance of that section included the conveying of heat produced by the authority by virtue of this section and of air, steam and water heated by such heat.

(5) It shall be the duty of a disposal authority by which an installation for producing heat is operated in pursuance of this section in any year to furnish to the Secretary of State, as soon as practicable after the end of that year, such particulars relating to the installation and heat produced at it as are prescribed.

(6) Nothing in this section ^{F74}. . . shall be construed as prejudicing any power exercisable by a disposal authority apart from this section.

Textual Amendments

- F71** Words substituted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 18\(2\)](#), [Sch. 17 para. 33](#), **35(1)**
- F72** Words inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 18\(2\)](#), [Sch. 17 para. 33](#), **35(1)**
- F73** S. 21(2) substituted for subsections (2) and (3) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 18\(3\)](#), [Sch. 17 para. 33](#), **35(1)**
- F74** Words repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 18\(4\)](#), [Sch. 17 para. 33](#), [35\(1\)](#), **Sch. 18**

Marginal Citations

- M6** [1962 c. 58](#).

Street cleaning and litter

[^{F75}**22 Street cleaning etc.**

^{F76}(1)

^{F76}(2)

(3) A local authority may, with the consent of any person who has an interest in or is the occupier of any relevant land, arrange for the cleaning of the land and may enter into an agreement with such a person for the payment by him of charges in respect of the cleaning; and in this subsection “relevant land” means any land in the open air to which members of the public have access, either as of right or otherwise, and which is not the site of a highway.

(4) In the preceding provisions of this section and in the following section—

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“highway” means highway maintainable at the public expense within the meaning of [^{F77}the ^{M7}Highways Act 1980];

“local authority” means the council of a district or London borough and the Common Council of the City of London [^{F78}but, in relation to Wales, means the council of a county or county borough] ; and

“special road” and “trunk road” have the same meanings as in [^{F77}the ^{M8}Highways Act 1980].

(5) In the application of this section to Scotland the preceding subsection shall not have effect and in this section and in the following section—

“highway” and “highway authority” have respectively the same meanings as in the ^{M9}Roads (Scotland) Act 1970;

“local authority” means a collection authority;

“special road” has the same meaning as in the ^{M10}Special Roads Act 1949;

“trunk road” means a highway which by virtue of the ^{M11}Trunk Roads Acts 1936 ^{M12} and 1946 or an order under section 1 of the Trunk Roads Act 1946, or by virtue of section 9(1) of the said Act of 1949, is a trunk road.

Textual Amendments

F75 S. 22 repealed (S.) (1.4.1983) by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 4 Pt. I](#) and [S.I. 1982/1397](#), [Sch. 2](#)

F76 S. 22(1)(2) repealed (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. IV](#), [S.I. 1991/1042](#), art.2

F77 Words substituted by [Highways Act 1980 \(c. 66\)](#), [Sch. 24 para. 24\(a\)](#)

F78 Words in s. 22(4) inserted (1.4.1996) by [1994 c. 19](#), s. 22(3), [Sch. 9 para. 10\(1\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396](#), art. 3, [Sch. 1](#)

Marginal Citations

M7 1980 c. 66.

M8 1980 c. 66.

M9 1970 c. 20.

M10 1949 c. 32.

M11 1936 c. 5 (1 Edw. 8 & 1 Geo. 6)

M12 1946 c. 30.

[^{F79}23] **Prohibition of parking to facilitate street cleaning.**

(1) Where in the case of any part of a highway (hereafter in this section referred to as “the relevant area”) the highway authority for the relevant area or the local authority in whose area the relevant area is situated considers that, in order to facilitate the cleaning of the relevant area on a particular day (hereafter in this section referred to as “the relevant day”), it is appropriate to prohibit the parking of vehicles in the relevant area during certain hours of the relevant day, the authority may give notice in accordance with the following provisions of this section prohibiting such parking.

[Such a notice must specify the relevant area, the relevant day and the hours in question; ^{F80}(2) and a copy of the notice must—

- (a) be served on the occupier of any premises adjoining the relevant area; and
- (b) be conspicuously displayed at places in the relevant area.

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- (2A) The effect of the giving of such a notice and of the service and display of copies of it as required by subsection (2) of this section shall be to suspend during the hours of the relevant day specified in the notice the operation of any provision which is contained in an order under the Road Traffic Regulation Act [^{F81}1984]] or a local enactment and which authorises, designates or regulates the use of a street parking place in the relevant area.
- (2B) The authority giving the notice shall cover up traffic signs and parking meters in the relevant area during the hours of the relevant day specified in the notice, but without prejudice to the effect of the notice.]
- (3) ^{F82}
- (4) Regulations may . . . ^{F83} provide that [^{F84}sections 99 to 102 of the Road Traffic Regulation Act 1984] (which among other things provide for the removal, storage and disposal of vehicles left on roads in contravention of a statutory prohibition) shall have effect, in relation to any vehicle which is or was standing on any part of a highway while parking on that part is or was prohibited by virtue of this section, with such modifications as are prescribed.
- [^{F85}(5) If, either before or during the hours on the relevant day which are specified in a notice given by an authority as mentioned in subsection (1) of this section, the authority displays notices in the relevant area stating that the prohibition on parking is not to come into force or is to cease to be in force, the effect of the notices under this subsection shall be to prevent the prohibition coming into force or, as the case may be, to terminate it.]
- (6) It shall be the duty of the highway authority for any part of a highway and of the local authority in whose area the part is situated to co-operate with each other in performing the functions conferred on them by virtue of this section; and where a highway authority or a local authority gives notice as mentioned in subsection (1) of this section in respect of any part of a highway for which it is the highway authority or, as the case may be, which is within its area, any other authority which is the highway authority for that part or which is the local authority within whose area that part is situated shall, with the approval of the authority which gave the notice, be entitled to act in pursuance of this section as if the other authority had given similar notice.
- [^{F86}(6A) No authority shall issue a notice under this section whose effect would be to suspend the operation of provisions of an order not made by the highway authority without first consulting the authority who made the order.]
- (7) Where any parking in the relevant area is, by virtue of a notice given as mentioned in subsection (1) of this section, prohibited during specified hours on the relevant day, no right of action shall accrue to any person by reason of the fact that all or some of the cleaning of the relevant area which the highway authority or, as the case may be, the local authority proposes to do or has done during those hours is not cleaning which that authority has or had power to do if the other of those authorities has or had power to do it.
- (8) Any reference in the preceding provisions of this section to a part of a highway includes any such part on which the parking of vehicles is, apart from this section, authorised by virtue of any enactment whether on payment or free of charge; and where the parking of vehicles on such a part is prohibited by virtue of this section a person shall not be entitled to recover any sum paid by him in respect of the parking of a vehicle there.

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[^{F87}(9) In this section “parking meter”, “street parking place” and “traffic sign” have the meanings respectively assigned to them by [^{F88}sections 46(2)(a), 142(1) and 64(1) of the Road Traffic Regulation Act 1984,]]

Textual Amendments

- F79** S. 23 repealed (S.) (1.4.1983) by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 4 Pt. I](#) and [S.I. 1982/1397, Sch. 2](#)
- F80** S. 23(2)(2A)(2B) substituted for s. 23(2) by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 11\(1\)](#)
- F81** “1984” substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\), s. 146, Sch. 13 para. 30\(a\)](#)
- F82** Ss. 2(7), 23(3) repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 34 Pt. II](#)
- F83** Word repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 34 Pt. II](#)
- F84** Words substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\), s. 146, Sch. 13 para. 30\(b\)](#)
- F85** S. 23(5) substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 11\(3\)](#)
- F86** S. 23(6A) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 11\(4\)](#)
- F87** S. 23(9) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 11\(5\)](#)
- F88** Words substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\), s. 146, Sch. 13 para. 30\(c\)](#)

24 Litter.

- (1) It shall be the duty of the council of each county in England and Wales and the local authorities of which the areas are included in the county and, where the county includes land in a National Park, the Park authority to consult from time to time together, and with such voluntary bodies as the council and the authorities consider appropriate and as agree to participate in the consultations, about the steps which the council and each of the authorities and bodies is to take for the purpose of abating litter in the county; and it shall be the duty of the county council—
- to prepare and from time to time revise a statement of the steps which the council and each of the authorities and bodies agrees to take for that purpose; and
 - to take such steps as in its opinion will give adequate publicity in the county to the statement; and
 - to keep a copy of the statement available at its principal office for inspection by the public free of charge at all reasonable hours.
- (2) The preceding subsection shall apply to Greater London and the Greater London Council as it applies to a county and the council of a county, and in that subsection “local authority” means a collection authority, a parish council, a parish meeting and a community council and “Park authority” means the National Parks Committee or the joint or special planning board for the park in question,
- (3) In Scotland, it shall be the duty of—
- the council of each region of and the district councils of which the districts are included in the region to consult from time to time together and with such voluntary bodies as the regional council and the district councils consider appropriate and as agree to participate in the consultations;

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(b) the council of each islands area to consult with such voluntary bodies as the council considers appropriate and as agree to participate in the consultations, about the steps which the regional or islands council and each of the bodies with which it consulted (including, in the case of a regional council, each district council) is to take for the purpose of abating litter in the region or, as the case may be, islands area; and it shall be the duty of the regional or islands council—

- (i) to prepare and from time to time revise a statement of the steps which the regional or islands council and each of the bodies agrees to take for the purpose;
- (ii) to take such steps as in its opinion will give adequate publicity in its area to the statement; and
- (iii) to keep a copy of the statement available at its principal office for inspection by the public free of charge at all reasonable hours.

^{F89}(4)

Textual Amendments
F89 S. 24(4) repealed by [Litter Act 1983 \(c. 35, SIF 100:3\)](#) s. 12(3), Sch. 2

Supplemental

^{F90}25

Textual Amendments
F90 S. 25 repealed (31.10.1994) by [1994 c. 21, s. 67\(8\)](#), [Sch. 11 Pt. II](#) (with s. 40); S.I. 1994/2553, [art. 2](#)

26 Outfall pipes for sewage disposal works.

.....^{F91}

Textual Amendments
F91 S. 26 repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)

^{F92}27 **Interference with refuse tips and dustbins etc.**

- (1) No person shall sort over or disturb—
 - (a) anything deposited at a place provided by a disposal authority or a collection authority for the deposit of waste or in a receptacle for waste which is provided by such an authority or a [^{F93}parish or community council][^{F93}roads authority] for public use; or
 - (b) the contents of any receptacle for waste which, in accordance with [^{F94}a notice under section 13(1) or (5)] of this Act, is placed on any [^{F95}highway][^{F95}road] or in any other place with a view to its being emptied,

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unless he is authorised to do so by the authority [^{F96}or council] in the case of anything deposited as mentioned in paragraph (a) above or, in the case of such a receptacle as is mentioned in paragraph (b) above, unless he is a person entitled to the custody of the receptacle or is authorised to do so by such a person or is a person having the function of emptying the receptacle.

.....^{F96}

- (2) A person who contravenes any of the provisions of the preceding subsection shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [^{F97}£100][^{F97}level 3 on the standard scale].

Textual Amendments

- F92** S. 27 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3; 1.4.2015 for S. in so far as not already in force) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. II](#); S.I. 1994/1096, [arts. 2, 3](#) (as amended by S.I. 1994/2487, [art. 2](#) and S.I. 1994/3234, [art. 2](#)), S.S.I. 2015/72, art. 2(2)(a)
- F93** Words “roads authority” substituted (S.) for “parish or community council” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 74\(3\)\(a\)](#)
- F94** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 12](#)
- F95** “road” substituted (S.) for “highway” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 3\(b\)](#)
- F96** Words repealed (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [s. 156\(1\)\(3\) Sch. 9 para. 74\(3\)\(c\)](#), Sch. 11
- F97** Words “level 3 on the standard scale” substituted (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

28 Supplementary provisions relating to pipes.

- (1) Where an authority provides pipes in pursuance of section 12(6), 14(5), 15(2), [^{F98}21(4) or 26][^{F98}or 21(4)] of this Act, it shall be the duty of the authority—
- (a) except where the authority is a collection authority and the pipes are situated in its area, to send to the collection authority in whose area the pipes are situated a map . . . ^{F99} showing the location of the pipes; and
- (b) where the authority is a collection authority and the pipes are situated in its area, to prepare such a map;

and it shall be the duty of an authority by which a map is received in pursuance of paragraph (a) of this subsection or is prepared in pursuance of paragraph (b) of this subsection to secure that a copy of the map is available at its principal offices for inspection by the public free of charge at all reasonable hours.

In the application of this subsection to Scotland, the words “the authority is a collection authority and” in paragraphs (a) and (b) shall be omitted.

- [^{F100}2) Section 25 of the ^{M13}Public Health Act 1936 (under which the erection of buildings over a sewer or drain may be prevented or controlled by a local authority or, on appeal, by a magistrates’ court) shall have effect as if references to a drain included any pipe provided as mentioned in the preceding subsection and as if the reference to the map of sewers required by that Act to be kept deposited at the offices of an authority included

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any map required by the preceding subsection to be kept available at the offices of the authority.]

(3) Section 21 of the ^{M14}Sewerage (Scotland) Act 1968 (under which the erection of buildings over a sewer vested in a local authority may be prevented or controlled by the authority or, on appeal, by the sheriff) shall have effect as if the reference to a sewer vested in a local authority included any pipe provided as mentioned in subsection (1) of this section.

(4) References to pipes in the preceding provisions of this section include associated works.

Textual Amendments

F98 Words in s. 28(1) substituted (E.W.) for “21(4) or 26” by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 25 paras. 48(6), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F99 Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **Sch. 34 Pt. II**

F100 S. 28(2) repealed (E.W.) by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), **Sch. 7**

Marginal Citations

M13 1936 c. 49.

M14 1968 c. 47.

29 Modification of Parts I and II to avoid duplication of control.

The Secretary of State may by regulations make such modifications of this Part of this Act and Part II of this Act as he considers appropriate with a view to securing that the provisions of one but not both of those Parts apply to prescribed acts and omissions.

30 Interpretation etc. of Part I.

(1) Subject to the following subsection, in this Part of this Act—

[^{F101}“the appropriate Agency” means—

(a) in relation to England and Wales, the Environment Agency;

(b) in relation to Scotland, SEPA;]

“associated works”, in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, inspection chamber and manhole and such other works as are prescribed;

“collection authority” means the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple and “English collection authority” means a collection authority [^{F102}of which the area is in the area of an English county disposal authority];

“controlled waste” means household, industrial and commercial waste or any such waste;

[^{F103}“disposal authority” means the council of a county or metropolitan district in England, the council of a London borough and the Common Council of the City of London, “English county disposal authority” means the council of a county in England and “relevant disposal authority”, in relation to an

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English collection authority, means the English county disposal authority whose area includes that of the collection authority;]

“disposal licence” has the meaning assigned to it by section 3(1) of this Act, and “holder” in relation to such a licence shall be construed in accordance with section 8(3) of this Act;

“private dwelling” means—

- (a) a hereditament or premises used wholly for the purposes of a private dwelling or private dwellings as determined in accordance with Schedule 13 to the ^{M15}General Rate Act 1967; and
- (b) a caravan as defined in section 29(1) of the ^{M16}Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the ^{M17}Caravan Sites Act 1968) which usually and for the time being is situated on a caravan site within the meaning of that Act;

“relevant land” means—

- (a) in relation to a proposal to issue a disposal licence, the land on which activities may be carried on in pursuance of the licence if it is issued in accordance with the proposal; and
- (b) in relation to a disposal licence, the land on which activities may be carried on in pursuance of the licence,

and references to land in the preceding paragraphs include such water as is mentioned in section 4(4) of this Act;

“waste” includes—

- (a) any substance which constitutes a scrap material or an effluent or other unwanted surplus substance arising from the application of any process; and
- (b) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled,

but does not include a substance which is an explosive within the meaning of the ^{M18}Explosives Act 1875;

and for the purposes of this Part of this Act any thing which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste unless the contrary is proved.

(2) In the application of this Part of this Act to Scotland—

“collection authority” means an islands or district council;

“disposal authority” means an islands or district council;

“private dwelling” means—

- (a) lands and heritages used wholly or mainly for the purposes of a private dwelling or private dwellings; and
- (b) a caravan as defined in section 29(1) of the ^{M19}Caravan Sites and Control of Development Act 1960 which usually and for the time being is situated on a caravan site within the meaning of that Act;

“Scottish collection authority” means a collection authority of which the area is in Scotland;

“Scottish disposal authority” means a disposal authority of which the area is in Scotland.

(3) Subject to the following subsection, for the purposes of this Part of this Act—

Status: Point in time view as at 11/08/2004.

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- (a) household waste consists of waste from a private dwelling or residential home or from premises forming part of a university or school or other educational establishment or forming part of a hospital or nursing home;
 - (b) industrial waste consists of waste from any factory within the meaning of the ^{M20}Factories Act 1961 and any premises occupied by a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or any undertaking, excluding waste from any mine or quarry; and
 - (c) commercial waste consists of waste from premises used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding—
 - (i) household and industrial waste, and
 - (ii) waste from any mine or quarry and waste from premises used for agriculture within the meaning of the ^{M21}Agriculture Act 1947 or, in Scotland, the ^{M22}Agriculture (Scotland) Act 1948, and
 - (iii) waste of any other description prescribed for the purposes of this sub-paragraph.
- (4) Regulations may provide that waste of a prescribed description shall be treated for the purposes of prescribed provisions of this Part of this Act as being or not being household waste or industrial waste or commercial waste; but no regulations shall be made by virtue of the preceding provisions of this subsection in respect of such waste as is mentioned in paragraph (c)(ii) of the preceding subsection and references in those provisions and in the preceding subsection to waste do not include sewage except so far as regulations provide otherwise.

In this subsection “sewage” includes matter in or from a privy within the meaning of section 12(5) of this Act.

- (5) Except as provided by regulations made by virtue of this subsection, nothing in this Part of this Act applies to radioactive waste within the meaning of the ^{M23}Radioactive Substances Act 1960; but regulations may—
- (a) provide for prescribed provisions of this Part of this Act to have effect with such modifications as the Secretary of State considers appropriate for the purposes of dealing with such radioactive waste;
 - (b) make such modifications of the said Act of 1960 and any other Act as the Secretary of State considers appropriate in consequence of the passing of this Part of this Act or in connection with regulations made by virtue of the preceding paragraph.

Textual Amendments

- F101** Words in s. 30(1) inserted (1.4.1996) by [Environment Act 1995 \(c. 25\), Sch. 22 para. 27\(a\)](#); S.I. 1996/186, [art. 3](#)
- F102** Words substituted (1.4.1986) as provided by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 9, Sch. 6 para. 3\(5\)](#)
- F103** Definition substituted (1.4.1986) as provided by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 9, Sch. 6 para. 3\(5\)](#)

Modifications etc. (not altering text)

- C27** By [S.I. 1985/1884, art. 5, Sch. 2 para. 11](#) (which was made under the power in s. 10(1)(3)(6) (7) of [Local Government Act 1985 \(c. 51, SIF 81:1\)](#) which power by virtue of s. 10(3) thereof

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was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 30 has effect as if in subsection (1) the definitions of “disposal authority”, “English county disposal authority” and “relevant disposal authority” were omitted and the following definitions were inserted at the appropriate places:

“area”, in relation to the Greater Manchester Waste Disposal Authority, means—

(a) for the purposes of the waste disposal provisions of this Act, the metropolitan county of Greater Manchester excluding the metropolitan district of Wigan; and

(b) for the purposes of the waste regulation provisions of this Act, the whole county;

“disposal authority” has the meaning given by subsections (2A) to (2D) of this section;

“English county disposal authority” means the council of a county in England, the Greater Manchester Waste Disposal Authority or the Merseyside Waste Disposal Authority;

“London waste disposal authority” means an authority established by Part II, III, IV or V of Schedule 1 to the Waste Regulation and Disposal (Authorities) Order 1985;

“waste disposal provisions” means—

(a) sections 1 and 2 (waste disposal arrangements and plans);

(b) section 12 (collection of waste);

(c) section 13(4) (provision of receptacles for industrial or commercial waste);

(d) section 14 (disposal of waste);

(e) section 17(2)(a) and (c) (disposal of dangerous or intractable waste);

(f) sections 19 to 21 (powers in relation to disposal of waste which is not controlled waste, reclamation of waste and production of heat and electricity from waste); and

(g) section 27(1) (interference with refuse tips and dustbins etc.);

“waste regulation provisions” means—

(a) sections 3 to 11 (disposal licences);

(b) section 16 (removal of waste deposited in breach of licensing provisions); and

(c) section 17(1)(a) and (2)(b) to (d) (directions as to disposal of dangerous or intractable waste, supervision of certain activities, recovery of expenses and charges and appeals to the Secretary of State);

C28 S. 30 shall be modified to have effect as if after subsection (1) there were inserted subsections by [S.I. 1985/1884, art. 5, Sch. 2 para. 11\(b\)](#) the following subsections:

(2A) In Greater London the disposal authority is—

(a) for the purposes of the waste disposal provisions of this Act—

(i) in the area of a London waste disposal authority, that authority;

(ii) in the City of London, the Common Council;

(iii) in any other London borough, the council of that borough; and

(b) for the purposes of the waste regulation provisions of this Act, the London Waste Regulation Authority.

(2B) In the metropolitan county of Greater Manchester the disposal authority is—

(a) for the purposes of the waste disposal provisions of this Act—

(i) in the metropolitan district of Wigan, the district council;

(ii) in all other areas in the county, the Greater Manchester Waste Disposal Authority; and

(b) for the purposes of the waste regulation provisions of this Act, the Greater Manchester Waste Disposal Authority.

(2C) In the metropolitan county of Merseyside the disposal authority is the Merseyside Waste Disposal Authority.

(2D) In all other local authority areas in England the disposal authority is the council of the county or metropolitan district and in Wales it is the council of the district.

C29 S. 30(4) extended (16.7.1991) by [Control of Pollution \(Amendment\) Act 1989 \(c. 14, SIF 46:4\), s. 9\(2\)](#); [S.I. 1991/1618, art. 2\(a\)](#)

Marginal Citations

M15 1967 c. 9.

M16 1960 c. 62.

Status: Point in time view as at 11/08/2004.

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M17 1968 c. 52.
M18 1875 c. 17.
M19 1960 c. 62.
M20 1961 c. 34.
M21 1947 c. 48.
M22 1948 c. 45.
M23 1960 c. 34.

[^{F104}PART IA

ABANDONED MINES

Textual Amendments

F104 Pt. IA (ss. 30Y, 30Z) inserted (12.10.1995 for specified purposes otherwise 1.1.1999) by 1995 c. 25, s. 59 (with ss. 7(6), 115, 117); S.I. 1995/2649, art. 2(i); S.I. 1998/3272, art. 2

Modifications etc. (not altering text)

C30 Pt. 1A modified (1.4.1996) by 1995 c. 25, s. 33(5)(b) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

30Y Introductory.

- (1) For the purposes of this Part, “abandonment”, in relation to a mine,—
- (a) subject to paragraph (b) below, includes—
 - (i) the discontinuance of any or all of the operations for the removal of water from the mine;
 - (ii) the cessation of working of any relevant seam, vein or vein-system;
 - (iii) the cessation of use of any shaft or outlet of the mine;
 - (iv) in the case of a mine in which activities other than mining activities are carried on (whether or not mining activities are also carried on in the mine)—
 - (A) the discontinuance of some or all of those other activities in the mine; and
 - (B) any substantial change in the operations for the removal of water from the mine; but
 - (b) does not include—
 - (i) the abandonment of any rights, interests or liabilities by the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the ^{M24}Bankruptcy (Scotland) Act 1985); or
 - (ii) any disclaimer under section 178 or 315 of the ^{M25}Insolvency Act 1986 (power of liquidator, or trustee of bankrupt’s estate, to disclaim onerous property) by the official receiver acting in a compulsory capacity;

and cognate expressions shall be construed accordingly.
- (2) In this Part, except where the context otherwise requires—

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“acting in a compulsory capacity”, in the case of the official receiver, means acting as—

- (a) liquidator of a company;
- (b) receiver or manager of a bankrupt’s estate, pursuant to section 287 of the ^{M26}Insolvency Act 1986;
- (c) trustee of a bankrupt’s estate;
- (d) liquidator of an insolvent partnership;
- (e) trustee of an insolvent partnership;
- (f) trustee, or receiver or manager, of the insolvent estate of a deceased person;

“the official receiver” has the same meaning as it has in the ^{M27}Insolvency Act 1986 by virtue of section 399(1) of that Act;

“relevant seam, vein or vein-system”, in the case of any mine, means any seam, vein or vein-system for the purpose of, or in connection with, whose working any excavation constituting or comprised in the mine was made.

(3) This Part extends only to Scotland.]

Modifications etc. (not altering text)

C31 S. 30Y modified (1.4.1996) by 1995 c. 25, s. 33(5)(b) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Marginal Citations

M24 1985 c. 66.
M25 1986 c. 45.
M26 1986 c. 45.
M27 1986 c. 45.

[^{F105}30Z Mine operators to give SEPA six months’ notice of any proposed abandonment.

- (1) If, in the case of any mine, there is to be an abandonment at any time after the expiration of the initial period, it shall be the duty of the operator of the mine to give notice of the proposed abandonment to SEPA at least six months before the abandonment takes effect.
- (2) A notice under subsection (1) above shall contain such information (if any) as is prescribed for the purpose, which may include information about the operator’s opinion as to any consequences of the abandonment.
- (3) A person who fails to give the notice required by subsection (1) above shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (4) A person shall not be guilty of an offence under subsection (3) above if—
 - (a) the abandonment happens in an emergency in order to avoid danger to life or health; and
 - (b) notice of the abandonment, containing such information as may be prescribed, is given as soon as reasonably practicable after the abandonment has happened.

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- (5) Where the operator of a mine is—
- (a) the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the ^{M28}Bankruptcy (Scotland) Act 1985); or
 - (b) the official receiver acting in a compulsory capacity,
- he shall not be guilty of an offence under subsection (3) above by reason of any failure to give the notice required by subsection (1) above if, as soon as is reasonably practicable (whether before or after the abandonment), he gives to SEPA notice of the abandonment or proposed abandonment, containing such information as may be prescribed.
- (6) Where a person gives notice under subsection (1), (4)(b) or (5) above, he shall publish prescribed particulars of, or relating to, the notice in one or more local newspapers circulating in the locality where the mine is situated.
- (7) Where SEPA—
- (a) receives notice under this section or otherwise learns of an abandonment or proposed abandonment in the case of any mine, and
 - (b) considers that, in consequence of the abandonment or proposed abandonment taking effect, any land has or is likely to become contaminated land, within the meaning of Part IIA of the ^{M29}Environmental Protection Act 1990,
- it shall be the duty of SEPA to inform the local authority in whose area that land is situated of the abandonment or proposed abandonment.
- (8) In this section—
- “the initial period” means the period of six months beginning with the day on which subsection (1) above comes into force;
- “local authority” means a council constituted under section 2 of the ^{M30}Local Government etc. (Scotland) Act 1994.]

Textual Amendments

F105 Pt. IA (ss. 30Y, 30Z) inserted (12.10.1995 for specified purposes otherwise 1.1.1999) by 1995 c. 25, s. 59 (with ss. 7(6), 115, 117); S.I. 1995/2649, art. 2(i); S.I. 1998/3272, art. 2

Modifications etc. (not altering text)

C32 S. 30Z modified (1.4.1996) by 1995 c. 25, s. 33(5)(b) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Marginal Citations

M28 1985 c. 66.

M29 1990 c.43.

M30 1994 c. 39.

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PART II

POLLUTION OF WATER

Modifications etc. (not altering text)

- C33** Pt. II modified (S.) (19.5.1993) by [S.I. 1993/1156](#), regs. 3, 4, 5, [Sch. 1](#)
Pt. II (ss. 31-56) modified (1.4.1996) by [1995 c. 25](#), [s. 33\(5\)\(b\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186](#), [art. 3](#)
- C34** Pt. II amended by [S.I. 1984/1200](#), [reg. 2\(1\)](#)
Pt. II amended (1.5.1994) by [S.I. 1994/1056](#), [reg. 1\(3\)](#), 19, [Sch. 4 Pt. I para. 11](#)
- C35** Pt. II modified by [S.I. 1984/1200](#), [reg. 3](#), [Sch. 1](#) and 1985/5, regs. 3(1)(2), 4(1)(a)
- C36** Pt. II modified by [Channel Tunnel Act 1987](#) (c. 53, SIF 102), ss. 6, 45, [Sch. 2 para. 5\(5\)](#), [Sch. 7 Pt. VI para. 2](#)
- C37** Functions exercisable under Pt. II by (a) Minister of Agriculture, Fisheries and Food and (b) that Minister and Secretary of State jointly transferred (W.) by [S.I. 1978/272](#), [art. 2\(1\)\(3\)](#), [Sch. 1](#)
Pt. II: transfer of functions (12.10.1995) by [1995 c. 25](#), [s. 21\(1\)\(a\)\(ii\)](#) (with ss. 7(6), 115, 117); [S.I. 1995/2649](#), [art. 2](#)

General provisions

[^{F106}30A Waters to which Part II applies.

- (1) This part applies to any waters (in this Part referred to as “controlled waters”) of any of the following classes—
- (a) relevant territorial waters, that is to say, subject to subsection (5) below, the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to Scotland is measured;
 - (b) coastal waters, that is to say, any waters which are within the area which extends landward from those baselines as far as the limit of the highest tide or, in the case of the waters of any relevant river or watercourse, as far as the fresh-water limit of the river or watercourse, together with the waters of any enclosed dock which adjoins waters within that area;
 - (c) inland waters, that is to say, the waters of any relevant loch or pond or of so much of any relevant river or watercourse as is above the fresh-water limit;
 - (d) ground waters, that is to say, any waters contained in underground strata, or in—
 - (i) a well, borehole or similar work sunk into underground strata, including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work; or
 - (ii) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata.
- (2) The Secretary of State—
- (a) shall deposit maps with [^{F107}SEPA]] showing what appear to him to be the fresh-water limits of every relevant river or watercourse . . . ^{F108}, and
 - (b) may from time to time, if he considers it appropriate to do so by reason of any change of what appears to him to be the fresh-water limit of any

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river or watercourse, deposit a map showing a revised limit for that river or watercourse;

and in subsection (1) above “fresh-water limit”, in relation to any river or watercourse, means the place for the time being shown as the fresh-water limit of that river or watercourse in the latest map deposited for that river or watercourse under this subsection.

(3) It shall be the duty of [F107SEPA] to keep any maps deposited with it under subsection (2) above available, at all reasonable times, for inspection by the public free of charge.

(4) In this section—

“miles” means international nautical miles of 1,852 metres;

“loch or pond” includes a reservoir of any description;

“relevant loch or pond” means (subject to subsection (5) below) any loch or pond which (whether it is natural or artificial or above or below ground) discharges into a relevant river or watercourse or into another loch or pond which is itself a relevant loch or pond;

“relevant river or watercourse” means any river or watercourse (including an underground river or watercourse and an artificial river or watercourse) which is neither a public sewer nor a sewer or drain which drains into a public sewer.

(5) The Secretary of State may by order provide—

(a) that any area of the territorial sea adjacent to Scotland is to be treated as if it were an area of relevant territorial waters for the purposes of this Part;

(b) that any loch or pond which does not discharge into a relevant river or watercourse or into a relevant loch or pond is to be treated for those purposes as a relevant loch or pond.

(6) The power of the Secretary of State to make an order under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and such an order may—

(a) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities.

Textual Amendments

F106 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F107 Words in s. 30A(2)(a) and (3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F108 Words in s. 30A(2)(a) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C38 S. 30A extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**

S. 30A amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

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C39 S. 30A(1)(c) modified (6.1.1997) by [S.I. 1996/3047](#), [reg. 15\(1\)](#)

[^{F109}30B Classification of quality waters.

- (1) The Secretary of State may, in relation to any description of controlled waters (being a description applying to some or all of the waters of a particular class or of two or more different classes), by regulations prescribe a system of classifying the quality of those waters according to criteria specified in the regulations.
- (2) The criteria specified in regulations under this section in relation to any classification shall consist of one or more of the following, that is to say—
 - (a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;
 - (b) specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
 - (c) specific requirements as to other characteristics of those waters;and, for the purposes of any such classification, regulations under this section may provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed.]

Textual Amendments

F109 Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#) and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989](#) (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), [58](#)

Modifications etc. (not altering text)

C40 S. 30B extended (2.12.1991) by [S.I. 1991/2539](#), [reg. 3](#), [Sch.](#)
S. 30B amended (27.8.1993) by [1993 c. 12](#), ss. 40, 51(2), [Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)

[^{F110}30C Water quality objectives.

- (1) For the purpose of maintaining and improving the quality of controlled waters the Secretary of State may, by serving a notice on [^{F111}SEPA] specifying—
 - (a) one or more of the classifications for the time being prescribed under section 30B above; and
 - (b) in relation to each specified classification, a date, establish the water quality objectives for any waters. . . ^{F112}which are, or are included in, waters of a description prescribed for the purposes of that section.
- (2) The water quality objectives for any waters to which a notice under this section relates shall be the satisfaction by those waters, on and at all times after each date specified in the notice, of the requirements which at the time of the notice were the requirements for the classification in relation to which that date is so specified.
- (3) Where the Secretary of State has established water quality objectives under this section for any waters he may review objectives for those waters if—

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- (a) five years or more have elapsed since the service of the last notice under subsection (1) or (6) of this section to be served in respect of those waters; or
- (b) [F113SEPA], after consultation with such persons as it considers appropriate, requests a review;

and the Secretary of State shall not exercise his power to establish objectives for any waters by varying the existing objectives for those waters except in consequence of such a review.

- (4) Where the Secretary of State proposes to exercise his power under this section to establish or vary the objectives for any waters. . . F114 he shall—
 - (a) give notice to [F115SEPA] setting out his proposal and specifying the period (not being less than three months from the date of publication of the notice) within which representations with respect to the proposal may be made; and
 - (b) consider any representations which are duly made;
 and if he decides, after considering any such representations, to exercise his power to establish or vary those objectives, he may do so either in accordance with the proposal contained in the notice or in accordance with that proposal as modified in such manner as he considers appropriate.
- (5) A notice under subsection (4) above shall be given—
 - (a) by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by it; and
 - (b) by serving a copy of the notice on [F116SEPA].
- (6) If, on a review under this section or in consequence of any representations made following such a review for the purposes of subsection (4) above, the Secretary of State decides that the water quality objectives for any waters F117 . should remain unchanged, he shall serve notice of that decision on [F118SEPA].

Textual Amendments

- F110** Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F111** Words in s. 30C(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(1)(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F112** Words in s. 30C(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(4)(a), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F113** Words substituted in s. 30C(3)(b) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(4)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F114** Words in s. 30C(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(4)(c)(i), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F115** Words in s. 30C(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(4)(c)(ii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F116** Words in s. 30C(5)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(4)(d)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F117** Words in s. 30C(6) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(4)(e)(i), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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F118 Words in s. 30C(6) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(4)(e)(ii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

- C41** S. 30C amended (9.8.1991) by S.I. 1991/1609, **reg. 3(a)**
S. 30C amended (1.4.1992) by S.I. 1992/574, **reg. 4(a)**
- C42** S. 30C modified (9.8.1992) by S.I. 1991/1609, **reg. 3(b)**
S. 30C modified (1.4.1992) by S.I. 1992/574, **reg. 4(b)**
S. 30C modified (6.1.1997) by S.I. 1996/3047, **reg. 15(2)**
S. 30C modified (18.11.1997) by 1997/2470, **reg. 6**
S. 30C modified (18.11.1997) by S.I. 1997/2471, **reg. 6**
S. 30C modified (1.4.1998) by S.I. 1998/250, **reg. 5**
S. 30C modified (1.7.1998) by S.I. 1998/1344, **reg. 5**
- C43** S. 30C(4)(5) excluded by S.I. 1990/126, **reg. 4**
S. 30C(4)(5) omitted (to the extent specified in S.I. 1992/574, **reg. 4(b)**) (1.4.1992) by virtue of S.I. 1992/574, **reg. 4(b)**.

[^{F119}30D General duties to achieve and maintain objectives etc.

- (1) It shall be the duty of the Secretary of State and of [^{F120}SEPA] to exercise the powers conferred on him or it by or under the following provisions of this Part or the provisions of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 [^{F121}and of the Environmental Protection Act 1990] in such manner as ensures, so far as it is practicable by the exercise of those powers to do so, that the water quality objectives specified for any waters in a notice under section 30C above, or in a notice under [^{F122}section 83 of the Water Resources Act 1991], are achieved at all times.
- (2) It shall be the duty of [^{F120}SEPA], for the purposes of the carrying out of its functions under the following provisions of this Part or the provisions of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965, to monitor the extent of pollution in controlled waters.

Textual Amendments

- F119** Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F120** Words in s. 30D substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F121** Words inserted (14.1.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1), 164(3), **Sch. 15 para. 15(2)**; S.I. 1991/96, **art.**
- F122** Words in s. 30D(1) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 2(1), 4(2), **Sch. 1 para. 27(1)**

Modifications etc. (not altering text)

- C44** S. 30D extended (2.12.1991) by S.I. 1991/2539, **reg. 3, Sch.**
S. 30D amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

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[^{F123}30E Consultation and collaboration.

In the performance of [^{F124}its]] functions in relation to waters partly in Scotland and partly in England [^{F125}SEPA] shall, in matters of common interest, consult and collaborate with the [^{F125}Environment Agency].

Textual Amendments

- F123** Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F124** Word in s. 30E substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(5)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F125** Words in s. 30E substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(5)(b)(c)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F126} Control of entry of polluting matter and effluents into water]

Textual Amendments

- F126** Crossheading inserted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 2** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F127}30F Pollution offences.

- (1) A person contravenes this section if he causes or knowingly permits any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters.
- (2) A person contravenes this section if he causes or knowingly permits any matter, other than trade effluent or sewage effluent, to enter controlled waters by being discharged from a sewer or from a drain in contravention of a prohibition imposed under section 30G below.
- (3) A person contravenes this section if he causes or knowingly permits any trade effluent or sewage effluent to be discharged—
 - (a) into any controlled waters; or
 - (b) from land in Scotland, through a pipe, into the sea outside the seaward limits of controlled waters.
- (4) A person contravenes this section if he causes or knowingly permits any trade effluent or sewage effluent to be discharged, in contravention of any prohibition imposed under section 30G below, from a building or from any plant—
 - (a) on to or into any land; or
 - (b) into any waters of a loch or pond which are not inland waters.
- (5) A person contravenes this section if he causes or knowingly permits any matter whatever to enter any inland waters so as to tend (either directly or in combination with other matter which he or another person causes or permits to enter those waters)

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to impede the proper flow of the waters in a manner leading, or likely to lead, to a substantial aggravation of—

- (a) pollution due to other causes; or
- (b) the consequences of such pollution.

(6) Subject to the following provisions of this Part, a person who contravenes this section shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.]

Textual Amendments

F127 Ss. 30F-30J inserted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 2** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C45 S. 30F applied (11.8.2004) by **Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004** (asp 10), **s. 12(6)** (with ss. 12(7), 33)

C46 S. 30F applied (with modifications) (28.7.1998) by 1998 c. iii, s. 1, **Sch.** para. s. 29(4)

[^{F128}30G Prohibition of certain discharges by notice or regulations.

(1) For the purposes of section 30F above a discharge of any effluent or other matter is, in relation to any person, in contravention of a prohibition imposed under this section if, subject to the following provisions of this section—

- (a) SEPA has given that person notice prohibiting him from making or, as the case may be, continuing the discharge; or
- (b) SEPA has given that person notice prohibiting him from making or, as the case may be, continuing the discharge unless specified conditions are observed, and those conditions are not observed.

(2) For the purposes of section 30F above a discharge of any effluent or other matter is also in contravention of a prohibition imposed under this section if the effluent or matter discharged—

- (a) contains a prescribed substance or a prescribed concentration of such a substance; or
- (b) derives from a prescribed process or from a process involving the use of prescribed substances or the use of such substances in quantities which exceed the prescribed amounts.

(3) Nothing in subsection (1) above shall authorise the giving of a notice for the purposes of that subsection in respect of discharges from a vessel; and nothing in any regulations made by virtue of subsection (2) above shall require any discharge from a vessel to be treated as a discharge in contravention of a prohibition imposed under this section.

(4) A notice given for the purposes of subsection (1) above shall expire at such time as may be specified in the notice.

(5) The time specified for the purposes of subsection (4) above shall not be before the end of the period of three months beginning with the day on which the notice is given,

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except in a case where SEPA is satisfied that there is an emergency which requires the prohibition in question to come into force at such time before the end of that period as may be so specified.

- (6) Where, in the case of such a notice for the purposes of subsection (1) above as (but for this subsection) would expire at a time at or after the end of the said period of three months, an application is made before that time for a consent in pursuance of section 34 of this Act in respect of the discharge to which the notice relates, that notice shall be deemed not to expire until the result of the application becomes final—
- (a) on the grant or withdrawal of the application;
 - (b) on the expiration, without the bringing of an appeal with respect to the decision on the application, of any period prescribed by virtue of section 39(2) below as the period within which any such appeal must be brought; or
 - (c) on the withdrawal or determination of any such appeal.]

Textual Amendments

F128 Ss. 30F-30J inserted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 2** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F129}30H Discharges into and from sewers etc.

- (1) For the purposes of section 30F above where—
- (a) any sewage effluent is discharged as mentioned in subsection (3) or (4) of that section from any sewer or works—
 - (i) vested in [^{F130}Scottish Water]; or
 - (ii) vested in a person other than [^{F130}Scottish Water] and forming (or forming part of) a system provided by him such as is mentioned in section 98(1)(b) of the ^{M31}Local Government etc. (Scotland) Act 1994; and
 - (b) the authority or, as the case may be, the person did not cause or knowingly permit the discharge but was bound (either unconditionally or subject to conditions which were observed) to receive into the sewer or works matter included in the discharge,
the authority or [^{F131}the person] shall be deemed to have caused the discharge.
- (2) [^{F130}Scottish Water] shall not be guilty of an offence under section 30F of this Act by reason only of the fact that a discharge from a sewer or works vested in the authority contravenes conditions of a consent relating to the discharge if—
- (a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works; and
 - (b) the authority either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions but the conditions were not observed; and
 - (c) the authority could not reasonably have been expected to prevent the discharge into the sewer or works;

and a person shall not be guilty of such an offence in consequence of a discharge which he caused or permitted to be made into a sewer or works vested in [^{F130}Scottish Water] if the authority was bound to receive the discharge there either unconditionally or subject to conditions which were observed.

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- (3) A person in whom any such sewer or works as is described in subsection (1)(a)(ii) above is vested (such person being in this subsection referred to as a “relevant person”) shall not be guilty of an offence under section 30F of this Act by reason only of the fact that a discharge from the sewer or works contravenes conditions of a consent relating to the discharge if—
- (a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works; and
 - (b) the relevant person either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions but the conditions were not observed; and
 - (c) the relevant person could not reasonably have been expected to prevent the discharge into the sewer or works;
- and another person shall not be guilty of such an offence in consequence of a discharge which he caused or permitted to be made into a sewer or works vested in a relevant person if the relevant person was bound to receive the discharge there either unconditionally or subject to conditions which were observed.]

Textual Amendments

F129 Ss. 30F-30J inserted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 2** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F130 Words in s. 30H substituted (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **Sch. para. 4(2)(a)**

F131 Words in s. 30H(1) substituted (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **Sch. para. 4(2)(c)**

Marginal Citations

M31 1994 c.39.

[^{F132}30I Defence to principal offences in respect of authorised discharges.

- (1) Subject to the following provisions of this section, a person shall not be guilty of an offence under section 30F above in respect of the entry of any matter into any waters or any discharge if the entry occurs or the discharge is made under and in accordance with, or as a result of, any act or omission under and in accordance with—
- (a) a consent in pursuance of section 34 of this Act or under Chapter II of Part III of the ^{M32}Water Resources Act 1991 (which makes corresponding provision for England and Wales);
 - (b) an authorisation for a prescribed process designated for central control granted under Part I of the ^{M33}Environmental Protection Act 1990;
 - [^{F133}(ba) a permit granted by SEPA under regulations made under section 2 of the Pollution Prevention and Control Act 1999;]]
 - (c) a waste management or disposal licence;
 - (d) a licence granted under Part II of the ^{M34}Food and Environment Protection Act 1985;
 - (e) section 33 of the ^{M35}Water (Scotland) Act 1980 (temporary discharge by authorities in connection with the construction of works);
 - (f) any provision of a local Act or statutory order which expressly confers power to discharge effluent into water; or

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- (g) any prescribed enactment.
- (2) Nothing in any disposal licence shall be treated for the purposes of subsection (1) above as authorising—
- (a) any such entry or discharge as is mentioned in subsections (2) to (4) of section 30F above; or
 - (b) any act or omission so far as it results in any such entry or discharge.
- (3) In this section—
- “disposal licence” means a licence issued in pursuance of section 5 of this Act;
- “local Act” includes enactments in a public general Act which amend a local Act;
- “statutory order” means an order, byelaw, scheme or award made under an Act of Parliament, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure; and
- “waste management licence” means such a licence granted under Part II of the ^{M36}Environmental Protection Act 1990.

Textual Amendments

F132 Ss. 30F-30J inserted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 2** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F133 S. 30I(ba) inserted (28.9.2000) by S.S.I. 2000/323, regs. 1(1), 36, **Sch. 10, para. 1**

Modifications etc. (not altering text)

C47 S. 30I(1) applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(2)**

Marginal Citations

M32 1991 c. 57.

M33 1990 c. 43.

M34 1985 c. 48.

M35 1980 c. 45.

M36 1990 c. 43.

[^{F134}30J Other defences to principal offences.

- (1) A person shall not be guilty of an offence under section 30F above in respect of the entry of any matter into any waters or any discharge if—
- (a) the entry is caused or permitted, or the discharge is made, in an emergency in order to avoid danger to life or health;
 - (b) that person takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the entry or discharge and of its polluting effects; and
 - (c) particulars of the entry or discharge are furnished to SEPA as soon as reasonably practicable after the entry occurs.
- (2) A person shall not be guilty of an offence under section 30F above by reason of his causing or permitting any discharge of trade or sewage effluent from a vessel.

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- (3) A person shall not be guilty of an offence under section 30F above by reason only of his permitting water from an abandoned mine or an abandoned part of a mine to enter controlled waters.
- (4) Subsection (3) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.
- (5) In determining for the purposes of subsection (4) above whether a mine or part of a mine became abandoned before, on or after 31st December 1999 in a case where the mine or part has become abandoned on two or more occasions, of which—
 - (a) at least one falls on or before that date, and
 - (b) at least one falls after that date,the mine or part shall be regarded as becoming abandoned after that date (but without prejudice to the operation of subsection (3) above in relation to that mine or part at, or in relation to, any time before the first of those occasions which falls after that date).
- (6) Where, immediately before a part of a mine becomes abandoned, that part is the only part of the mine not falling to be regarded as abandoned for the time being, the abandonment of that part shall not be regarded for the purposes of subsection (4) or (5) above as constituting the abandonment of the mine, but only of that part of it.
- (7) A person shall not, otherwise than in respect of the entry of any poisonous, noxious or polluting matter into any controlled waters, be guilty of an offence under section 30F above by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into inland waters if—
 - (a) he deposits the refuse on the land with the consent of SEPA;
 - (b) no other site for the deposit is reasonably practicable; and
 - (c) he takes all reasonably practicable steps to prevent the refuse from entering those inland waters.
- (8) A roads authority obliged or entitled to keep open a drain by virtue of section 31 of the ^{M37}Roads (Scotland) Act 1984 shall not be guilty of an offence under section 30F above by reason of its causing or permitting any discharge to be made from a drain kept open by virtue of that section unless the discharge is made in contravention of a prohibition imposed under section 30G above.]

Textual Amendments

F134 Ss. 30F-30J inserted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 2** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M37 1984 c. 54.

Control of entry of polluting matter and effluents into water

[^{F135}**31** **Control of pollution of rivers and coastal waters etc.**

^{F136}(1)

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^{F136}(2)

^{F136}(3)

(4) Where it appears to the Secretary of State that, with a view to preventing poisonous, noxious or polluting matter from entering any controlled waters, it is appropriate to prohibit or restrict the carrying on in a particular area of activities which he considers are likely to result in pollution of the waters, then, subject to subsection (5) below, he may by regulations—

- (a) designate the area; and
- (b) provide that prescribed activities shall not be carried on at any place within the area except with the consent (which shall not be unreasonably withheld) of [^{F137}SEPA]] and in accordance with any reasonable conditions to which the consent is subject;
- (c) provide that a contravention of the regulations shall be an offence and prescribe the maximum penalty for the offence; and
- (d) make provision for the imposition by [^{F138}SEPA] of charges in respect of the consent mentioned in paragraph (b) above.

(5) It shall be the duty of the Secretary of State, before he makes any regulations under subsection (4) above—

- (a) to publish in the Edinburgh Gazette and in at least one newspaper circulating in the area in question a copy of the proposed regulations and a notice specifying—
 - (i) a period of not less than twenty-eight days, beginning with the date on which the notice is first published, within which objections to the proposed regulations may be made, and
 - (ii) the person to whom such objections may be made; and
- (b) to consider any objections to the proposed regulations which are made within that period and, if such an objection is so made by a prescribed person and is not withdrawn, to cause a local inquiry to be held in pursuance of section 96 of this Act with respect to the proposed regulations;

and the Secretary of State may, after considering any such objections as are mentioned in paragraph (b) of this subsection and the report of any person appointed to hold a local inquiry with respect to the proposed regulations, make the regulations either in the form in which a copy of them was published in pursuance of this subsection or in that form with such modifications as he considers appropriate.

(6) [^{F139}SEPA] may by byelaws make such provision as [^{F140}it] considers appropriate for prohibiting or regulating the washing or cleaning, in any controlled waters. . . ^{F141}, of things of a kind specified in the byelaws; and a person who contravenes any byelaws made by virtue of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or such smaller sum as is specified in the byelaws.

^{F136}(7)

(8) The maximum penalty prescribed in pursuance of subsection (4) of this section shall not exceed the penalties specified in [^{F142}section 30F(6) above].

(9) In subsection (4) of this section, the reference to the entry of poisonous, noxious or polluting matter into controlled waters shall not include a reference to the entry of

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nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes.

^{F136}(10)

Textual Amendments

- F135** Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F136** S. 31(1)-(3), (7) and (10) repealed (1.4.1996) by 1995 c. 25, ss. 106, 120(3), Sch. 16 para. 3, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F137** Words in s. 31(4)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(6)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F138** Words in s. 31(4)(d) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F139** Words in s. 31(6) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F140** Words in s. 31(6) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(6)(b)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F141** Words in s. 31(6) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(6)(b)(ii), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F142** Words in s. 31(8) substituted (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 4** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

- C48** S. 31 modified by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, Sch. 2 para. 14(3), **Sch. 7 Pt. VI para. 2**
- C49** S. 31(4)-(5)(8)-(10) extended (S.)(2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 31(4)-(5)(8)-(10) amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 12 Pt. II para. 16** (with ss. 42, 46)
- C50** S. 31 applied (with modifications) (24.3.1994) by 1994 c. i, s. 1, **Sch. Pt. II para. 12(4)**
s. 31 applied (with modifications) (24.3.1994) by 1994 c. ii, s. 1, **Sch. Pt. II para. 10(4)**
s. 31 applied (with modifications) (24.3.1994) by 1994 c. iii, s. 1, **Sch. Pt. II para. 11(4)**
- C51** S. 31(9) extended by S.I. 1985/708, reg. 4(1), **Sch. 1**

^{F143}**31A Requirements to take precautions against pollution.**

- (1) The Secretary of State may by regulations make provision—
- (a) for prohibiting a person from having custody or control of any poisonous, noxious or polluting matter unless prescribed works and prescribed precautions and other steps have been carried out or taken for the purpose of preventing the matter from entering controlled waters;
 - (b) for requiring a person who already has custody or control of, or makes use of, any such matter to carry out such works for that purpose and to take such precautions and other steps for that purpose as may be prescribed.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, regulations under that subsection may—
- (a) confer power on [^{F144}SEPA]—

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- (i) to determine for the purposes of the regulations the circumstances in which a person is required to carry out works or take any precautions or other steps; and
- (ii) by notice to that person, to impose the requirement and to specify or describe the works, precautions or other steps which that person is required to carry out or take;
- (b) provide for appeals to the Secretary of State against notices served by [F144]SEPA] in pursuance of provision made by virtue of paragraph (a) above; and
- (c) provide that a contravention of the regulations shall be an offence the penalty for which shall be—
 - (i) on summary conviction, imprisonment for a term not exceeding three months or to a fine not exceeding [F145]£20,000] or to both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.

Textual Amendments

- F143** Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F144** Words in s. 31A(2)(a)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F145** Word substituted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), **s. 145(2)**

Modifications etc. (not altering text)

- C52** S. 31A extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 31A amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)
- C53** S. 31A(2)(b): power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F146]31B Nitrate sensitive areas.

- (1) Where the Secretary of State considers that it is appropriate to do so with a view to achieving the following purpose, that is to say, preventing or controlling the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes, he may by order designate that land, together with any other land to which he considers it appropriate to apply the designation, as a nitrate sensitive area.
- (2) Where any area has been designated as a nitrate sensitive area by an order under this section and the Secretary of State considers that it is appropriate to do so with a view to achieving the purpose mentioned in subsection (1) above, he may, subject to such restrictions (if any) as may be set out in the order, enter into an agreement under which, in consideration of payments to be made by him—
 - (a) [F147]the absolute owner (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 1949)] of any agricultural land in that area; or

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- (b) where any such owner has given his written consent to the agreement being entered into by any person having another interest in that land, that other person,
accepts such obligations with respect to the management of that land or otherwise as may be imposed by the agreement.
- (3) Where it appears to the Secretary of State in relation to any area which is, or is to be, designated by an order under this section as a nitrate sensitive area that it is appropriate for provision for the imposition of requirements, prohibitions or restrictions to be contained in an order under this section (as well as for him to be able to enter into such agreements as are mentioned in subsection (2) above), he may, by a subsequent order under this section or, as the case may be, by the order designating that area—
- (a) with a view to achieving the purpose mentioned in subsection (1) above, require, prohibit or restrict the carrying on on or in relation to any agricultural land in that area of such activities as may be specified or described in the order; and
- (b) provide for such amounts (if any) as may be specified in or determined under the order to be paid by the Secretary of State, to such persons as may be so specified or determined, in respect of the obligations imposed in relation to that area on those persons by virtue of paragraph (a) above.
- (4) Without prejudice to the generality of subsection (3) above, provision contained in an order under this section by virtue of that subsection may—
- (a) confer power upon the Secretary of State to determine for the purposes of the order the circumstances in which the carrying on of any activities is required, prohibited or restricted and to determine the activities to which any such requirement, prohibition or restriction applies;
- (b) provide for any requirement to carry on any activity not to apply in cases where the Secretary of State has consented to a failure to carry on that activity and any conditions on which the consent has been given are complied with;
- (c) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Secretary of State or in contravention of any conditions subject to which any such consent is given;
- (d) provide that a contravention of a requirement, prohibition or restriction contained in the order or in a condition of a consent given in relation to or for the purposes of any such requirement, prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the maximum penalties specified in [F148 subsection (6) of section 30F above];
- (e) provide for amounts paid in pursuance of any provision contained in the order to be repaid at such times and in such circumstances and with such interest as may be specified in or determined under the order;
- (f) provide (subject to any regulations under subsection (6) below) for anything falling to be determined under the order by any person to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order.
- (5) The Secretary of State shall not make an order under this section except in accordance with any applicable provisions of Schedule 1A to this Act.
- (6) The Secretary of State may, for the purposes of any orders under this section which require his consent to the carrying on of any activities or to any failure to carry on any activity, by regulations make provision with respect to—

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- (a) applications for any such consent;
- (b) the conditions of any such consent;
- (c) the revocation or variation of any such consent;
- (d) the reference to arbitration of disputes about determinations on any such application;
- (e) the imposition of charges where such an application has been made, such a consent has been given or there has been any act or omission in pursuance of any such consent; and
- (f) the registration of any such application or consent.

Textual Amendments

- F146** Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F147** S. 31B: by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55\)](#), ss. 88(1), 89(2), **Sch. 11 para. 39** (with s. 45(3)), it is provided that in s. 31(B)(2)(a), for the words "an absolute owner (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 1949)" there shall be substituted (25.9.1991) "the owner of the dominium utile".
- F148** Words in s. 31B(4)(d) substituted (1.4.1996) by [1995 c. 25, s. 106, Sch. 16 para. 5](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

[^{F149}31C Registering of agreement.

- (1) An agreement under subsection (2) of section 31B above may—
 - (a) where the land is registered in the Land Register of Scotland, be registered in that register;
 - (b) in any other case, be recorded in the appropriate Division of the General Register of Sasines.
- (2) An agreement registered or recorded under subsection (1) above shall be enforceable at the instance of the Secretary of State against persons deriving title to the land (including any person acquiring right to a tenancy by assignation or succession) from the person who entered into the agreement; provided that such an agreement shall not be enforceable against a third party who shall have in good faith and for value acquired right (whether completed by infetment or not) to the land prior to the agreement being registered or recorded as aforesaid, or against any person deriving title from such third party.
- (3) Notwithstanding the terms of any agreement registered or recorded under subsection (1) above, the parties to the agreement or any persons deriving title from them may at any time agree to terminate it; and such an agreement to terminate it shall be registered or recorded in the same manner as was the original agreement.]

Textual Amendments

- F149** Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15,](#)

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SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58

^{F150}**31D**

Textual Amendments

F150 S. 31D repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(7), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

^{F151}**32**

Textual Amendments

F151 S. 32 repealed (1.4.1996) by 1995 c. 25, ss. 106, 120(3), Sch. 16 para. 3, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F152}**33** **Control of sanitary appliances on vessels.**

- (1) [^{F153}SEPA]] may by byelaws make such provision as it considers appropriate for prohibiting or regulating the keeping or use, on any controlled waters ^{F154} . . . [^{F155}, of vessels of a kind specified in the byelaws which are provided with sanitary appliances; and a person who contravenes any byelaw made by virtue of this section shall be guilty of an offence.
- (2) The Secretary of State may by order provide that any byelaws specified in the order which were made by virtue of section 25(1)(c) of the Rivers (Prevention of Pollution) (Scotland) Act 1951 (byelaws) shall have effect, with such modifications (if any) as are so specified, as if made by virtue of the preceding subsection.
- (3) In this section “sanitary appliance” means a water closet or other prescribed appliance (except a sink, bath and a shower-bath) which is designed to permit polluting matter to pass into the water on which the vessel in question is for the time being situated.
- (4) A person guilty of an offence by virtue of any of the preceding provisions of this section shall be liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale or such smaller sum as may be specified in the byelaws.]

Textual Amendments

F152 S. 33 substituted (S.) (31.5.1991) by 1989 c. 15, ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58

F153 Words in s. 33(1) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(1)(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F154 Words in s. 33(1) repealed (S.) (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(8)(b), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F155 Word in s. 33(1) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(8)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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Consents for discharges

[^{F156}34 Consents for discharges of trade and sewage effluent etc.

- (1) An application to [^{F157}SEPA] for consent in pursuance of this section for discharges of any effluent or other matter shall be accompanied or supplemented by all such information as [^{F158}SEPA] may reasonably require; and [^{F158}SEPA] may if it thinks fit treat an application for consent for discharges at two or more places as separate applications for consent for discharges at each of those places.
- (2) Subject to the following section, it shall be the duty of [^{F159}SEPA, in relation to an application for consent] made in pursuance of this section—
 - (a) to give the consent either unconditionally or subject to conditions or to refuse it; and
 - (b) not to withhold the consent unreasonably;

and if within the period of [^{F159}four] months beginning with the date when an application for consent is received by [^{F158}SEPA], or within such longer period as may at any time be agreed upon in writing between [^{F158}SEPA] and the applicant, [^{F158}SEPA] has neither given nor refused the consent nor informed the applicant that the application has been transmitted to the Secretary of State in pursuance of the following section, [^{F159}the applicant may treat the consent applied for as having been refused].
- (3) If it appears to [^{F158}SEPA] that a person has, without [^{F158}SEPA] consent, caused or permitted matter to be discharged. . . [^{F160} in contravention of [^{F161}section 30F(2) to (4)] of this Act and that a similar contravention by that person is likely, [^{F158}SEPA] may if it thinks fit serve on him an instrument in writing giving its consent, subject to conditions specified in the instrument, for discharges of a kind so specified; but consent given in pursuance of this subsection shall not relate to any discharge which occurred before the instrument giving the consent was served on the recipient of the instrument.
- (4) The conditions subject to which [^{F158}SEPA] may give its consent in pursuance of this section shall be such reasonable conditions as [^{F158}SEPA] thinks fit; and without prejudice to the generality of the preceding provisions of this subsection those conditions may include reasonable conditions—
 - (a) as to the places at which the discharges to which the consent relates may be made and as to the design and construction of any outlets for the discharges;
 - (b) as to the nature, origin, composition, temperature, volume and rate of the discharges and as to the period during which the discharges may be made;
 - (c) as to the provision of facilities for taking samples of the matter discharged and in particular as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;
 - (d) as to the provision, maintenance and testing of meters for measuring the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;
 - (e) as to the keeping of records of the nature, origin, composition, temperature, volume and rate of the discharges and in particular of records of readings of meters and other recording apparatus provided in accordance with any other condition attached to the consent;
 - (f) as to the making of returns and the giving of other information to [^{F158}SEPA] about the nature, origin, composition, temperature, volume and rate of the discharges; and

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- (g) as to the steps to be taken, in relation to the discharges or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising the polluting effects of the discharges on any controlled waters;

and it is hereby declared that consent may be given in pursuance of this section subject to different conditions in respect of different periods.

[^{F162}(5) A person who, in an application for consent in pursuance of this section, makes any statement which he knows to be false or misleading in a material particular or recklessly makes any statement which is false or misleading in a material particular shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.]

Textual Amendments

F156 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F157 Words in s. 34 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F158 Words in s. 34 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(9)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F159 Words in s. 34(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(9)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F160 Words in s. 34(3) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(9)(c), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F161 Words in s. 34(3) substituted (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 6** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F162 S. 34(5) substituted (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 1(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C54 Ss. 34, 35 extended by S.I. 1984/863, reg. 3, **Sch. 1**

C55 S. 34 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**

S. 34 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

[^{F163}35 Reference to Secretary of State of certain applications for consent.

- (1) The Secretary of State may, either in consequence of representations made to him or otherwise, direct [^{F164}SEPA] to transmit to him for determination applications for consent in pursuance of the preceding section which are specified in the direction or are of a kind so specified, and it shall be the duty of [^{F165}SEPA] to comply with the direction and to inform each relevant applicant that his application has been transmitted to the Secretary of State.
- (2) Before determining an application transmitted to him by [^{F164}SEPA] in pursuance of this section the Secretary of State may if he thinks fit, and shall if a request to be heard with respect to the application is made to him in accordance with regulations by the

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applicant or [F165SEPA], cause a local inquiry to be held in pursuance of section 96 of this Act into the application or afford to the applicant and [F165SEPA] an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (3) Where in pursuance of the preceding subsection the Secretary of State affords to an applicant and an opportunity of appearing before and being heard by a person with respect to the application in question, it shall be the duty of the Secretary of State to afford an opportunity of appearing before and being heard by that person to any person who, in pursuance of subsection (1)(c) or (5) of the following section, has made representations relating to the application.
- (4) It shall be the duty of the Secretary of State to determine an application transmitted to him by [F164SEPA] in pursuance of this section by directing [F165SEPA] to refuse its consent in pursuance of the preceding section in consequence of the application or to give the consent either unconditionally or subject to such conditions as are specified in the direction, and it shall be the duty of [F165SEPA] to comply with the direction.

Textual Amendments

F163 Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#) and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15, SIF 130\)](#), [ss. 58\(7\), 101\(1\), 141\(6\), 160\(1\)\(2\)\(4\), 168, 189\(4\)-\(10\), 190, 193\(1\), 194\(4\)](#), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58

F164 Words in s. 35 substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(2\)](#) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

F165 Words in s. 35 substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(10\)](#) (with ss. 115, 117); S.I. 1996/186, [art. 3](#)

Modifications etc. (not altering text)

C56 Ss. 34, 35 extended by S.I. 1984/863, [reg. 3, Sch. 1](#)

C57 S. 35 extended (2.12.1991) by S.I. 1991/2539, [reg. 3, Sch.](#)

S. 35 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), [Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)

[F166]36 Provisions supplementary to ss. 34 and 35.

- (1) Where [F167SEPA] receives an application for consent in pursuance of section 34 of this Act or serves an instrument in pursuance of subsection (3) of that section, it shall [F168, subject to subsections (2A) and (2B) below,] be the duty of [F169SEPA], before deciding whether to give or refuse consent in pursuance of the application or, as the case may be, after serving the instrument—
- (a) to publish in the prescribed form notice of the application or instrument in two successive weeks in a newspaper or newspapers circulating in—
- (i) the area or areas in which the places are situated at which it is proposed in the application that the discharges should be made or, as the case may be, at which discharges are the subject of consent given by the instrument, and
- (ii) the area or areas appearing to [F169SEPA] to be in the vicinity of any controlled waters which [F169SEPA] considers likely to be affected by the discharges,

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- and, not earlier than the day following that on which the first publication of the notice is completed in all relevant areas in pursuance of the preceding provisions of this paragraph, to publish such a notice in the Edinburgh Gazette;
- (b) to send copies of the application or instrument [F170 to Scottish Water and] to each local authority in whose area F171 ... it is proposed in the application that a discharge should be made or in whose area F171 ... a discharge is the subject of consent given by the instrument and, in the case of an application or instrument relating to coastal waters, relevant territorial waters or an application relating to waters outside the seaward limits of relevant territorial waters, to the Secretary of State; and
- (c) to consider any written representations relating to the application or instrument which are made to [F169 SEPA] by any person within the period of six weeks beginning with the date on which the notice of the application or instrument is published in the Edinburgh Gazette.
- (2) For the purposes of subsection (1) above, “local authority” means a [F172 council constituted under section 2 of the Local Government etc. (Scotland) Act 1994], and any place at sea at which it is proposed in an application that a discharge should be made shall be treated as situated at the point on land nearest to that place.
- [A person who proposes to make, or has made, an application to SEPA for consent F173 (2A) in pursuance of section 34 of this Act may apply to the Secretary of State within a prescribed period for a certificate providing that subsection (1) above shall not apply to that application.
- (2B) If the Secretary of State is satisfied that—
- (a) it would be contrary to the interests of national security; or
- (b) it would prejudice to an unreasonable degree the commercial interests of any person, not to issue a certificate applied for under subsection (2A) above, he may issue the certificate and, if he does so, subsection (1) above shall not apply to the application specified in the certificate.]
- (3) Where notice of an application is published by [F167 SEPA] in pursuance of subsection (1)(a) of this section, [F169 SEPA] shall be entitled to recover the cost of publication from the applicant.
- (4) [F167 SEPA] shall be entitled to disregard the provisions of subsection (1) of this section in relation to an application (except so much of paragraph (b) of that subsection as requires copies of the application to be sent to the Secretary of State) if [SEPA] proposes to give consent in pursuance of the application and considers that the discharges in question will have no appreciable effect on the water into which they are proposed to be made.
- (5) The preceding provisions of this section shall have effect with prescribed modifications in relation to an application which is the subject of a direction in pursuance of subsection (1) of the preceding section.
- (6) Where [F167 SEPA] proposes to give consent in pursuance of section 34 of this Act in consequence of an application in respect of which representations have been made in pursuance of subsection (1)(c) of this section then—
- (a) it shall be the duty of [F169 SEPA] to serve notice of the proposal on the person who made the representations and to include in the notice a statement of the effect of the following paragraph; and

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- (b) that person may, within the period of twenty-one days beginning with the day on which the notice of the proposal is served on him, request the Secretary of State in accordance with regulations to give a direction in pursuance of subsection (1) of the preceding section in respect of the application; and
- (c) it shall be the duty of [F169SEPA] not to give consent in consequence of the application before the expiration of that period and, if within that period the said person makes a request in pursuance of the preceding paragraph and serves notice of the request on [F169SEPA], not to give consent in pursuance of the application unless the Secretary of State has given notice to [F169SEPA] that he declines to comply with the request;

and in calculating in the case of any application the period of [F174four] months mentioned in section 34(2) of this Act or a longer period there mentioned there shall be disregarded any period during which to which the application was made is prohibited by virtue of paragraph (c) of this subsection from giving consent in consequence of the application.

- (7) A consent for any discharges which is given in pursuance of section 34 of this Act is not limited to discharges by a particular person and accordingly extends to the discharges in question which are made by any person.]

Textual Amendments

- F166** Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#) and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), [Sch. 23 para. 4](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\)](#), [58](#)
- F167** Words in s. 36(1)(3)(4)(6) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(2\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F168** Words in s. 36(1) inserted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(11\)\(a\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F169** Words in s. 36 substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(10\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F170** Words in s. 36(1)(b) inserted (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, [Sch. para. 4\(3\)\(a\)](#)
- F171** Words in s. 36(1)(b) repealed (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, [Sch. para. 4\(3\)\(b\)](#)
- F172** Words in s. 36(2) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 95\(3\)\(b\)](#); [S.I. 1996/323, art. 4\(c\)](#)
- F173** S. 36(2A)(2B) inserted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(11\)\(b\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F174** Word in s. 36(6) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(11\)\(c\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Modifications etc. (not altering text)

- C58** S. 36 extended by [S.I. 1984/863, reg. 3](#), [Sch. 1](#)
- C59** S. 36: certain functions made exercisable by the Scottish Ministers concurrently with the Minister (1.7.1999) by [S.I. 1999/1750, arts. 1\(1\), 3](#), [Sch. 2](#) (with art. 7)
- C60** S. 36 extended (2.12.1991) by [S.I. 1991/2539, reg. 3](#), [Sch.](#)
S. 36 amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(3\)](#), [Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)
- C61** S. 36(1)-(4) modified by [S.I. 1984/865, reg. 4\(1\)\(2\)](#)

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[^{F175}37 Revocation of consents and alteration and imposition of conditions.

- (1) [^{F176}SEPA may from time to time review any consent given in pursuance of section 34 of this Act]] and the conditions, if any, to which the consent is subject; and subject to the following section [^{F177}SEPA] may, by a notice served on the person making a discharge in pursuance of the consent, revoke the consent if it is reasonable to do so or make reasonable modifications of the said conditions, or, in the case of an unconditional consent, provide that it shall be subject to reasonable conditions specified in the notice.
- (2) Subject to the following section, the Secretary of State may—
 - (a) for the purpose of enabling Her Majesty’s Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party;
 - (b) for the protection of public health or of flora and fauna dependent on an aquatic environment; or
 - (c) in consequence of any representations made to him or otherwise, direct [^{F178}SEPA] to serve a notice in pursuance of the preceding subsection containing such provisions as are specified in the direction and it shall be the duty of [^{F177}SEPA] to comply with the direction; and if [^{F177}SEPA] fails to serve the notice within such period as the Secretary of State may allow he may serve the notice on behalf of [^{F177}SEPA], and it is hereby declared that for the purposes of this Part of the Act a notice served on behalf of [^{F177}SEPA] by virtue of this subsection is served by [^{F177}SEPA].

Textual Amendments

- F175** Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#) and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15, SIF 130\)](#), [ss. 58\(7\), 101\(1\), 141\(6\), 160\(1\)\(2\)\(4\), 168, 189\(4\)-\(10\), 190, 193\(1\), 194\(4\), Sch. 23 para. 4, Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#)
- F176** Words in [s. 37\(1\)](#) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\), Sch. 22 para. 29\(12\)](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186, art. 3](#)
- F177** Words in [s. 37](#) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\), Sch. 22 para. 29\(10\)](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186, art. 3](#)
- F178** Words in [s. 37](#) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\), Sch. 22 para. 29\(2\)](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186, art. 3](#)

Modifications etc. (not altering text)

- C62** Ss. 37-40 extended by [S.I. 1984/863, reg. 3, Sch. 1](#)
- C63** S. 37 extended (2.12.1991) by [S.I. 1991/2539, reg. 3, Sch.](#)
S. 37 amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(3\), Sch. 3 Pt. II para. 16](#) (with [ss. 42, 46](#))

[^{F179}38 Restriction on variation and revocation of consent and of previous variation.

- (1) Each instrument signifying the consent of [^{F180}SEPA]] in pursuance of section 34 of this Act shall specify a period during which no notice in pursuance of subsection (1) or (2)(c) of the preceding section is to be served in respect of the consent without the written agreement of a person making a discharge in pursuance of the consent; and the said period shall be a reasonable period of not less than [^{F181}four] years beginning with the day on which the consent takes effect.

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- (2) Each notice served by ^{F180}SEPA in pursuance of subsection (1) or (2)(c) of the preceding section (except a notice which only revokes a consent or conditions) shall specify a period during which a subsequent notice in pursuance of that subsection which alters the effect of the first-mentioned notice is not to be served without the written agreement of a person making a discharge in pursuance of the consent to which the first-mentioned notice relates; and the said period shall be a reasonable period of not less than ^{F181}four years beginning with the day on which the first-mentioned notice is served.
- (3) ^{F182}SEPA shall be liable to pay compensation to any person in respect of any loss or damage sustained by that person as a result of the authority's compliance with a direction given in relation to any consent by virtue of section 37(2)(b) of this Act if—
- (a) in complying with that direction ^{F182}SEPA does anything which, apart from that direction, it would be precluded from doing by a restriction imposed under subsection (1) or (2) above; and
 - (b) the direction is not shown to have been in consequence of—
 - (i) a change of circumstances which could not reasonably have been foreseen at the beginning of the period to which the restriction relates; or
 - (ii) consideration by the Secretary of State of material information which was not reasonably available to [SEPA] at the beginning of that period;
 and in this paragraph information is material, in relation to a consent, if it relates to any discharge made or to be made by virtue of the consent, to the interaction of any such discharge with any other discharge or to the combined effect of the matter discharged and any other matter.
- (4) A restriction imposed under subsection (1) or (2) of this section shall not prevent the service by [SEPA] of a notice by virtue of section 37(1) or (2)(c) of this Act in respect of a consent given under section 34(3) of this Act if—
- (a) the notice is served not more than three months after the beginning of the period specified in section 36(1)(c) of this Act for the making of representations with respect to the consent; and
 - (b) ^{F182}SEPA or, as the case may be, the Secretary of State considers, in consequence of any representations received by it or him within that period, that it is appropriate for the notice to be served.

Textual Amendments

- F179** Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58
- F180** Words in s. 38(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F181** Word in s. 38(1) and (2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(13)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F182** Words in s. 38(3)(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(10)** (with ss. 115, 117); S.I. 1996/186, **art. 3**

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Modifications etc. (not altering text)

C64 Ss. 37–40 extended by S.I. 1984/863, reg. 3, Sch. 1

C65 S. 38 extended (2.12.1991) by 1991/2539, reg. 3, Sch.

S. 38 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), Sch. 3 Pt. II para. 16 (with ss. 42, 46)

[^{F183}38A General review of consents.

- (1) If it appears appropriate to the Secretary of State to do so he may at any time direct SEPA to review—
 - (a) the consents given under section 34 of this Act; or
 - (b) any description of such consents,and the conditions (if any) to which those consents are subject.
- (2) A direction given by virtue of subsection (1) above—
 - (a) shall specify the purpose for which; and
 - (b) may specify the manner in which,the review is to be conducted.
- (3) After carrying out the review, SEPA shall submit to the Secretary of State its proposals (if any) for—
 - (a) the modification of the conditions of any consent reviewed pursuant to the direction; or
 - (b) in the case of any such consent which is unconditional, subjecting the consent to conditions.
- (4) Where the Secretary of State has received any proposals under subsection (3) above in relation to any consent he may, if it appears appropriate to him to do so, direct SEPA, in relation to that consent—
 - (a) to make modifications of the conditions of the consent; or
 - (b) in the case of an unconditional consent, to subject the consent to conditions.
- (5) A direction given by virtue of subsection (4) above may direct SEPA to do, in relation to any such consent, only—
 - (a) any such thing as SEPA has proposed should be done in relation to that consent; or
 - (b) any such thing with such modifications as appear to the Secretary of State to be appropriate.]

Textual Amendments

F183 S. 38A inserted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 29(14) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

[^{F184}39 Appeals to the Secretary of State.

- (1) Any questions as to whether—
 - (a) [^{F185}SEPA]] has unreasonably withheld its consent in pursuance of [^{F186}section 30J(4)] or 34 of this Act or regulations made by virtue of section 31(4) of this Act or has given its consent in pursuance of the said section 34 or such regulations subject to conditions which are unreasonable; or

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- (b) a notice served in pursuance of section 37(1) of this Act contains terms (other than a term required by subsection (2) of [F187]section 38 of this Act) which are unreasonable; or
- (c) the period specified in any instrument or notice in pursuance of subsection (1) or (2) of [F187]section 38 of this Act] is unreasonable,

shall be determined for the purposes of this Part of this Act by the Secretary of State; but no question relating to a determination of the Secretary of State in pursuance of section 35(4) of this Act shall be referred to him in pursuance of this subsection and any such determination shall be final.

- (2) Provision may be made by regulations as to the manner in which and the time within which a question may be referred or a request may be made in pursuance of the preceding provisions of this section and as to the procedure for dealing with such a reference or request.
- (3) In any case where—
 - (a) a question as to whether [F185]SEPA] has unreasonably withheld its consent in pursuance of section 34 of this Act, or has given its consent in pursuance of that section subject to conditions which are unreasonable, is referred to the Secretary of State in pursuance of this section; and
 - (b) representations relating to the application for the consent in question were made to [F188]SEPA] in pursuance of section 36(1)(c) of this Act,

it shall be the duty of the Secretary of State, before he determines the question, to secure that [F188]SEPA] has served notice of the reference on the persons who made the representations and to take account of any further written representations relating to the application which are received by him from those persons within a prescribed period.

- (4) Where a question is referred to the Secretary of State in pursuance of subsection (1) of this section and he determines that the consent in question was unreasonably withheld or that the conditions or terms or period in question are or is unreasonable, he shall give to [F188]SEPA] such a direction as he thinks fit with regard to the consent, conditions, terms or period and it shall be the duty of [F188]SEPA] to comply with the direction.
- (5) The withholding by [F185]SEPA] of such a consent as is mentioned in subsection (1) of this section, the conditions subject to which such a consent is given and such [F189]period as is] so mentioned shall be treated as reasonable for the purposes of this Part of this Act until the contrary is determined in pursuance of subsection (1) of this section except that where a question as to the reasonableness of the conditions of a consent given in pursuance of regulations made by virtue of section 31(4) of this Act is referred to the Secretary of State in pursuance of this section the consent shall be treated for those purposes as unconditional while the reference is pending.

[F190](5A) Subject to subsection (5B) below, where a question is referred to the Secretary of State in pursuance of subsection (1)(b) above, the revocation of the consent or, as the case may be, the modification of the conditions of the consent or the provision that the consent (having been unconditional) shall be subject to conditions, shall not take effect while the reference is pending.

- (5B) Subsection (5A) above shall not apply to a reference where the notice effecting the revocation, modification or provision in question includes a statement that in the opinion of SEPA it is necessary for the purpose of preventing or, where that is not practicable, minimising—

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- (a) the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter, or
 - (b) harm to human health,
- that that subsection should not apply.

(5C) Where the reference falls within subsection (5B) above, if, on the application of the holder or former holder of the consent, the Secretary of State (or other person determining the question referred) determines that SEPA acted unreasonably in excluding the application of subsection (5A) above, then—

- (a) if the reference is still pending at the end of the day on which that determination is made, subsection (5A) above shall apply to the reference from the end of that day; and
- (b) the holder or former holder of the consent shall be entitled to recover compensation from SEPA in respect of any loss suffered by him in consequence of the exclusion of the application of that subsection;

and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be determined by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties.]

(6) At any stage of the proceedings on a reference to the Secretary of State in pursuance of this section he may, and shall if so directed by the Court of Session, state in the form of a special case for the decision of the court any question of law arising in those proceedings.

[^{F191}(7) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals).

(8) In this section “the holder”, in relation to a consent, is the person who has the consent.]

Textual Amendments

- F184** Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#) and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15, SIF 130\)](#), [ss. 58\(7\), 101\(1\), 141\(6\), 160\(1\)\(2\)\(4\), 168, 189\(4\)-\(10\), 190, 193\(1\), 194\(4\)](#), [Sch. 23 para. 4](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#)
- F185** Words in s. 39(1)(3)(5) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(2\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F186** Words in s. 39(1)(a) substituted (1.4.1996) by [1995 c. 25, s. 106](#), [Sch. 16 para. 7](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F187** Words in s. 39(1)(b)(c) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(15\)\(a\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F188** Words in s. 39(3)(4) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(10\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F189** Words in s. 39(5) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(15\)\(b\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F190** [S. 39\(5A\)-\(5C\)](#) inserted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(15\)\(c\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F191** [S. 39\(7\)\(8\)](#) added (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 29\(15\)\(d\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Modifications etc. (not altering text)

- C66** Ss. 37-40 extended by [S.I. 1984/863, reg. 3](#), [Sch. 1](#)

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- C67** S. 39 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 39 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)
- C68** S. 39(1): power to delegate functions conferred (1.4.1996) by 1995 c. 25, s. 114(2)(b)(3)(b) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- C69** S. 39(5A)-(5C) applied (1.4.1996) by S.I. 1996/973, **reg. 3**

[^{F192}**40** **Transitional provisions relating to consent.**

- (1) Regulations may provide—
- (a) for any consent for discharges which was given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 to have effect for any of the purposes of this Part of this Act as if given in pursuance of prescribed provisions of section 34 of this Act; and
 - (b) for any conditions to which such a consent was subject in pursuance of any of those enactments to have effect for any of those purposes as if attached to the consent in pursuance of prescribed provisions of this Part of this Act.
- (2) Regulations may provide for the terms of a consent for an outlet which was given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Act 1951 and for conditions to which such a consent was subject in pursuance of that Act or which were imposed with respect to the outlet in pursuance of section 28(4) of that Act—
- (a) to have effect, with or without modifications, for any of the purposes of this Part of this Act as if the terms or conditions were conditions attached to a consent given in pursuance of section 34 of this Act for discharges from the outlet; or
 - (b) to be treated, with or without modifications, for any of those purposes in such other manner as may be prescribed.
- (3) An application for such a consent as is mentioned in subsection (1) of this section which is pending immediately before the relevant day shall be treated on and after that day as an application for consent in pursuance of section 34 of this Act which was made on the day on which it was actually made.

^{F193}(4)

- (5) Regulations may provide for any appeal which immediately before the relevant day is pending in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 to be treated on and after that day as an appeal in pursuance of prescribed provisions of this Part of this Act.

(6) In this section “the relevant day” means 31st January 1985.]

Textual Amendments

- F192** Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F193** S. 40(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(16), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: Point in time view as at 11/08/2004.

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Modifications etc. (not altering text)

C70 Ss. 37–40 extended by S.I. 1984/863, reg. 3, Sch. 1

C71 S. 40 extended (2.12.1991) by S.I. 1991/2539, reg. 3, Sch.

S. 40 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), Sch. 3 Pt. II para. 16 (with ss. 42, 46)

Ancillary provisions relating to control of discharges

[^{F194}41 Registers.

(1) It shall be the duty of [^{F195}SEPA] to maintain in accordance with regulations, registers containing prescribed particulars of [^{F196}or relating to]—

- (a) any notices of water quality objectives or other notices served under section 30C above;
- (b) application for consents—
 - (i) made to [^{F197}SEPA] in pursuance of this Part of this Act;
 - (ii) sent to the Secretary of State in pursuance of section 34 of this Act (as modified by regulations made under section 55 of this Act);
- (c) consents given in pursuance of any provision of this Part of this Act ^{F198} and the conditions to which the consents are subject;
- (d) samples—
 - (i) of effluent taken by [^{F197}SEPA] in pursuance of section 19 of the Rivers (Prevention of Pollution) (Scotland) Act ^{M38}1951;
 - ^{F199}(ii)
 - (iii) of water taken by [^{F197}SEPA];

and information produced by analyses of the samples and the steps taken in consequence of the information;

- ^{F200}(e)
- ^{F201}(f) enforcement notices served under section 49A of this Act;
- (g) directions given by the Secretary of State in relation to SEPA's functions under this Part of this Act;
- (h) convictions, for offences under this Part of this Act, of persons who have the benefit of consents under section 34 of this Act;
- (j) information obtained or furnished in pursuance of conditions of such consents;
- (k) works notices under section 46A of this Act;
- (l) appeals under section 46C of this Act;
- (m) convictions for offences under section 46D of this Act; and
- (n) such other matters relating to the quality of water as may be prescribed.]

(2) It shall be the duty of [^{F195}SEPA]—

- (a) to secure that registers maintained by [^{F197}SEPA] in pursuance of the preceding subsection are, after such date as is prescribed with respect to the registers, open to inspection by the public free of charge at all reasonable hours; and
- (b) to afford members of the public reasonable facilities for obtaining from [^{F197}SEPA], on payment of reasonable charges, copies of entries in the register. [^{F202} and, for the purposes of this subsection, places may be prescribed at which any such registers or facilities as are mentioned in paragraph (a) or (b) above are to be available or afforded to the public in pursuance of the paragraph in question.]

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[^{F203}(3) The Secretary of State may give SEPA directions requiring the removal from any register maintained by it under this section of any specified information which is not prescribed for inclusion under subsection (1) of this section or which, by virtue of section 42A or 42B of this Act, ought to have been excluded from the registers.]

Textual Amendments

- F194** Ss. 31, 32 and 34-42 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#) and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), [Sch. 23 para. 4, Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#)
- F195** Words in s. 41(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(2\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F196** Words in s. 41(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(17\)\(a\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F197** Words in s. 41(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(10\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F198** Words in s. 41(1)(c) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), [Sch. 22 para. 29\(17\)\(b\)\(i\)](#), [Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F199** S. 41(1)(d)(ii) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), [Sch. 22 para. 29\(17\)\(b\)\(ii\)](#), [Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F200** S. 41(1)(e) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), [Sch. 22 para. 29\(17\)\(b\)\(iii\)](#), [Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F201** S. 41(1)(f)-(n) added (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(17\)\(c\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F202** Words in s. 41(2) added (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(18\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F203** S. 41(3) added (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(19\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Modifications etc. (not altering text)

- C72** S. 41 extended by [S.I. 1985/708, reg. 4\(1\)](#), [Sch. 1](#)
- C73** S. 41 modified by [S.I. 1985/813, reg. 3\(2\)](#)
- C74** S. 41 extended (2.12.1991) by [S.I. 1991/2539, reg. 3](#), [Sch.](#)
S. 41 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), [Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)

Marginal Citations

- M38** [1951 c.66\(46:4\)](#).

[^{F204}**42A Exclusion from registers of information affecting national security.**

- (1) No information shall be included in a register kept or maintained by SEPA under section 41 of this Act if and so long as, in the opinion of the Secretary of State, the inclusion in such a register of that information, or information of that description, would be contrary to the interests of national security.
- (2) The Secretary of State may, for the purposes of securing the exclusion from registers of information to which subsection (1) of this section applies, give SEPA directions—
 - (a) specifying information, or descriptions of information, to be excluded from their registers; or

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- (b) specifying descriptions of information to be referred to the Secretary of State for his determination;
- and no information to be referred to the Secretary of State in pursuance of paragraph (b) of this subsection shall be included in any such register until the Secretary of State determines that it should be so included.
- (3) SEPA shall notify the Secretary of State of any information it excludes from a register in pursuance of directions under subsection (2) of this section.
- (4) A person may, as respects any information which appears to him to be information to which subsection (1) of this section may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—
- (a) he shall notify SEPA that he has done so; and
- (b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.]

Textual Amendments

F204 Ss. 42A and 42B substituted (1.4.1996) for s. 42 by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(20)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C75 s. 42A applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**

C76 **S. 42A**: certain functions made exercisable by the Scottish Ministers concurrently with the Minister (1.7.1999) by S.I. 1999/1750, **arts. 1(1), 3, Sch. 2** (with **art. 7**)

[^{F205} **42B Exclusion from registers of certain confidential information.**

- (1) No information relating to the affairs of any individual or business shall, without the consent of that individual or the person for the time being carrying on that business, be included in a register kept or maintained by SEPA under section 41 of this Act, if and so long as the information—
- (a) is, in relation to him, commercially confidential; and
- (b) is not required to be included in the register in pursuance of directions under subsection (7) of this section;
- but information is not commercially confidential for the purposes of this section unless it is determined under this section to be so by SEPA, or, on appeal, by the Secretary of State.
- (2) Where information is furnished to SEPA for the purpose of—
- (a) an application for a consent under section 34 of this Act;
- (b) complying with any condition of such a consent; or
- (c) complying with a notice under section 93 of this Act,
- then, if the person furnishing it applies to SEPA to have the information excluded from any register kept or maintained by SEPA under section 41 of this Act, on the ground that it is commercially confidential (as regards himself or another person), SEPA shall determine whether the information is or is not commercially confidential.
- (3) A determination under subsection (2) of this section must be made within the period of fourteen days beginning with the date of the application and if SEPA fails to make

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a determination within that period it shall be treated as having determined that the information is commercially confidential.

(4) Where it appears to SEPA that any information (other than information furnished in circumstances within subsection (2) of this section) which has been obtained by SEPA under or by virtue of any provision of any enactment might be commercially confidential, SEPA shall—

- (a) give to the person to whom or whose business it relates notice that that information is required to be included in a register kept or maintained by SEPA under section 41 of this Act, unless excluded under this section; and
- (b) give him a reasonable opportunity—
 - (i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and
 - (ii) of making representations to SEPA for the purpose of justifying any such objection;

and, if any representations are made, SEPA shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

(5) Where, under subsection (2) or (4) of this section, SEPA determines that information is not commercially confidential—

- (a) the information shall not be entered on the register until the end of the period of twenty-one days beginning with the date on which the determination is notified to the person concerned; and
- (b) that person may appeal to the Secretary of State against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered on the register pending the final determination or withdrawal of the appeal.

(6) Subsections (2), (4) and (7) of section 49B of this Act shall apply in relation to appeals under subsection (5) of this section; but

- (a) subsection (4) of that section shall have effect for the purposes of this subsection with the substitution for the words from (“which may” onwards of the words “(which must be held in private)”; and
- (b) subsection (5) of this section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).

(7) The Secretary of State may give SEPA directions as to specified information, or descriptions of information, which the public interest requires to be included in registers kept or maintained by SEPA under section 41 of this Act notwithstanding that the information may be commercially confidential.

(8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this section at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply to SEPA for the information to remain excluded from the register on the ground that it is still commercially confidential and SEPA shall determine whether or not that is the case.

(9) Subsections (5) and (6) of this section shall apply in relation to a determination under subsection (8) of this section as they apply in relation to a determination under subsection (2) or (4) of this section.

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- (10) The Secretary of State may prescribe the substitution (whether in all cases or in such classes or descriptions of case as may be prescribed) for the period for the time being specified in subsection (3) above of such other period as he considers appropriate.
- (11) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any individual or person, if its being contained in register would prejudice to an unreasonable degree the commercial interests of that individual or person.]

Textual Amendments

F205 Ss. 42A, 42B substituted (1.4.1996) for s. 42 by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(20)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C77 s. 42B applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**

C78 S. 42B(5): power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(1)(2)(a)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Control of discharges of trade effluent into public sewers

F208 **43**

Textual Amendments

F208 S. 43 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

F209 **44**

Textual Amendments

F209 S. 44(1)(3)(5)(6) repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)
S. 44(2)(4) repealed by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F210 **45**

Textual Amendments

F210 S. 45 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

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Miscellaneous

[^{F211} 46 Operations by river purification authorities to remedy or forestall pollution of water.

(1) [^{F212} Subject to subsection (1B) below,] Where it appears to a river purification authority that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or is or was present in, any controlled waters ^{F213} . . . , the authority may carry out ^{F213} . . . such operations as it considers appropriate—

- (a) in a case where the matter appears likely to enter such waters, for the purpose of preventing it from doing so; and
- (b) in a case where the matter appears to be or to have been present in such waters, for the purpose of removing or disposing of the matter or of remedying or mitigating any pollution caused by its presence in the waters or of restoring the waters (including the fauna and flora dependent on the aquatic environment of the waters), so far as it is reasonably practicable to do so, to the state in which they were immediately before the matter became present in the waters;

but nothing in this subsection empowers a river purification authority to impede or prevent the making of any discharge in pursuance of a consent given by any authority by virtue of section 34 of this Act.

[In either case mentioned in subsection (1) of this section, SEPA shall be entitled to ^{F214}(1A) carry out investigations for the purpose of establishing the source of the matter and the identity of the person who has caused or knowingly permitted it to be present in controlled waters or at a place from which it was likely, in the opinion of SEPA , to enter controlled waters.

(1B) Without prejudice to the power of SEPA to carry out investigations under subsection (1A) above, the power conferred by subsection (1) above to carry out operations shall be exercisable only in a case where—

- (a) SEPA considers it necessary to carry out forthwith any operations falling within paragraph (a) or (b) of subsection (1) above; or
- (b) it appears to SEPA , after reasonable inquiry, that no person can be found on whom to serve a works notice under section 46A of this Act.]

(2) Where a river purification authority carries out any operations [^{F215}or investigations] in pursuance of this section the authority shall, subject to the following subsection, be entitled to recover the costs of doing so from any persons who caused or knowingly permitted the matter in question to be present at the place from which it was likely in the opinion of the authority to enter the controlled waters or, as the case may be, to be present in the controlled waters.

(3) No such costs shall be payable by a person—

- (a) in so far as he satisfies the court in which it is sought to recover the costs that the costs were incurred unnecessarily; or
- (b) for any operations [^{F216}or investigations] in respect of water from an abandoned mine [^{F217}or an abandoned part of a mine] which that person permitted to reach such a place as is mentioned in the preceding subsection or to enter the controlled waters.

[Subsection (3)(b) of this section shall not apply to the owner or former operator of ^{F218}(3A) any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.

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- (3B) Subsections (5) and (6) of section 30J above shall apply in relation to subsections (3) and (3A) above as they apply in relation to subsections (3) and (4) of that section.]
- (4) In determining the damage which a person has suffered in consequence of pollution in respect of which operations have been or may be carried out in pursuance of this section, account shall be taken of the extent to which it is shown that the damage has been reduced by operations in pursuance of this section and of the extent to which it is shown that the damage is likely to be so reduced.]

Textual Amendments

- F211** S. 46 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and substituted (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 5, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F212** Words in s. 46(1) inserted (S.) (1.4.2003) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 29(21)(a)(i)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)
- F213** Words in s. 46(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 29(21)(a)(ii)**, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F214** S. 46(1A)(1B) inserted (S.) (1.4.2003) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 29(21)(b)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)
- F215** Words in s. 46(2) inserted (S.) (1.4.2003) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 29(21)(c)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)
- F216** Words in s. 46(3)(b) inserted (S.) (1.4.2003) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 29(21)(d)(i)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)
- F217** Words in s. 46(3)(b) inserted (S.) (1.4.2003) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 29(21)(d)(ii)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)
- F218** S. 46(3A)(3B) inserted (S.) (1.4.2003) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 29(21)(e)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)

Modifications etc. (not altering text)

- C81** S. 46 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 46 amended (27.8.1993) by 1993 c.12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

[^{F219}46A Notices requiring persons to carry out anti-pollution operations.

- (1) Subject to the following provisions of this section, where it appears to SEPA that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or to be or to have been present in, any controlled waters, SEPA shall be entitled to serve a works notice on any person who, as the case may be,—
- (a) caused or knowingly permitted the matter in question to be present at the place from which it is likely, in the opinion of SEPA, to enter any controlled waters; or
 - (b) caused or knowingly permitted the matter in question to be present in any controlled waters.
- (2) For the purposes of this section, a “ works notice ” is a notice requiring the person on whom it is served to carry out such of the following operations as may be specified in the notice, that is to say—
- (a) in a case where the matter in question appears likely to enter any controlled waters, operations for the purpose of preventing it from doing so; or

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- (b) in a case where the matter appears to be or to have been present in any controlled waters, operations for the purpose—
 - (i) of removing or disposing of the matter;
 - (ii) of remedying or mitigating any pollution caused by its presence in the waters; or
 - (iii) so far as it is reasonably practicable to do so, of restoring the waters, including any flora and fauna dependent on the aquatic environment of the waters, to their state immediately before the matter became present in the waters.
- (3) A works notice—
 - (a) must specify the periods within which the person on whom it is served is required to do each of the things specified in the notice; and
 - (b) is without prejudice to the powers of SEPA by virtue of section 46(1B)(a) of this Act.
- (4) Before serving a works notice on any person, SEPA shall reasonably endeavour to consult that person concerning the operations which are to be specified in the notice.
- (5) The Secretary of State may by regulations make provision for or in connection with—
 - (a) the form or content of works notices;
 - (b) requirements for consultation, before the service of a works notice, with persons other than the person on whom that notice is to be served;
 - (c) steps to be taken for the purposes of any consultation required under subsection (4) above or regulations made by virtue of paragraph (b) above; and
 - (d) any other steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a works notice.
- (6) A works notice shall not be regarded as invalid, or as invalidly served, by reason only of any failure to comply with the requirements of subsection (4) above or of regulations made by virtue of paragraph (b) of subsection (5) above.
- (7) Nothing in subsection (1) above shall entitle SEPA to require the carrying out of any operations which would impede or prevent the making of any discharge in pursuance of a consent given by SEPA by virtue of section 34 of this Act.
- (8) No works notice shall be served on any person requiring him to carry out any operations in respect of water from an abandoned mine or an abandoned part of a mine which that person permitted to reach such a place as is mentioned in subsection (1)(a) above or to enter any controlled waters.
- (9) Subsection (8) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.
- (10) Subsections (5) and (6) of section 30J of this Act shall apply in relation to subsections (8) and (9) above as they apply in relation to subsections (3) and (4) of that section.
- (11) Where SEPA —
 - (a) carries out any such investigations as are mentioned in section 46(1A) of this Act, and
 - (b) serves a works notice on a person in connection with the matter to which the investigations relate,

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it shall (unless the notice is quashed or withdrawn) be entitled to recover the costs or expenses reasonably incurred in carrying out those investigations from that person.

- (12) The Secretary of State may, if he thinks fit in relation to any person, give directions to SEPA as to whether or how it should exercise its powers under this section.]

Textual Amendments

F219 Ss. 46A-46D inserted (1.4.2003 for S. in so far as not already in force, 1.1.2005 for E.W. for specified purposes, 1.4.2015 for S. for specified purposes) by [Environment Act 1995 \(c. 25\)](#), s. 125(3), [Sch. 22 para. 29\(22\)](#); [S.S.I. 2003/206](#), art. 2(a); [S.I. 2006/934](#), art. 2; [S.S.I. 2015/73](#), art. 2(1)

[^{F219}46B Grant of, and compensation for, rights of entry etc.

- (1) A works notice may require a person to carry out operations in relation to any land or waters notwithstanding that he is not entitled to carry out those operations.
- (2) Any person whose consent is required before any operations required by a works notice may be carried out shall grant, or join in granting, such rights in relation to any land or waters as will enable the person on whom the works notice is served to comply with any requirements imposed by the works notice.
- (3) Before serving a works notice, SEPA shall reasonably endeavour to consult every person who appears to it—
 - (a) to be the owner or occupier of any relevant land, and
 - (b) to be a person who might be required by subsection (2) above to grant, or join in granting, any rights,concerning the rights which that person may be so required to grant.
- (4) A works notice shall not be regarded as invalid, or as invalidly served, by reason only of any failure to comply with the requirements of subsection (3) above.
- (5) A person who grants, or joins in granting, any rights pursuant to subsection (2) above shall be entitled, on making an application within such period as may be prescribed and in such manner as may be prescribed to such person as may be prescribed, to be paid by the person on whom the works notice in question is served compensation of such amount as may be determined in such manner as may be prescribed.
- (6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5) above, regulations by virtue of that subsection may make such provision in relation to compensation under this section as may be made by regulations by virtue of subsection (4) of section 35A of the ^{M41}Environmental Protection Act 1990 in relation to compensation under that section.
- (7) In this section—

“ relevant land ” means—

 - (a) any land or waters in relation to which the works notice in question requires, or may require, operations to be carried out; or
 - (b) any land adjoining or adjacent to that land or those waters;

“ works notice ” means a works notice under section 46A of this Act.]

Status: Point in time view as at 11/08/2004.

Changes to legislation: Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F219 Ss. 46A-46D inserted (1.4.2003 for S. in so far as not already in force, 1.1.2005 for E.W. for specified purposes, 1.4.2015 for S. for specified purposes) by [Environment Act 1995 \(c. 25\)](#), [s. 125\(3\)](#), [Sch. 22 para. 29\(22\)](#); [S.S.I. 2003/206, art. 2\(a\)](#); [S.I. 2006/934, art. 2](#); [S.S.I. 2015/73, art. 2\(1\)](#)

Marginal Citations

M41 [1990 c. 43](#).

[^{F219} 46C Appeals against works notices.

- (1) A person on whom a works notice is served may, within the period of twenty-one days beginning with the day on which the notice is served, appeal against the notice to the Secretary of State.
- (2) On any appeal under this section the Secretary of State—
 - (a) shall quash the notice, if he is satisfied that there is a material defect in the notice; but
 - (b) subject to that, may confirm the notice, with or without modification, or quash it.
- (3) The Secretary of State may by regulations make provision with respect to—
 - (a) the grounds on which appeals under this section may be made; or
 - (b) the procedure on any such appeal.
- (4) Regulations under subsection (3) above may (among other things)—
 - (a) include provisions comparable to those in section 290 of the ^{M42}Public Health Act 1936 (appeals against notices requiring the execution of works);
 - (b) prescribe the cases in which a works notice is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;
 - (c) prescribe the cases in which the decision on an appeal may in some respects be less favourable to the appellant than the works notice against which he is appealing;
 - (d) prescribe the cases in which the appellant may claim that a works notice should have been served on some other person and prescribe the procedure to be followed in those cases;
 - (e) make provision as respects—
 - (i) the particulars to be included in the notice of appeal;
 - (ii) the persons on whom notice of appeal is to be served and the particulars, if any, which are to accompany the notice; or
 - (iii) the abandonment of an appeal.
- (5) In this section “ works notice ” means a works notice under section 46A of this Act.
- (6) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals).]

Status: Point in time view as at 11/08/2004.

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Textual Amendments

F219 Ss. 46A-46D inserted (1.4.2003 for S. in so far as not already in force, 1.1.2005 for E.W. for specified purposes, 1.4.2015 for S. for specified purposes) by [Environment Act 1995 \(c. 25\), s. 125\(3\), Sch. 22 para. 29\(22\)](#); [S.S.I. 2003/206, art. 2\(a\)](#); [S.I. 2006/934, art. 2](#); [S.S.I. 2015/73, art. 2\(1\)](#)

Modifications etc. (not altering text)

C82 Power to delegate functions conferred (1.4.1996) by [1995 c. 25, s. 114\(2\)\(a\)\(i\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Marginal Citations

M42 [1936 c. 49.](#)

[^{F219} 46D Consequences of not complying with a works notice.

- (1) If a person on whom SEPA serves a works notice fails to comply with any of the requirements of the notice, he shall be guilty of an offence.
- (2) A person who commits an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (3) If a person on whom a works notice has been served fails to comply with any of the requirements of the notice, SEPA may do what that person was required to do and may recover from him any costs or expenses reasonably incurred by SEPA in doing it.
- (4) If SEPA is of the opinion that proceedings for an offence under subsection (1) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of a works notice, SEPA may take proceedings in any court of competent jurisdiction for the purpose of securing compliance with the notice.
- (5) In this section “ works notice ” means a works notice under section 46A of this Act.]

Textual Amendments

F219 Ss. 46A-46D inserted (1.4.2003 for S. in so far as not already in force, 1.1.2005 for E.W. for specified purposes, 1.4.2015 for S. for specified purposes) by [Environment Act 1995 \(c. 25\), s. 125\(3\), Sch. 22 para. 29\(22\)](#); [S.S.I. 2003/206, art. 2\(a\)](#); [S.I. 2006/934, art. 2](#); [S.S.I. 2015/73, art. 2\(1\)](#)

[^{F220} 47 Duty of water authorities to deal with waste from vessels etc.

- (1) It shall be the duty of each water authority—
 - (a) to arrange for the collection and disposal of waste from vessels ^{F221} . which appears to ^{F222}SEPA] to need collection in consequence of the provisions of section 33 of this Act; and
 - (b) to arrange for the provision of facilities for the washing out of prescribed appliances from vessels. . . ^{F221}

Status: Point in time view as at 11/08/2004.

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- (2) A water authority may arrange for the provision of facilities by way of water closets, urinals and wash basins for the use of persons from vessels . . . ^{F221}
- (3) A port health authority shall have power to make arrangements with a water authority for the purposes of any of the preceding provisions of this section.

Textual Amendments

F220 S. 47 repealed (E.W.) (1.9.1989) by 1989 c. 15, s. 190(3), **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F221 Words in s. 47(1)(a)(2) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(23), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F222 Words in s. 47 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(10)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

^{F223}48 Power of water authorities to exclude unregistered vessels from rivers etc.

- (1) Where it appears to a water authority to be appropriate to do so for the purpose of preventing the pollution of streams. . . ^{F224}, ^{F225}[[SEPA] may make byelaws providing that vessels shall not be on any such streams which are specified in the byelaws unless the vessels are registered by ^{F225}[[SEPA] in accordance with the byelaws or are exempted by the byelaws from registration; and a person who causes or knowingly permits a vessel to be on a stream in contravention of byelaws made by virtue of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding ^{F226}£50^{F226}[level 3 on the standard scale].
- (2) Byelaws made by a water authority in pursuance of the preceding subsection may authorise ^{F225}[[SEPA] to make reasonable charges in respect of the registration of vessels in pursuance of the byelaws; and no charges shall be payable, by persons in or from vessels registered by ^{F225}[[SEPA] in pursuance of the byelaws, in respect of the use by those persons of facilities provided in pursuance of the preceding section by or by arrangement with ^{F225}[[SEPA].

Textual Amendments

F223 S. 48 repealed (E.W.) (1.9.1989) by 1989 c. 15, s. 190(3), **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F224 Words in s. 48(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(1)(24), **Sch. 24** (with ss. 17(6), 15, 117); S.I. 1996/186, **art. 3**

F225 Words in s. 48(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(10)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F226 Words “level 3 on the standard scale” substituted (11.4.1983) for words “£50” by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48), ss. 38, 46** and (S.) **Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G** (as inserted by **Criminal Justice Act 1982 (c. 48), s. 54**)

^{F227}49 Deposits and vegetation in rivers etc.

- (1) If without the consent of the relevant ^{F228}[[SEPA], which shall not be unreasonably withheld,—
 - (a) a person removes from any part of the bottom, channel or bed of any inland waters a deposit accumulated by reason of any dam, weir or sluice holding

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back the waters and does so by causing the deposit to be carried away in suspension in the waters; or

- (b) any substantial amount of vegetation cut or uprooted in any inland waters, or so near to any such waters that it falls into it, is allowed to remain in the waters by the wilful default of any person,

then, subject to the following subsection, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

- (2) Nothing in paragraph (a) of the preceding subsection applies to anything done in the exercise of statutory powers conferred by or under any enactment relating to land drainage, flood prevention or navigation.
- (3) Regulations may provide that any reference to inland waters in subsection (1) of this section shall be construed as including a reference to such coastal waters as are prescribed for the purposes of that subsection.
- (4) Any question as to whether the consent of [^{F228}SEPA] in pursuance of subsection (1) of this section is unreasonably withheld shall be determined by the Secretary of State; and any consent given in pursuance of section 24 of the Rivers (Prevention of Pollution) (Scotland) Act ^{M43}1951 (which is superseded by this section) shall be treated for the purposes of this section as given in pursuance of this section.

[^{F229}(5) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals).]

Textual Amendments

F227 S. 49 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and substituted (S.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 5, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F228 Words in s. 49 substituted (S.) (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

F229 S. 49(5) added (S.) (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), **Sch. 22 para. 29(25)** (with ss. 7(6), 115, 117);, [S.I. 1996/186, art. 3](#)

Modifications etc. (not altering text)

C83 S. 49(4): power to delegate functions conferred (1.4.1996) by [1995 c. 25, s. 114\(3\)\(b\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Marginal Citations

M43 [1951 c.64\(46:4\)](#).

[^{F230}49A Enforcement notices as respects discharge consents.

- (1) If SEPA is of the opinion that the holder of a relevant consent is contravening any condition of the consent, or is likely to contravene any such condition, it may serve on him a notice (an “enforcement notice”).
- (2) An enforcement notice shall—
- (a) state that SEPA is of the said opinion;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise;

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- (c) specify the steps that must be taken to remedy the contravention or, as the case may be, to remedy the matters making it likely that the contravention will arise; and
 - (d) specify the period within which those steps must be taken.
- (3) Any person who fails to comply with any requirement imposed by an enforcement notice shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) If SEPA is of the opinion that proceedings for an offence under subsection (3) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice, SEPA may take proceedings in any court of competent jurisdiction for the purpose of securing compliance with the notice.
- (5) The Secretary of State may, if he thinks fit in relation to any person, give to SEPA directions as to whether it should exercise its powers under this section and as to the steps which must be taken.
- (6) In this section—
- “ relevant consent ” means a consent for the purposes of section 30J(7)(a), 34 or 49(1) of this Act; and
 - “ the holder ”, in relation to a relevant consent, is the person who has the consent in question.]

Textual Amendments

F230 Ss. 49A and 49B inserted (S.) (1.1.2001) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(26)** (with ss. 7(6), 115, 117); S.S.I. 2000/433, **art. 2**

[^{F231}49B Appeals against enforcement notices.

- (1) A person upon whom an enforcement notice has been served under section 49A of this Act may appeal to the Secretary of State.
- (2) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc.).
- (3) An appeal under this section shall, if and to the extent a requirement to do so is prescribed, be advertised in the manner prescribed.
- (4) If either party to the appeal so requests or the Secretary of State so decides, an appeal shall be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held, or held to any extent, in private).
- (5) On the determination of an appeal under this section, the Secretary of State may either quash or affirm the enforcement notice and, if he affirms it, may do so either in its original form or with such modifications as he may in the circumstances think fit.
- (6) The bringing of an appeal under this section shall not have the effect of suspending the operation of the notice appealed against.

Status: Point in time view as at 11/08/2004.

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- (7) The period within which and the manner in which appeals under this section are to be brought and the manner in which they are to be considered shall be as prescribed.]

Textual Amendments

F231 Ss. 49A and 49B inserted (S.) (1.1.2001) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(26)** (with ss. 7(6), 115, 117); S.I. 2000/433, **art. 2**

Modifications etc. (not altering text)

C84 S. 49B: power to delegate functions conferred (1.4.1996) by 1995 c. 25, s. 114(2)(a)(i) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F232}50] Investigation of water pollution problems arising from closure of mines.

[^{F233}SEPA] shall have power to carry out studies for the purpose of ascertaining—

- (a) what problems relating to the pollution of controlled waters may arise or have arisen in consequence of the abandonment of any mine. . . ^{F234} or might arise if any such mine were abandoned; and
- (b) what steps are likely to be appropriate for the purpose of dealing with the problems and what the cost of taking those steps would be.

Textual Amendments

F232 S. 50 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and substituted (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 5, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F233 Words in s. 50(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F234 Words in s. 50 repealed (S.) (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(27), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F235}51] Codes of good agricultural practice.

- (1) The Secretary of State may by order made by statutory instrument approve any code of practice issued (whether by him or by another person) for the purpose of—
- (a) giving practical guidance to persons engaged in agriculture with respect to activities that may affect controlled waters; and
- (b) promoting what appear to him to be desirable practices by such persons for avoiding or minimising the pollution of any such waters,
- and may at any time by such an order approve a modification of such a code or withdraw his approval of such a code or modification.
- (2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, but [^{F236}a river purification authority]] shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise any powers conferred on it by regulations under section 31A of this Act.

Status: Point in time view as at 11/08/2004.

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- (3) The Secretary of State shall not make an order under this section unless he has first consulted the river purification authorities.

Textual Amendments

- F235** S. 51 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and substituted (S.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 5, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58
- F236** Words in s. 51(2) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Modifications etc. (not altering text)

- C85** S. 51 extended by [S.I. 1985/708, art. 3](#), **Sch. 1**

[^{F237}52 Charges in respect of certain discharges in England and Wales.

- (1) The Secretary of State may, by an order made after consultation with the National Water Council, provide that sections 30 and 31 of the ^{M44}Water Act 1973 (which among other things relate to charges for facilities provided by water authorities and to schemes for the payment of the charges) shall apply to discharges of trade or sewage effluent which are made or authorised to be made by virtue of a consent given in pursuance of this Act or the ^{M45}Public Health (Drainage of Trade Premises) Act 1937 as those sections apply to facilities provided by water authorities; and any such order may—
- (a) provide that, in the said section 30 as applied by the order, subsection (4) (under which regard is to be had to the cost of providing facilities in fixing charges for the facilities) and references to that subsection shall be omitted; and
 - (b) repeal sections 59(1)(e) and 61(4) of the ^{M46}Public Health Act 1961 (which provide for conditions relating to charges to be attached to consents for discharges which are given in pursuance of the said Act of 1937).
- (2) An order made in pursuance of the preceding subsection—
- (a) shall include provision for appeals to the Secretary of State in respect of charges payable to a water authority by virtue of that subsection; and
 - (b) may include provision for the giving by the Secretary of State in consequence of an appeal of directions in respect of the charges to the authority or any other party to the appeal (including directions as to the charges which are to be payable in respect of any period before the determination of the appeal);
- and the Secretary of State may by order vary or revoke any provisions which by virtue of this subsection or section 104(1)(a) of this Act are contained in an order made in pursuance of this section.
- (3) This section does not apply to Scotland.]

Textual Amendments

- F237** S. 52 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

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Marginal Citations

- M44** 1973 c. 37.
- M45** 1937 c. 40.
- M46** 1961 c. 64.

^{F238}**53**

Textual Amendments

- F238** S. 53 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(28), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

^{F239}**54**

Textual Amendments

- F239** S. 54 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(28), **Sch. 24** (with ss. 115, 117); S.I. 1996/186, **art. 3**

Supplemental

^{F240}**55**

Textual Amendments

- F240** S. 55 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(28), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F241}**55A Regulations under this Part.**

Regulations made under this Part of this Act may provide that any provision of this Part, except this section and sections 43 to 45, shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty’s Government in the United Kingdom—

- (a) to give effect to any Community obligation or exercise any related right; or
- (b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party,

and “related right”, in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.]

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Textual Amendments

F241 S. 55A inserted (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28\)](#), s. 27(1), [Sch. 10 para. 7\(3\)](#); S.I. 1991/2187, art. 3, [Sch.](#)

[^{F242}56 Interpretation etc. of Part II.

(1) Except where the context otherwise requires, in this Part of this Act—

“agriculture” and “agricultural” have the same meanings as in the Agriculture (Scotland) Act ^{M47} 1948;

“coastal waters”, “controlled waters”, “ground waters”, “inland waters” and “relevant territorial waters” have the meanings given by section 30A(1) above;

[^{F243}“drain” has the same meaning as in the ^{M48}Sewerage (Scotland) Act 1968;]

“effluent” means any liquid, including particles of matter and other substances in suspension in the liquid;

“micro-organism” includes any microscopic biological entity which is capable of replication;

[^{F244}“operations” includes works;]

[^{F245}“sewage effluent” includes any effluent from sewage disposal, or sewerage, works vested in a sewerage authority;]

[^{F243}“sewer” has the same meaning as in the Sewerage (Scotland) Act 1968;]

^{F246}

“substance” includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

“trade effluent” includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage;

“underground strata” means strata subjacent to the surface of any land;

^{F246}

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers, and passages through which water flows except mains and other pipes which belong to [^{F247}Scottish Water] or are used by [^{F248}Scottish Water] or any other person for the purposes only of providing a supply of water to any premises.

(2) In this Part of this Act—

(a) any reference to the waters of any loch or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any loch, pond, river or, as the case may be, watercourse which is for the time being dry; and

(b) any reference to water contained in underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.

(3) For the purposes of the definition of “trade effluent” in subsection (1) above any premises (whether on land or not) wholly or mainly used (whether for profit or not)

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for agricultural purposes or for the purposes of fish farming or for scientific research or experiment shall be deemed to be (and in the case of fish farms, always to have been) premises used for carrying on a trade.

^{F249}(4)

- (5) For the purposes of this Part of this Act a notice imposing conditions with respect to discharges which was given by a river purification authority in pursuance of—
- (a) section 28(4) of the Rivers (Prevention of Pollution) (Scotland) Act 1951; or
 - (b) section 1(5) of the Rivers (Prevention of Pollution) (Scotland) Act 1965,
- shall be treated as having given the authority's consent in pursuance of the Act in question for those discharges subject to those conditions.
- (6) Section 30(5) of this Act shall have effect in relation to this Part of this Act as if for any reference to Part I of this Act there were substituted a reference to this Part of this Act.]

Textual Amendments

- F242** S. 56 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#) and substituted (S.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), [Sch. 23 para. 6](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#), [Sch. 27 Pt. I](#)
- F243** Definitions in s. 56(1) inserted (1.4.1996) by 1995 c. 25, s. 106, [Sch. 16 para. 8](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F244** Definition in s. 56(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(29\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F245** Definitions in s. 56 substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 95\(5\)\(a\)](#); [S.I. 1996/323, art. 4\(c\)](#)
- F246** Words in s. 56(1) repealed (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, [Sch. para. 4\(4\)\(a\)](#)
- F247** Words in s. 56(1) substituted (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, [Sch. para. 4\(4\)\(b\)\(i\)](#)
- F248** Words in s. 56(1) substituted (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, [Sch. para. 4\(4\)\(b\)\(ii\)](#)
- F249** S. 56(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), [Sch. 22 para. 29\(28\)](#), [Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Modifications etc. (not altering text)

- C86** S. 56(1)-(4) extended (2.12.1991) by [S.I. 1991/2539, reg. 3](#), [Sch.](#)
S. 56(1)-(4) amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), [Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)

Marginal Citations

- M47** [1948 c.45\(2:1\)](#).
M48 [1968 c. 47](#).

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PART III

NOISE

Modifications etc. (not altering text)

- C87** Pt. III (ss. 57-74) extended (E.W.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 1\(1\)\(xxvii\)](#), [Sch. 17 paras. 33, 35\(1\)](#)
- C88** Pt. III (except ss. 70(2)(3)(5), 71(1)): certain functions transferred (7.8.1991) by [S.I. 1991/1773](#), [art. 8\(1\)\(3\)](#), [Sch. 2](#)
Pt. III (except ss. 70(2)(3)(5), 71(1)) modified (7.8.1991) by [S.I. 1991/1773](#), [art. 8\(2\)\(3\)](#), [Sch. 2](#)
- C89** Pt. III (except ss. 70(2)(3)(5), 71(1)): certain functions transferred (10.1.1992) by [S.I. 1991/2913](#), [art. 8\(1\)\(3\)](#), [Sch. 2](#)
Pt. III (except ss. 70(2)(3)(5), 71(1)) modified (10.1.1992) by [S.I. 1991/2913](#), [art. 8\(2\)\(3\)](#), [Sch. 2](#)

Periodical inspections by local authorities

57 Periodical inspections by local authorities.

It shall be the duty of every local authority to cause its area to be inspected from time to time—

- [^{F250}(a)]
- (b) to decide how to exercise its powers concerning noise abatement zones.

Textual Amendments

F250 S. 57(a) repealed (E.W.)(N.I.) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(2), [Sch. 16 Pt. III](#); s. 57(a) repealed by [1995 c. 25](#), s. 120(3), [Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/186](#), [art. 3](#)

Summary proceedings to deal with noise

^{F251}**58**

Textual Amendments

F251 S. 58 repealed (E.W) (N.I.) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. III](#); S. 58 wholly repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), [Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/186](#), [art. 3](#)

^{F252}**58A**

Textual Amendments

F252 S. 58A repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), [Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/186](#), [art. 3](#)

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F253 **58B**

Textual Amendments

F253 S. 58B repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F254 **59**

Textual Amendments

F254 S. 59 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F255 **59A**

Textual Amendments

F255 S. 59A repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Construction sites

Modifications etc. (not altering text)

C90 S. 60 modified (9.11.2001) by S.I. 2001/3682, **art. 32**

60 Control of noise on construction sites.

- (1) This section applies to works of the following description, that is to say—
 - (a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;
 - (b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;
 - (c) demolition or dredging work; and
 - (d) (whether or not also comprised in paragraph (a), (b) or (c) above) any work of engineering construction.
- (2) Where it appears to a local authority that works to which this section applies are being, or are going to be, carried out on any premises, the local authority may serve a notice imposing requirements as to the way in which the works are to be carried out and may if it thinks fit publish notice of the requirements in such way as appears to the local authority to be appropriate.
- (3) The notice may in particular—
 - (a) specify the plant or machinery which is, or is not, to be used;

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- (b) specify the hours during which the works may be carried out;
 - (c) specify the level of noise which may be emitted from the premises in question or at any specified point on those premises or which may be so emitted during specified hours; and
 - (d) provide for any change of circumstances.
- (4) In acting under this section the local authority shall have regard—
- (a) to the relevant provisions of any code of practice issued under this Part of this Act;
 - (b) to the need for ensuring that the best practicable means are employed to minimise noise;
 - (c) before specifying any particular methods or plant or machinery, to the desirability in the interests of any recipients of the notice in question of specifying other methods or plant or machinery which would be substantially as effective in minimising noise and more acceptable to them;
 - (d) to the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.
- (5) A notice under this section shall be served on the person who appears to the local authority to be carrying out, or going to carry out, the works, and on such other persons appearing to the local authority to be responsible for, or to have control over, the carrying out of the works as the local authority thinks fit.
- (6) A notice under this section may specify the time within which the notice is to be complied with, and may require the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice, or as may be specified in the notice.
- (7) A person served with a notice under this section may appeal against the notice to a magistrates' court within twenty one days from the service of the notice.
- (8) If a person on whom a notice is served under this section without reasonable excuse contravenes any requirement of the notice he shall be guilty of an offence against this Part of this Act.

Modifications etc. (not altering text)

C91 S. 60 modified (18.7.2001) by [S.I. 2001/2870, art. 21](#)

C92 S. 60 applied (with modifications) (20.8.1999) by [S.I. 1999/2336, art. 22](#)

C93 S. 60 modified (18.12.1996) by [1996 c. 61, s. 29](#)

61 Prior consent for work on construction sites.

- (1) A person who intends to carry out works to which the preceding section applies may apply to the local authority for a consent under this section.
- (2) Where approval under building regulations [^{F256}under Part II of the ^{M49}Public Health Act 1936], or in Scotland a warrant under section 6 of the ^{M50}Building (Scotland) Act 1959, is required for the carrying out of the works, the application under this section must be made at the same time as, or later than, the request for the approval under building regulations or, as the case may be, the application for a warrant under the said Act of 1959.

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- (3) An application under this section shall contain particulars of—
- (a) the works, and the method by which they are to be carried out; and
 - (b) the steps proposed to be taken to minimise noise resulting from the works.
- (4) If the local authority considers that the application contains sufficient information for the purpose and that, if the works are carried out in accordance with the application, it would not serve a notice under the preceding section in respect of those works, the local authority shall give its consent to the application.
- (5) In acting under this section a local authority shall have regard to the considerations set out in subsection (4) of the preceding section and shall have power to—
- (a) Attach any conditions to a consent; and
 - (b) limit or qualify a consent to allow for any change in circumstances; and
 - (c) limit the duration of a consent,
- and any person who knowingly carries out the works, or permits the works to be carried out, in contravention of any conditions attached to a consent under this section shall be guilty of an offence against this Part of this Act.
- (6) The local authority shall inform the applicant of its decision on the application within twenty-eight days from receipt of the application; and if the local authority gives its consent to the application it may if it thinks fit publish notice of the consent, and of the works to which it relates, in such way as appears to the local authority to be appropriate.
- (7) If—
- (a) the local authority does not give a consent within the said period of twenty-eight days; or
 - (b) the local authority gives its consent within the said period of twenty-eight days but attaches any condition to the consent or limits or qualifies the consent in any way,
- the applicant may appeal to a magistrates' court within twenty-one days from the end of that period.
- (8) In any proceedings for an offence under section 60(8) of this Act it shall be a defence to prove that the alleged contravention amounted to the carrying out of the works in accordance with a consent given under this section.
- (9) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under . . . ^{F257}[^{F258}section 82 of the Environmental Protection Act 1990 ^{F257}].
- (10) Where a consent has been given under this section and the works are carried out by a person other than the applicant for the consent, it shall be the duty of the applicant to take all reasonable steps to bring the consent to the notice of that other person; and if he fails to comply with this subsection he shall be guilty of an offence against this Part of this Act.

Textual Amendments

F256 Words repealed (E.W.) by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)

F257 Words in s. 61(9) repealed (1.4.1996) by 1995 c. 25, s. 120(3), [Sch. 24](#) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

F258 Words inserted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 15\(3\)](#)

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Modifications etc. (not altering text)

- C94** S. 61 modified (9.11.2001) by S.I. 2001/3682, **art. 32**
- C95** S. 61 modified (18.7.2001) by S.I. 2001/2870, **art. 21**
- C96** S. 61 modified (18.12.1996) by 1996 c. 61, **s. 29**
- C97** S. 61(9) excluded (9.11.2001) by S.I. 2001/3682, **art. 31(2)(a)**
- C98** S. 61(9) restricted (18.7.2001) by S.I. 2001/2870, **art. 22(2)(a)**
- C99** S. 61(9) applied (with modifications) (20.8.1999) by S.I. 1999/2336, **art. 22**
- C100** S. 61(9) restricted (18.12.1996) by 1996 c. 61, **s. 30(2)**
- C101** S. 61(9) excluded (20.8.1999) by S.I. 1999/2336, **art. 23(2)**
- C102** S. 61(9) excluded (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), **art. 43(2)(a)**
- C103** S. 61(9) excluded (28.4.2003) by Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), arts. 1, **35(2)(a)** (with art. 40)
- C104** S. 61(9) excluded (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), arts. 1, **33(2)(a)** (with art. 38)
- C105** S. 61(9) excluded (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 1, **50(2)(a)** (with art. 50(3))

Marginal Citations

- M49** 1936 c. 49.
- M50** 1959 c. 24.

Noise in streets

62 Noise in streets. **E+W**

- (1) Subject to the provisions of this section, a loudspeaker in a street shall not be operated—
- between the hours of nine in the evening and eight in the following morning, for any purpose;
 - At any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

^{F259}In this section]“street” means a highway and any other road, footway, square or court which is for the time being open to the public.

^{F260}[(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a street at any time between the hours of nine in the evening and eight in the following morning.]

- (2) [^{F261}Subsection (1) of this section] shall not apply to the operation of a loudspeaker—
- for police, fire brigade or ambulance purposes, by [^{F262}the [^{F263}Environment Agency], a water undertaker or a sewerage undertaker] in the exercise of any of its functions, or by a local authority within its area;
 - for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;

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- (c) if the loudspeaker forms part of a public telephone system;
 - (d) if the loudspeaker—
 - (i) is in or fixed to a vehicle, and
 - (ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and
 - (iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;
 - (e) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;
 - (f) by a travelling showman on land which is being used for the purposes of a pleasure fair;
 - (g) in case of emergency.
- (3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—
- (a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and
 - (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
 - (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.
- ^{F264}[(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.]
- (4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the ^{M51}Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

- F259** Words in s. 62(1) substituted (E.W.) (1.5.1994) by 1993 c. 40, ss. 7, 12(1).
- F260** S.62(1A)(1B) inserted (E.W.) (5.1.1994) by 1993 c. 40, ss. 7(3)(6), 12(1).
- F261** Words in s. 62(2) substituted (5.1.1994) by 1993 c. 40, ss. 7(4), 12(1).
- F262** Words in s. 62(2)(a) substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(7), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
- F263** Words in s. 62(2)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 28 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F264** S. 62(3A) inserted (5.1.1994) by 1993 c. 40, ss. 7(5), 12(1).

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Modifications etc. (not altering text)

C106 S. 69(1) power to exclude conferred (5.1.1994) by 1993 c. 40, ss. 8, 12(1), **Sch. 2 para. 1(1)**

Marginal Citations

M51 1954 c. 48.

62 Noise in streets. **S**

(1) Subject to the provisions of this section, a loudspeaker in a [^{F357}road] shall not be operated—

- (a) between the hours of nine in the evening and eight in the following morning, for any purpose;
- (b) At any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

^{F358}

^{F359} [(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a road at any time between the hours of nine in the evening and eight in the following morning.]

(2) [^{F360}Subsection (1) of this section] shall not apply to the operation of a loudspeaker—

- (a) for police, fire brigade or ambulance purposes, by [^{F361}Scottish Water] in the exercise of any of its [^{F362}core functions (within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002) (asp 3)], or by a local authority within its area;
- (b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;
- (c) if the loudspeaker forms part of a public telephone system;
- (d) if the loudspeaker—
 - (i) is in or fixed to a vehicle, and
 - (ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and
 - (iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;
- (e) otherwise than on a [^{F363}public road (within the meaning of the Roads (Scotland) Act 1984)], by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;
- (f) by a travelling showman on land which is being used for the purposes of a pleasure fair;
- (g) in case of emergency.

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- (3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—
- (a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and
 - (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
 - (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.
- ^{F364}[(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.]
- (4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the ^{M79}Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

Extent Information

- E5** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

Textual Amendments

- F357** Word in s. 62(1) substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **s. 156(1) Sch. 9 para. 74(5)(a)(i)**
- F358** Words repealed (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 74(5)(a)(ii)**, Sch. 11
- F359** S. 62(1A)(1B) inserted (S.) (5.1.1994) by [1993 c. 40](#), **ss. 7(3)(6)**, 12(1).
- F360** Words in s. 62(2) substituted (5.1.1994) by [1993 c. 40](#), **ss. 7(4)**, 12(1).
- F361** Words in s. 62(2)(a) substituted (S.) (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, **Sch. para. 4(5)(a)**
- F362** Words in s. 62(2)(a) substituted (S.) (25.6.2003) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Provisions\) Order 2003 \(S.S.I. 2003/331\)](#), art. 1, **Sch. para. 4(5)(b)**
- F363** Words in s. 62(2)(e) substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 74(5)(b)**
- F364** S. 62(3A) inserted (5.1.1994) by [1993 c. 40](#), **ss. 7(5)**, 12(1).

Modifications etc. (not altering text)

- C158** S. 62(1): power to exclude conferred (5.1.1994) by [1993 c. 40](#), **ss. 8**, 12(1), **Sch. 2 para. 1(1)**

Marginal Citations

- M79** [1954 c. 48](#).

Noise abatement zones

63 Designation of zones.

- (1) A local authority may by order . . . ^{F265} designate all or any part of its area a noise abatement zone.

Status: Point in time view as at 11/08/2004.

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- (2) An order under this section shall specify the classes of premises to which it applies (that is to say, the classes of premises subject to control under the following provisions of this Part of this Act).
- (3) An order made . . . ^{F265} under this section may be revoked or varied by a subsequent order so made . . . ^{F265}
- (4) The provisions of Schedule 1 to this Act shall apply to the . . . ^{F265} coming into operation of an order under this section.
- (5) In this Part of this Act a “noise abatement order” means an order made under this section.

Textual Amendments

F265 Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 1\(2\), Sch. 2 para. 14, Sch. 34 Pt. II](#) except in their application to orders made but not confirmed before 13.11.1980

64 Register of noise levels.

- (1) Every local authority which has designated its area or any part of its area a noise abatement zone shall measure the level of noise emanating from premises within the zone which are of any class to which the relevant noise abatement order relates.
- (2) The local authority shall record all measurements taken in pursuance of the preceding subsection in a register (in this Part of this Act referred to as a “noise level register”) to be kept by the local authority for the purpose in accordance with regulations.
- (3) The local authority on recording any measurement in the noise level register shall serve a copy of that record on the owner and occupier of the premises in respect of which the measurement was taken; and any person on whom a copy of such a record is served may, within twenty-eight days of the date of service, appeal to the Secretary of State against the record.
- (4) On an appeal to the Secretary of State in pursuance of the preceding subsection the Secretary of State may give to the local authority in question such directions as he thinks fit as to the record of the measurement of noise which is the subject of the appeal, and it shall be the duty of the authority to comply with the directions.
- (5) Except as provided by the preceding provisions of this section the validity or accuracy of any entry in a noise level register shall not be questioned in any proceedings under this Part of this Act.
- (6) The premises as to which a local authority is to make measurements under this section shall include those which come within a class to which the relevant noise abatement order relates after the making of the order; and it shall be for the local authority to determine, both for those premises and all other premises of any class to which the relevant noise abatement order relates, when the measurements under this section are to be made.
- (7) A noise level register shall be open to public inspection at the principal office of the local authority free of charge at all reasonable hours, and the local authority shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

Status: Point in time view as at 11/08/2004.

Changes to legislation: Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (8) Provision may be made by regulations—
- (a) for determining, or for authorising the Secretary of State to determine, the methods by which noise levels are to be measured for the purposes of any provision of this section and the three following sections; and
 - (b) for enabling noise levels calculated in accordance with the regulations, or in accordance with the directions of the Secretary of State, to be treated for those purposes as measured by a method determined in pursuance of the preceding paragraph.

65 Noise exceeding registered level.

- (1) The level of noise recorded in the noise level register in respect of any premises shall not be exceeded except with the consent in writing of the local authority.
- (2) The local authority's consent may be made subject to such conditions, whether as to the amount by which the level of noise may be increased, or as to the period for which, or the periods during which, the level of noise may be increased, as may be specified in the consent; and the authority shall record particulars of the consent in the noise level register.
- (3) If within the period of two months beginning with the date on which a local authority receives an application for its consent under this section, or within such longer period as the authority and the applicant agree in writing, the authority has not notified the applicant of its decision on the application, the authority shall be deemed to have refused consent in pursuance of the application.
- (4) An applicant for consent under this section may appeal to the Secretary of State against the local authority's decision on the application within the period of three months beginning with the date on which the authority notifies him of the decision or, in a case falling within the preceding subsection, beginning with the expiration of the period or longer period there mentioned; and it shall be the duty of the local authority to act in accordance with the decision of the Secretary of State on the appeal.
- (5) If noise emitted from any premises constitutes a contravention of subsection (1) of this section or of a condition attached to a consent under this section, the person responsible shall be guilty of an offence against this Part of this Act.
- (6) The magistrates' court convicting a person of an offence under the preceding subsection may, if satisfied that the offence is likely to continue or recur, make an order requiring the execution of any works necessary to prevent it continuing or recurring, and if that person without reasonable excuse contravenes any requirement of the order he shall be guilty of an offence against this Part of this Act.
- (7) The magistrates' court may, after giving the local authority in whose area the premises are situated an opportunity of being heard, direct the local authority to do anything which the court has power under the preceding subsection to require the person convicted to do, either instead of, or in addition to, imposing any requirement on that person.
- (8) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under ^{F266} . . . [^{F267}section 82 of the Environmental Protection Act 1990 ^{F266}].

Status: Point in time view as at 11/08/2004.

Changes to legislation: Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F266 Words in s. 65(8) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F267 Words inserted by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 15(4)**

Modifications etc. (not altering text)

C107 S. 65(8) excluded (9.11.2001) by S.I. 2001/3682, **art. 31(2)(b)**

C108 S. 65(8) restricted (18.7.2001) by S.I. 2001/2870, **art. 22(2)(b)**

C109 S. 65(8) excluded (20.8.1999) by S.I. 1999/2336, **art. 23(2)**

C110 S. 65(8) excluded (18.12.1996) by 1996 c. 61, **s. 30(2)**

C111 S. 65(8) excluded (30.4.2002) by [The Docklands Light Railway \(Silvertown and London City Airport Extension\) Order 2002](#) (S.I. 2002/1066), **art. 43(2)(b)**

C112 S. 65(8) excluded (28.4.2003) by [Network Rail \(West Coast Main Line\) Order 2003](#) (S.I. 2003/1075), **arts. 1, 35(2)(b)** (with art. 40)

C113 S. 65(8) excluded (4.3.2004) by [The Network Rail \(West Coast Main Line\) Order 2004](#) (S.I. 2004/389), **arts. 1, 33(2)(b)** (with art. 38)

C114 S. 65(8) excluded (2.4.2004) by [The Docklands Light Railway \(Woolwich Arsenal Extension\) Order 2004](#) (S.I. 2004/757), **arts. 1, 50(2)(b)** (with art. 50(3))

66 Reduction of noise levels.

(1) If it appears to the local authority—

- (a) that the level of noise emanating from any premises to which a noise abatement order applies is not acceptable having regard to the purposes for which the order was made; and
- (b) that a reduction in that level is practicable at reasonable cost and would afford a public benefit,

the local authority may serve a notice on the person responsible.

(2) The notice shall require that person—

- (a) to reduce the level of noise emanating from the premises to such level as may be specified in the notice;
- (b) to prevent any subsequent increase in the level of noise emanating from those premises without the consent of the local authority; and
- (c) to take such steps as may be specified in the notice to achieve those purposes.

(3) A notice under this section (in this Part of this Act referred to as a “noise reduction notice”) shall specify a time, not being less than six months from the date of service of the notice, within which the noise level is to be reduced to the specified level and, where the notice specifies any steps necessary to achieve that purpose, within which those steps shall be taken.

(4) A noise reduction notice may specify particular times, or particular days, during which the noise level is to be reduced, and may require the noise level to be reduced to different levels for different times or days.

(5) A notice under this section shall take effect whether or not a consent under the preceding section authorises a level of noise higher than that specified in the notice.

(6) The local authority shall record particulars of a noise reduction notice in the noise level register.

Status: Point in time view as at 11/08/2004.

Changes to legislation: Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) A person who is served with a noise reduction notice may, within three months of the date of service, appeal to a magistrates' court against the notice.
- (8) A person who without reasonable excuse contravenes a noise reduction notice shall be guilty of an offence against this Part of this Act.
- (9) In proceedings for an offence under the preceding subsection in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means had been used for preventing, or for counteracting the effect of, the noise.

67 New buildings etc.

- (1) Where it appears to the local authority—
 - (a) that a building is going to be constructed and that a noise abatement order will apply to it when it is erected; or
 - (b) that any premises will, as the result of any works, become premises to which a noise abatement order applies,the local authority may, on the application of the owner or occupier of the premises or a person who satisfies the authority that he is negotiating to acquire an interest in the premises or on its own initiative, determine the level of noise which will be acceptable as that emanating from the premises.
- (2) The local authority shall record in the noise level register the level of noise determined under this section for any premises.
- (3) The local authority shall give notice of its intention to the applicant or, in the case of a decision made on its own initiative, to the owner or the occupier of the premises, and the recipient of the notice may appeal to the Secretary of State against that decision within three months of the date on which the local authority notifies him of that decision; and it shall be the duty of the local authority to act in accordance with the decision of the Secretary of State on the appeal.
- (4) If within the period of two months beginning with the date when the local authority receives an application in pursuance of subsection (1) of this section, the authority has not given notice to the applicant of its decision on the application, the authority shall be deemed to have given him notice on the expiration of that period that it has decided not to make a determination in pursuance of the application; and the applicant may accordingly appeal against the decision to the Secretary of State in pursuance of the preceding subsection.
- (5) Where at any time after the coming into force of a noise abatement order any premises become premises to which the order applies as a result of the construction of a building or as a result of any works carried out on the premises but no level of noise has been determined under this section as respects the premises, section 66 of this Act shall apply as if—
 - (a) paragraph (b) of subsection (1) were omitted; and
 - (b) three months were substituted for six months in subsection (3); and
 - (c) subsection (9) were omitted.

Status: Point in time view as at 11/08/2004.

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Noise from plant or machinery

68 Noise from plant or machinery.

- (1) Provision may be made by regulations—
- (a) for requiring the use on or in connection with plant or machinery of devices or arrangements for reducing the noise caused by the plant or machinery;
 - (b) for limiting the level of noise which may be caused by any plant or machinery when used for works to which section 60 of this Act applies or which may be caused outside a factory within the meaning of the ^{M52}Factories Act 1961 by the use of plant or machinery in the factory;
- and regulations under this section may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations.
- (2) It shall be the duty of the Secretary of State, before he makes regulations under this section, to consult persons appearing to him to represent producers and users of plants and machinery with a view to ensuring that the regulations do not contain requirements which in his opinion would be impracticable or involve unreasonable expense.
- (3) Any person who contravenes or causes or permits another person to contravene regulations under this section shall be guilty of an offence against this Part of this Act; but in any proceedings for a contravention or regulations made in pursuance of paragraph (a) of subsection (1) of this section it shall be a defence to prove that means were used for the purpose of reducing the noise in question which were not less effective for that purpose than the means required by the regulations.
- (4) Without prejudice to the generality of section 104(1)(a) of this Act, different regulations may be made under this section for different localities, and it shall be the duty of each local authority to enforce the provisions of regulations under this section within its area; but nothing in this section shall be taken to authorise a local authority in Scotland to institute proceedings for any offence.
- (5) Nothing in this section or in regulations under this section shall be construed as derogating from any other provision of this Part of this Act.

Marginal Citations

M52 1961 c. 64.

Supplemental

69 Execution of works by local authority.

- (1) This section applies—
- ^{F268}(a)
 - (b) to a noise reduction notice; and
 - (c) to an order of a magistrates' court under . . . ^{F269} section 65(6) of this Act, being a notice or order which requires any person to execute any works.
- (2) If that person fails to execute all or any of the works in accordance with the notice or order, the local authority may execute those works.

Status: Point in time view as at 11/08/2004.

Changes to legislation: Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) Where a local authority execute works in pursuance of—

(a) . . . ^{F270}section 65(7) of this Act; or

(b) this section,

the local authority may recover from the person in default the expenditure incurred by the local authority in executing the works, except such of the expenditure as that person shows was unnecessary in the circumstances.

In this and the following subsection “the person in default” means—

^{F271}(i)

(ii) in a case under section 65(7), the person convicted of an offence under subsection (5) of that section, and

(iii) in any other case, the person to whom the notice or order applies.

(4) In proceedings to recover any amount due to a local authority under the preceding subsection in respect of works executed by the local authority in pursuance of this section, it shall not be open to the person in default to raise any question which he could have raised on an appeal against the notice or order.

Textual Amendments

F268 S. 69(1)(a) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F269 Words in s. 69(1)(c) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F270 Words in s. 69(3) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F271 S. 69(3): Para. (i) in the definition of “the person in default” repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

70 Appeals to Secretary of State and magistrates’ court.

(1) Where any provision in this Part of this Act provides for an appeal to a magistrates’ court, the procedure shall be by way of complaint for an order and [^{F272}the ^{M53}Magistrates’ Courts Act 1980] shall apply to the proceedings.

(2) The Secretary of State may make regulations as to appeals under this Part of this Act to the Secretary of State or, subject to the preceding subsection, to magistrates’ courts; and the regulations may in particular—

(a) include provisions comparable to those in section 290 of the ^{M54}Public Health Act 1936 (appeals against notices requiring the execution of works);

(b) prescribe the cases in which a notice under this Part of this Act is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;

(c) prescribe the cases in which the decision on appeal may in some respects be less favourable to the appellant than the decision from which he is appealing;

(d) prescribe the cases in which the appellant may claim that a notice should have been served on some other person and prescribe the procedure to be followed in those cases.

Status: Point in time view as at 11/08/2004.

Changes to legislation: Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Regulations under this section may prescribe the procedure and practice as respect appeals to the Secretary of State under this Part of this Act, and in particular may make provision as respects—
 - (a) the particulars to be included in the notice of appeal;
 - (b) the persons on whom notice of appeal is to be served and the particulars, if any, to accompany the notice; and
 - (c) the abandonment of an appeal.
- (4) In entertaining any appeal under this Part of this Act the Secretary of State, or as the case may be the magistrates' court, shall have regard to any duty imposed by law on the appellant which concerns the activities in the course of which the noise is emitted.
- (5) In the application of this section to Scotland, subsection (1) and the reference to that subsection in subsection (2) shall not have effect.

Textual Amendments

F272 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)

Marginal Citations

M53 [1980 c. 43.](#)

M54 [1936 c. 49.](#)

71 Codes of practice for minimising noise.

- (1) For the purpose of giving guidance on appropriate methods (including the use of specified types of plant or machinery) for minimising noise, the Secretary of State may—
 - (a) prepare and approve and issue such codes of practice as in his opinion are suitable for the purpose; and
 - (b) Approve such codes of practice issued or proposed to be issued otherwise than by the Secretary of State as in the opinion of the Secretary of State are suitable for the purpose.
- (2) The Secretary of State shall under paragraph (a) or paragraph (b) of the preceding subsection approve a code of practice for the carrying out of works to which section 60 of this Act applies.
- (3) The powers conferred by this section on the Secretary of State shall be exercisable by order, and shall include power to vary or revoke a previous order under this section.

72 “Best practicable means”.

- (1) This section shall apply for the construction of references in this Part of this Act to best practicable means.
- (2) In that expression “practicable” means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications.

Status: Point in time view as at 11/08/2004.

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- (3) The means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and acoustic structures.
- (4) The test of best practicable means is to apply only so far as compatible with any duty imposed by law, and in particular is to apply to statutory undertakers only so far as compatible with the duties imposed on them in their capacity of statutory undertakers.
- (5) The said test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances.
- (6) Subject to the preceding provisions of this section, regard shall be had, in construing references to “best practicable means”, to any relevant provision of a code of practice approved under the preceding section.

73 Interpretation and other supplementary provisions. **E+W**

- (1) Except where the context otherwise requires, in this Part of this Act—
 - “contravention” includes a failure to comply with the provision in question, and “contravene” shall be construed accordingly;
 - “local authority” means—
 - (a) in England . . . ^{F273}, the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;
[^{F274}(aa) in Wales, the council of a county or a county borough;]
and
 - (b) in Scotland, an islands or district council;
 - “noise” includes vibration;
 - “noise abatement order” and “noise abatement zone” have the meanings given by section 63 of this Act;
 - “noise level register” has the meaning given by section 64(2) of this Act;
 - “noise reduction notice” has the meaning given by section 66(3) of this Act;
 - “person responsible”, in relation to the emission of noise, means the person to whose act, default or sufferance the noise is attributable;
 - “statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . ^{F275}, . . . ^{F276}, [^{F277}or hydraulic power], and includes [^{F278}the Port Office];
 - “work of engineering construction” means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.
- (2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except sections 62 to 67, the territorial sea lying seawards from that part of the shore; and—
 - ^{F279}(a)
 - (b) this Part of this Act (except sections 62 to 67 and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

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- (i) As if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and
 - (ii) with such other modifications, if any, as are prescribed.
- (3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act.
- (4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

Extent Information

- E3** This version of this provision extends to England and Wales only; a separate version has been created for Scotland.

Textual Amendments

- F273** S. 73(1): words in the definition of “local authority” repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(3), **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Schs. 1, 2
- F274** S. 73(1): para. (aa) in the definition of “local authority” inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(3)** (with ss. 54(4)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F275** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 paras. 33, 35(1), **Sch. 18**
- F276** “gas,” repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F277** Words in s. 73(1) substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F278** S. 73(1): By S.I. 2001/1149, art. 3(1), **Sch. 1 para. 38** it is provided (26.3.2001) that in the definition of “statutory undertakers” the words “a universal service provider (within the meaning of the Postal Services Act 2000) in his capacity as a person who provides a universal postal service (within the meaning of that Act)” shall be substituted for the words “the Post Office”
- F279** S. 73(2)(a) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

Modifications etc. (not altering text)

- C115** S. 73 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxix), **Sch. 8 para. 33**
s. 73 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxii)**; S.I. 1996/218, **art. 2**

73 Interpretation and other supplementary provisions. **S**

- (1) Except where the context otherwise requires, in this Part of this Act—
- “contravention” includes a failure to comply with the provision in question, and “contravene” shall be construed accordingly;
- . . .
^{F365}
- “local authority” means—
- (a) in England . . . ^{F366}, the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;
- [^{F367}(aa) in Wales, the council of a county or a county borough;]
- and

Status: Point in time view as at 11/08/2004.

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- (b) in Scotland, [^{F368}a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];
 - “noise” includes vibration;
 - “noise abatement order” and “noise abatement zone” have the meanings given by section 63 of this Act;
 - “noise level register” has the meaning given by section 64(2) of this Act;
 - “noise reduction notice” has the meaning given by section 66(3) of this Act;
 - “person responsible”, in relation to
 - ^{F369}(a) the emission of noise, means the person to whose act, default or surrurance the noise is attributable;
 - ^{F370}(b)
 - ^{F370}(c)
- ^{F371} .
 - “statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . ^{F372}, . . . ^{F373}, hydraulic power or water, and includes [^{F374}the Port Office];
 - “work of engineering construction” means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.
- (2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except sections 62 to 67, the territorial sea lying seawards from that part of the shore; and—
 - ^{F375}(a)
 - (b) this Part of this Act (except sections 62 to 67 and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—
 - (i) As if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and
 - (ii) with such other modifications, if any, as are prescribed.
- (3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act . . . ^{F376}
- (4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

Extent Information

E6 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

Textual Amendments

F365 S. 73(1): definition of “equipment” repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: Point in time view as at 11/08/2004.

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- F366** S. 73(1): words in the definition of “local authority” repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(3), **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Schs. 1, 2
- F367** S. 73(1): para. (aa) in the definition of “local authority” inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(3)** (with ss. 54(4)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F368** S. 73(1): words in definition of “local authority” substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 95(7)**; S.I. 1996/323, **art. 4(c)**
- F369** Words in definition in s. 73(1) renumbered as para. (a) and paras. (b)(c) added (S.) (5.1.1994) by 1993 c. 40, ss. 6, 12(1), **Sch. 1 para. 7(a)(ii)**.
- F370** S. 73(1): paras. (b) and (c) in the definition of “person responsible” repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F371** S. 73(1): definition of “road noise” repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F372** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 paras. 33, 35(1), **Sch. 18**
- F373** “gas,” repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F374** S. 73(1): By S.I. 2001/1149, art. 3(1), **Sch. 1 para. 38** it is provided (26.3.2001) that in the definition of “statutory undertakers” the words “a universal service provider (within the meaning of the Postal Services Act 2000) in his capacity as a person who provides a universal postal service (within the meaning of that Act)” shall be substituted for the words “the Post Office”
- F375** S. 73(2)(a) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**
- F376** Words in s. 73(3) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

- C159** S. 73 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxix), **Sch. 8 para. 33**
- C160** S. 73 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxii)**; S.I. 1996/218, **art. 2**

74 Penalties.

- (1) . . . ^{F280}, a person guilty of an offence against this Part of this Act shall be liable on summary conviction—
- (a) in the case of a first offence against this Part of this Act, to a fine not exceeding [^{F281}level 5 on the standard scale]; and
 - (b) in the case of a second or subsequent offence against this Part of this Act, to a fine not exceeding [^{F282}level 5 on the standard scale],
- together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after the conviction.
- (2) In determining whether an offence is a second or subsequent offence against this Part of this Act, account shall be taken of any offence—
- (a) under section 24 of the ^{M55}Public Health (Scotland) Act 1897 by way of contravening a decree or interdict relating to noise; or
 - (b) under section 95 of the ^{M56}Public Health Act 1936 by way of contravening a nuisance order relating to noise, [^{F283}; or
 - (c) under section 80(4) of the Environmental Protection Act 1990,]
- as if it were an offence against this Part of this Act.

Textual Amendments

- F280** Words in s. 74 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: Point in time view as at 11/08/2004.

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- F281** Words in s. 74(1)(a) substituted (S.) (11.4.1983) by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289E—289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**)
- F282** Words in s. 74(1)(b) substituted (S.) (11.4.1983) by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 389F, 389G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**)
- F283** S. 74(2)(c) and word “; or” immediately preceding it inserted (E.W.S.) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 15(5)**

Marginal Citations

- M55** 1897 c. 38.
- M56** 1936 c. 49.

F284 PART IV

Textual Amendments

- F284** [Ss. 75-84 \(Pt. IV\)](#) repealed (27.8.1993) by [1993 c.11, ss. 67\(3\), 68\(2\)](#), **Sch. 6**

PART V

SUPPLEMENTARY PROVISIONS

Legal proceedings

85 Appeals to Crown Court or Court of Session against decisions of magistrates’ court or sheriff.

- (1) An appeal against any decision of a magistrates’ court in pursuance of this Act (other than a decision made in criminal proceedings) shall lie to the Crown Court at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Crown Court by virtue of any other enactment.
- (2) In Scotland an appeal against any decision of the sheriff in pursuance of this Act (other than a decision made in criminal proceedings) shall lie to the Court of Session at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Court of Session by virtue of any other enactment.
- (3) Where a person appeals to the Crown Court or the Court of Session against a decision of a magistrates’ court or the sheriff dismissing an appeal against a notice served in pursuance of this Act which was suspended pending determination of that appeal, the notice shall again be suspended pending the determination of the appeal to the Crown Court or Court of Session.

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Textual Amendments

F301 S. 86 repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)

87 Miscellaneous provisions relating to legal proceedings.

- (1) When an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members the preceding provisions of this subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

- (2) Where the commission by any person of an offence under this Act is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings for the offence are taken against any other person.
- (3) ^{F302} .Notwithstanding anything in [^{F303} section 331 of the Criminal Procedure (Scotland) Act 1975], summary proceedings in Scotland for any [^{F303} offence under section 30F of this Act or regulations or byelaws made in pursuance of section 31 of this Act] such offence may be commenced at any time within one year from the time when the offence was committed, and [^{F303} subsection (3) of section 331 of the said Act of 1975] shall apply for the purposes of this subsection, ^{F302} . as that subsection applies for the purposes of that section.
- (4) Where an appeal against a decision of a relevant authority lies to a magistrates' court by virtue of any provision of this Act, it shall be the duty of the authority to include in any document by which it notifies the decision to the person concerned a statement indicating that such an appeal lies as aforesaid and specifying the time within which it must be brought.
- (5) Where on an appeal to any court against or arising out of a decision of a relevant authority in pursuance of this Act the court varies or reverses the decision it shall be the duty of the authority to act in accordance with the court's decision.
- (6) A judge of any court and a justice of the peace shall not be disqualified from acting in cases arising under this Act by reason of his being, as one of several ratepayers or as one of any other class of persons, liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses of a relevant authority are to be defrayed.

Textual Amendments

F302 Words in s. 87(3) repealed (1.4.1996) by [1995 c. 25](#), ss. 106, 120(3), [Sch. 16 para. 9\(a\)\(e\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186](#), [art. 3](#)

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F303 Words in s. 87(3) substituted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 9(b)(c)(d)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

88 Civil liability for contravention of s. 3(3).

- (1) Where any damage is caused by poisonous, noxious or polluting waste which has been deposited on land, any person who deposited it or caused or knowingly permitted it to be deposited, in either case so as to commit an offence under section 3(3) or by virtue of section 18(2) of this Act, is liable for the damage except where the damage—
 - (a) was due wholly to the fault of the person who suffered it; or
 - (b) was suffered by a person who voluntarily accepted the risk thereof.
- (2) The matters which under paragraphs (a) to (c) of subsection (4) of section 3 of this Act may be proved by way of defence to a charge of committing an offence under subsection (3) of that section may be proved also by way of defence to an action brought by virtue of the preceding subsection (the reference in the said paragraph (a) to the charge being construed as a reference to the act alleged to give rise to the liability).
- (3) In this section—

“damage” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition);

“fault” has the same meaning as in the ^{M62}Law Reform (Contributory Negligence) Act 1945; and

“land” includes such water as is mentioned in section 4(4) of this Act.
- (4) For the purposes of the following enactments, namely—
 - (a) the Fatal Accidents Acts 1846 to 1959;
 - (b) the ^{M63}Law Reform (Contributory Negligence) Act 1945; and
 - ^{F304}(c) the ^{M64}Limitation Act 1980]

and for the purposes of any action of damages in Scotland arising out of the death of, or personal injury to, any person, any damage for which a person is liable under subsection (1) of this section shall be treated as due to his fault.
- (5) Subsection (1) of this section is without prejudice to any liability which arises apart from the provisions of this section.

Textual Amendments

F304 S. 88(4)(c) substituted by **Limitation Act 1980 (c. 58), Sch. 3 para. 12**

Modifications etc. (not altering text)

C137 S. 88(4)(a) extended by **Fatal Accidents Act 1976 (c. 30), Sch. 1 para. 2**

Marginal Citations

M62 1945 c. 28.

M63 1945 c. 28.

M64 1980 c. 58.

Status: Point in time view as at 11/08/2004.

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Financial provisions

89 Expenses and receipts of Secretary of State etc.

- (1) There shall be paid out of money provided by Parliament—
 - (a) Any expenses incurred by the Secretary of State for the purposes of this Act; and
 - (b) Any increase attributable to the provisions of this Act in the sums payable under any other Act out of money so provided.
- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

90 Establishment charges and interest in respect of certain expenses of authorities.

- [^{F305}(1) Where a sum is payable to a water authority by any person by virtue of this Act in respect of the expenses incurred by the authority, the authority shall be entitled to recover from that person such a further sum in respect of its establishment charges as appears to the authority to be reasonable.]
- (2) [^{F306}Where such a sum or further sum as is mentioned in the preceding subsection is payable to a water authority by any person or a sum is payable to any other][^{F306}Where a sum is payable to a] relevant authority by any person by virtue of this Act in respect of the expenses incurred by the authority or by virtue of section 36 of the ^{M65}Local Government Act 1974 in respect of establishment charges related to such expenses or by virtue of section 193 of the ^{M66}Local Government (Scotland) Act 1947 in respect of general expenses related to such expenses, then—
 - (a) the authority and that person may agree that the sum [^{F307}or further sum] shall be paid in instalments; and
 - (b) the authority shall be entitled to receive from that person interest on the sum [^{F307}or further sum], or on such portion of it as is for the time being unpaid, at [^{F308}such reasonable rate or rates as the authority may determine]
- (3) In the application of this section to Scotland, for the references to a water authority there shall be substituted references to [^{F309}SEPA].

Textual Amendments

F305 S. 90(1) repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#)

F306 Words commencing “Where a sum” substituted (E.W.) for words commencing “Where such a sum” by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 48\(9\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), **58**

F307 Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#)

F308 Words substituted by [Local Government Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 17](#)

F309 Words in s. 90(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(30\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186](#), [art. 3](#)

Marginal Citations

M65 1974 c. 7.

M66 1947 c. 43.

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Miscellaneous

91 Rights of entry and inspection etc.

- (1) Any person authorised in writing in that behalf by a relevant authority may at any reasonable time—
 - (a) enter upon any land or vessel for the purpose of—
 - (i) performing any function conferred on the authority or that person by virtue of this Act, or
 - (ii) determining whether, and if so in what manner, such a function should be performed, or
 - (iii) determining whether any provision of this Act or of an instrument made by virtue of this Act is being complied with;
 - (b) carry out such inspections, measurements and tests on the land or vessel or of any articles on it and take away such samples of the land or articles as he considers appropriate for such a purpose.
- (2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
 - (a) that admission to any land or vessel which a person is entitled to enter in pursuance of the preceding subsection has been refused to that person or that refusal is apprehended or that the land or vessel is unoccupied or that the occupier is temporarily absent or that the case is one of emergency or that an application for admission would defeat the object of the entry; and
 - (b) that there is reasonable ground for entry upon the land or vessel for the purpose for which entry is required,then, subject to the following subsection, the justice may by warrant under his hand authorise that person to enter the land or vessel, if need be by force.
- (3) A justice of the peace shall not issue a warrant in pursuance of the preceding subsection in respect of any land or vessel unless he is satisfied—
 - (a) that admission to the land or vessel in pursuance of subsection (1) of this section was sought after not less than seven days notice of the intended entry had been served on the occupier; or
 - (b) that admission to the land or vessel in pursuance of that subsection was sought in an emergency and was refused by or on behalf of the occupier; or
 - (c) that the land or vessel is unoccupied; or
 - (d) that an application for admission to the land or vessel would defeat the object of the entry.
- (4) A warrant issued in pursuance of this section shall continue in force until the purpose for which the entry is required has been satisfied.
- (5) In the application of this section to Scotland—
 - ^{F310}(a)
 - (b) Any reference to a justice of the peace shall include a reference to the sheriff.

Textual Amendments

F310 S. 91(5)(a) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(31), Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

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Modifications etc. (not altering text)

- C138** Ss. 91-94 extended (with modifications) (14.10.1991) by [Control of Pollution \(Amendment\) Act 1989](#) (c. 14, SIF 46:4), [s. 7\(1\)](#); S.I. 1991/1618, [art. 3](#)
- C139** S. 91 extended (20.9.2000) by 2000 c. vii, [ss. 1\(1\)](#), 18(a)
- C140** S. 91: certain functions transferred (10.1.1992) by S.I. 1991/2913, [art. 8\(1\)\(3\)](#), [Sch. 2](#)
S. 91: certain functions transferred (7.8.1991) by S.I. 1991/1773, [art. 8\(1\)\(3\)](#), [Sch. 2](#)
S. 91 modified (7.8.1991) by S.I. 1991/1773, [art. 8\(2\)\(3\)](#), [Sch. 2](#)
S. 91 modified (10.1.1992) by S.I. 1991/2913, [art. 8\(2\)\(3\)](#), [Sch. 2](#)

92 Provisions supplementary to s. 91.

- (1) A person authorised to enter upon any land or vessel in pursuance of the preceding section shall, if so required, produce evidence of his authority before he enters upon the land or vessel.
- (2) A person so authorised may take with him on to the land or vessel in question such other persons and such equipment as may be necessary.
- (3) Admission to any land or vessel used for residential purposes and admission with heavy equipment to any other land or vessel shall not, except in an emergency or in a case where the land or vessel is unoccupied, be demanded as of right in pursuance of subsection (1) of the preceding section unless a notice of the intended entry has been served on the occupier not less than seven days before the demand.
- (4) A person who, in the exercise of powers conferred on him by virtue of the preceding section or this section, enters upon any land or vessel which is unoccupied or of which the occupier is temporarily absent shall leave the land or vessel as effectually secured against trespassers as he found it.
- (5) It shall be the duty of a relevant authority to make full compensation to any person who has sustained damage by reason of—
 - (a) the exercise by a person authorised by the authority of any powers conferred on the person so authorised by virtue of the preceding section or this section; or
 - (b) the failure of a person so authorised to perform the duty imposed on him by the preceding subsection,
 except where the damage is attributable to the default of the person who sustained it; and any dispute as to a person's entitlement to compensation in pursuance of this subsection or as to the amount of the compensation shall be determined by arbitration.
- (6) A person who wilfully obstructs another person acting in the exercise of any powers conferred on the other person by virtue of the preceding section or this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F311}£100][^{F311}level 3 on the standard scale].
- (7) In the preceding section and this section any reference to an emergency is a reference to a case where a person requiring entry to any land or vessel has reasonable cause to believe that circumstances exist which are likely to endanger life or health and that immediate entry to the land or vessel is necessary to verify the existence of those circumstances or to ascertain their cause or to effect a remedy.

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Textual Amendments

F311 Words “level 3 on the standard scale” substituted (11.4.1983) for words “£100” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

Modifications etc. (not altering text)

C141 Ss. 91-94 extended (with modifications) (14.10.1991) by [Control of Pollution \(Amendment\) Act 1989 \(c. 14, SIF 46:4\)](#), [ss. 7\(1\)](#); S.I. 1991/1618, [art. 3](#)

C142 S. 92 extended (20.9.2000) by [2000 c. vii](#), [ss. 1\(1\)](#), 18

C143 S. 92: certain functions transferred (10.1.1992) by S.I. 1991/2913, [art. 8\(1\)\(3\)](#), [Sch. 2](#)

S. 92: certain functions transferred (7.8.1991) by S.I. 1991/1773, [art. 8\(1\)\(3\)](#), [Sch. 2](#)

S. 92 modified (7.8.1991) by S.I. 1991/1773, [art. 8\(2\)\(3\)](#), [Sch. 2](#)

S. 92 modified (10.1.1992) by S.I. 1991/2913, [art. 8\(2\)\(3\)](#), [Sch. 2](#)

93 Power of authorities to obtain information.

(1) Subject to the following subsection, a relevant authority may serve on any person a notice requiring him to furnish to the authority, within a period or at times specified in the notice and in a form so specified, any information so specified which the authority reasonably considers that it needs for the purposes of any function conferred on the authority by this Act.

(2) Provision may be made by regulations for restricting the information which may be required in pursuance of the preceding subsection and for determining the form in which the information is to be so required.

[^{F312}(3) A person who—

- (a) fails without reasonable excuse to comply with the requirements of a notice served on him in pursuance of this section; or
- (b) in furnishing any information in compliance with such a notice, makes any statement which he knows to be false or misleading in a material particular or recklessly makes any statement which is false or misleading in a material particular,

shall be guilty of an offence.

(3A) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.]

(4) In the application of this section to Scotland, in subsection (1) the reference to this Act shall include a reference to the ^{M67}Rivers (Prevention of Pollution) (Scotland) Act 1951 [^{F313}and a reference to Part II of the Natural Heritage (Scotland) Act 1991].

Textual Amendments

F312 S. 93(3)(3A) substituted (1.4.1996) for s. 93(3) by [1995 c. 25, s. 112](#), [Sch. 19 para. 1\(3\)](#) (with [ss. 7\(6\), 115, 117](#)); S.I. 1996/186, [art. 3](#)

F313 Words in s. 93(4) inserted (S.) (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28\)](#), [s. 27\(1\)](#), [Sch. 10 para. 7\(4\)](#); S.I. 1991/2187, [art. 3](#), [Sch.](#)

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Modifications etc. (not altering text)

- C144** Ss. 91-94 extended (with modifications) (14.10.1991) by [Control of Pollution \(Amendment\) Act 1989](#) (c. 14, SIF 46:4), [s. 7\(1\)](#); S.I. 1991/1618, [art. 3](#)
- C145** S. 93: certain functions transferred (7.8.1991) by S.I. 1991/1773, [art. 8\(1\)\(3\)](#), [Sch. 2](#)
S. 93 modified (7.8.1991) by S.I. 1991/1773, [art. 8\(2\)\(3\)](#), [Sch. 2](#)
S. 93: certain functions transferred (10.1.1992) by S.I. 1991/2913, [art. 8\(2\)\(3\)](#), [Sch. 2](#)
S. 93 modified (10.1.1992) by S.I. 1991/2913, [art. 8\(2\)\(3\)](#), [Sch. 2](#)

Marginal Citations

M67 1951 c. 66.

94 Prohibition of disclosure of information.

- (1) If a person discloses information relating to any trade secret used in carrying on a particular undertaking and the information has been given to him or obtained by him by virtue of this Act he shall, subject to the following subsection, be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F314}level 5 on the standard scale].
- (2) A person shall not be guilty of an offence under the preceding subsection by virtue of the disclosure of any information if—
- (a) the disclosure is made—
 - (i) in the performance of his duty, or
 - (ii) in pursuance of section 79(1)(b) of this Act, or
 - (iii) with the consent in writing of a person having a right to disclose the information; or
 - (b) the information is of a kind prescribed for the purposes of this paragraph and, if regulations made for those purposes provide that information of that kind may only be disclosed in pursuance of the regulations to prescribed persons, the disclosure is to a prescribed person.
- (3) In the application of this section to Scotland, in subsection (1) the reference to this Act shall include a reference to the ^{M68}Rivers (Prevention of Pollution) (Scotland) Act 1951 [^{F315}and a reference to Part II of the Natural Heritage (Scotland) Act 1991].

Textual Amendments

- F314** Words “level 5 on the standard scale” substituted (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982](#) (c. 48), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975](#) (c. 21), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982](#) (c. 48), [s. 54](#))
- F315** Words in S. 94(3) inserted (S.) (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991](#) (c. 28), [s. 27\(1\)](#), [Sch. 10 para. 7\(4\)](#); S.I. 1991/2187, [art. 3](#), [Sch.](#)

Modifications etc. (not altering text)

- C146** Ss. 91-94 extended (with modifications) (14.10.1991) by [Control of Pollution \(Amendment\) Act 1989](#) (c. 14, SIF 46:4), [s. 7\(1\)](#); S.I. 1991/1618, [art. 3](#)
- C147** S. 94 excluded (14.10.1991) by [Control of Pollution \(Amendment\) Act 1989](#) (c. 14, SIF 46:4), [s. 7\(2\)](#); S.I. 1991/1618, [art. 3](#)
- C148** S. 94: certain functions transferred (7.8.1991) by S.I. 1991/1773, [art. 8\(1\)\(3\)](#), [Sch. 2](#)
S. 94 modified (7.8.1991) by S.I. 1991/1773, [art. 8\(2\)\(3\)](#), [Sch. 2](#)
S. 94: certain functions transferred (10.1.1992) by S.I. 1991/2913, [art. 8\(1\)\(3\)](#), [Sch. 2](#)

Status: Point in time view as at 11/08/2004.

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S. 94 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

Marginal Citations

M68 1951 c. 66.

[^{F316}95 Service of documents on and by certain undertakers.

Section 187 of the Water Act 1989 (service of documents) shall apply for the purposes of the service of any document required or authorised by virtue of this Act to be served on or by a water undertaker or sewerage undertaker as it applies for the purposes of the service of any document required or authorised by virtue of that Act to be served on or by any person.]

Textual Amendments

F316 S. 95 substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(10), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

96 Local inquiries.

- (1) The Secretary of State may cause a local inquiry to be held in any case in which he considers it appropriate for such an inquiry to be held either in connection with a provision of this Act or with a view to preventing or dealing with pollution [^{F317}other than air pollution] or noise at any place.
- (2) Subsections (2) to (5) of section 250 of the ^{M69}Local Government Act 1972 (which contain supplementary provisions with respect to local inquiries held in pursuance of that section) shall, without prejudice to the generality of subsection (1) of that section, apply to inquiries in England and Wales in pursuance of the preceding subsection as they apply to inquiries in pursuance of that section [^{F318}but as if the reference to a local authority in subsection (4) included a reference to a water authority.]
- (3) Subsections (2) to (8) of section 210 of the ^{M70}Local Government (Scotland) Act 1973 (local inquiries) shall, without prejudice to the generality of subsection (1) of that section, apply to inquiries in Scotland in pursuance of subsection (1) of this section as they apply to inquiries held in pursuance of that section. . . ^{F319}

Textual Amendments

F317 Words in s. 96(1) inserted (27.8.1993) by 1993 c. 11, ss. 67(1), 68(2), **Sch. 4 para. 2**

F318 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F319 Words in s. 96(3) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(32), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M69 1972 c. 70.

M70 1973 c. 65.

Status: Point in time view as at 11/08/2004.

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97 Default powers.

- (1) If the Secretary of State is satisfied that any other relevant authority has failed to perform any functions which it ought to have performed, he may make an order declaring the authority to be in default.
- (2) An order made by virtue of the preceding subsection which declares an authority to be in default may, for the purpose of remedying the default, direct the authority (hereafter in this section referred to as “the defaulting authority”) to perform such of its functions as are specified in the order and may specify the manner in which and the time or times within which those functions are to be performed by the authority.
- (3) If the defaulting authority fails to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to himself such of the functions of the authority as he thinks fit.
- (4) Where any functions of the defaulting authority are transferred in pursuance of the preceding subsection, the amount of any expenses which the Secretary of State certifies were incurred by him in performing those functions shall on demand be paid to him by the defaulting authority.
- (5) Any expenses which in pursuance of the preceding subsection are required to be paid by the defaulting authority in respect of any functions transferred in pursuance of this section shall be defrayed by the authority in the like manner, and shall be debited to the like account, as if the functions had not been transferred and the expenses had been incurred by the authority in performing them; and the authority shall have the like powers for the purpose of raising any money required in pursuance of this subsection as the authority would have had for the purpose of raising money required for defraying expenses incurred for the purposes of the functions in question.
- (6) An order transferring any functions of the defaulting authority in pursuance of subsection (3) of this section may provide for the transfer to the Secretary of State of such of the property, rights, liabilities and obligations of the authority as he considers appropriate; and where such an order is revoked the Secretary of State may, by the revoking order or a subsequent order, make such provision as he considers appropriate with respect to any property, rights, liabilities and obligations held by him for the purposes of the transferred functions.
- (7) The Secretary of State may by order vary or revoke any order previously made by him in pursuance of this section.
- (8) In this section “functions”, in relation to an authority, means functions conferred on the authority by virtue of this Act.
- (9) This section shall not apply to Scotland.

Modifications etc. (not altering text)

- C149** S. 97 extended (14.10.1991) by [Control of Pollution \(Amendment\) Act 1989 \(c. 14, SIF 46:4\)](#), **s. 7(8)**;
[S.I. 1991/1618](#), **art. 3**
- C150** S. 97: certain functions transferred (10.1.1992) by [S.I. 1991/2913](#), **art. 8(1)(3)**, **Sch. 2**
S. 97: certain functions transferred (7.8.1991) by [S.I. 1991/1773](#), **art. 8(1)(3)**, **Sch. 2**
S. 97 modified (7.8.1991) by [S.I. 1991/1773](#), **art. 8(2)(3)**, **Sch. 2**
S. 97 modified (10.1.1992) by [S.I. 1991/2913](#), **art. 8(2)(3)**, **Sch. 2**

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98 Interpretation of Part V.

In this Part of this Act—

“functions” includes powers and duties; and

“relevant authority” means—

- (a) in England ^{F320}, the Secretary of State, [^{F321}a water authority], a county council, . . . ^{F322}, a district council, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple [^{F323}and, for the purposes of sections 91 to 93 of this Act, a sewerage undertaker]; and
- [^{F324}(aa) in Wales, the Secretary of State, a county council or a county borough council and, for the purposes of sections 91 to 93 of this Act, a sewerage undertaker; and]
- [^{F325}(b) in Scotland—
- (i) as respects sections 91 and 92, a council constituted under section 2 of the ^{M71}Local Government etc. (Scotland) Act 1994; and
- (ii) as respects this Part other than those sections, the Secretary of State, SEPA or a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.]

Textual Amendments

- F320** S. 98: words in para. (a) of the definition of “relevant authority” repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(4), Sch. 18; S.I. 1996/396, arts. 3, 4, Schs. 1, 2
- F321** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I
- F322** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, Sch. 17
- F323** Words inserted (E.W.) (1.9.1989) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(11), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58
- F324** S. 98: para. (aa) in the definition of “relevant authority” inserted (1.4.1996) by 1994 c. 19, s. 22(3), Sch. 9 para. 10(4); S.I. 1996/396, art. 3, Sch. 1
- F325** S. 98: para. (b) in the definition of “relevant authority” substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 29(33) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Modifications etc. (not altering text)

- C151** S. 98 shall have effect as if in paragraph (a) of the definition of “relevant authority” after the words “Middle Temple” there were inserted (E.W.) (27.12.1985) by S.I. 1985/1884, art. 5, Sch. 2 para. 12 “, any authority established by the Waste Regulation and Disposal (Authorities) Order 1985”
- C152** S. 98: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), Sch. 2
- S. 98: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), Sch. 2
- S. 98 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), Sch. 2
- S. 98 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), Sch. 2

Marginal Citations

- M71** 1994 c. 39.

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PART VI

MISCELLANEOUS AND GENERAL

Modifications etc. (not altering text)

C153 Pt. VI (ss. 99-109): certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**

Pt. VI (ss. 99-109) modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**

C154 Pt. VI (ss. 99-109): certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**

Pt. VI (ss. 99-109) modified 10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

Miscellaneous

99 Alteration of penalties. ^{X1}

The enactments mentioned in Schedule 2 to this Act shall have effect subject to the provisions of that Schedule (which alter the penalties for the offences to which those enactments relate).

Editorial Information

X1 The text of ss. 99, 108(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

100 F326

Textual Amendments

F326 S. 100 repealed by **Environmental Protection Act 1990** (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. IX**

101 Disposal of waste etc by Atomic Energy Authority.

Without prejudice to the powers of the United Kingdom Atomic Energy Authority apart from this section, the Authority shall have power—

- (a) to engage in the United Kingdom and elsewhere in such activities relating to the treatment or disposal of waste and other matter as the Secretary of State may from time to time specify by notice given to the Authority; and
- (b) to do anything which appears to the Authority to be appropriate for the purpose of exercising the powers conferred on the Authority by the preceding paragraph.

102 Power to give effect to international agreements.

- (1) Regulations may provide that any provision of this Act, except this section, shall have effect with such modifications as are prescribed with a view to enabling the Government of the United Kingdom to give effect to any provision made by or under any international agreement to which the Government is for the time being a party.

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- (2) The Secretary of State may make, to the Commission established by the Convention for the Prevention of Marine Pollution from Land-based Sources which was signed at Paris on behalf of the Government of the United Kingdom on 4 June 1974, such payments towards the expenses of the Commission as he may with the approval of the Treasury determine.

^{F327}103

Textual Amendments

F327 S. 103 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), Sch. 6

General

104 Orders and regulations.

- (1) Any power conferred by this Act (except sections . . . ^{F328}, 63 and 65(6)) to make an order or regulations—
- (a) includes power to make different provision by the order or regulations for different circumstances and to include in the order or regulations such incidental, supplemental and transitional provisions as the person making the order or regulations considers appropriate in connection with the order or regulations; and
 - (b) shall be exercisable by statutory instrument except in the case of the powers conferred by section 97 of this Act;

and any statutory instrument made by virtue of this subsection, except an instrument containing only regulations made by virtue of section 18 of this Act or an order made by virtue of [^{F329}section 33(4), 44(5), 52, 53 or 109(2)] [^{F329}section 44(5) or 109(2)] of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (2) No regulations shall be made by virtue of section 18 of this Act and no order shall be made by virtue of section 52 [^{F330}or 53] of this Act unless a draft of the regulations or order has been approved by a resolution of each House of Parliament.

[^{F331}(3) It shall be the duty of the Secretary of State, before he makes any regulations in pursuance of section 31(5) of this Act—

- (a) to publish in the London Gazette and in at least one newspaper circulating in the area in question a copy of the proposed regulations and a notice specifying—
 - (i) A period of not less than twenty-eight days, beginning with the date on which the notice is first published, within which objections to the proposed regulations may be made, and
 - (ii) the person to whom such objections may be made; and
- (b) to consider any objections to the proposed regulations which are made within that period and, if such an objection is so made by a prescribed person and is not withdrawn, to cause a local inquiry to be held in pursuance of section 96 of this Act with respect to the proposed regulations;

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and the Secretary of State may, after considering any such objections as are mentioned in paragraph (b) of this subsection and the report of any person appointed to hold a local inquiry with respect to the proposed regulations, make the regulations either in the form in which a copy of them was published in pursuance of this subsection or in that form with such modifications as he considers appropriate.]

Textual Amendments

- F328** Words in s. 104(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(34), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F329** Words in s. 104(1) substituted (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)–(10), 190, 193(1), Sch. 23 para. 7, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F330** Words repealed (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F331** S. 104(3) repealed (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

105 Interpretation etc—general. **E+W**

(1) In this Act—

[^{F332} “the Alkali Act” means the ^{M72}Alkali, &c. Works Regulation Act 1906;]

“county” [^{F333} county borough] and “district”, except in relation to Scotland, have the same meanings as in the ^{M73}Local Government Act 1972;

“mine” and “quarry” have the same meanings as in the ^{M74}Mines and Quarries Act 1954;

“modifications” includes additions, omissions and amendments and “modify” and cognate expressions shall be construed accordingly;

“notice” means notice in writing;

“owner”, except in relation to Scotland, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent;

“premises” includes land;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State;

[^{F334} “road” (except where the context otherwise requires) has the same meaning as in the [^{F335}Part IV of the New Roads and Street Works Act 1991];

“roads authority” has the same meaning as in the Roads (Scotland) Act 1984;][^{F336} “SEPA” means the Scottish Environment Protection Agency;]

“trade effluent” includes any liquid (either with or without particles of matter in suspension in it) which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage, and for the purposes of this definition on any premises wholly or mainly used (whether for profit or not) for agricultural or horticultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade; and

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“vessel” includes a hovercraft within the meaning of the ^{M75}Hovercraft Act 1968.

- (2) Except so far as this Act expressly provides otherwise and subject to the provisions of [^{F337}section 18 of the ^{M76}Interpretation Act 1978] (which relates to offences under two or more laws), nothing in this Act—
- (a) confers a right of action in any civil proceedings (other than the proceedings for the recovery of a fine) in respect of any contravention of this Act or an instrument made in pursuance of this Act;
 - (b) Affects any restriction imposed by or under any other enactment, whether public, local or private; or
 - (c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.
- (3) In so far as any interest in Crown land is not an interest belonging to Her Majesty or a Crown interest or a Duchy interest, this Act shall apply to the land as if it were not Crown land; and expressions used in this subsection and [^{F338}subsection (1) of section 293 of the Town and Country Planning Act 1990] or, in relation to Scotland, [^{F339}subsections (1) to (3) of section 242 of the Town and Country Planning (Scotland) Act 1997] have the same meanings in this subsection as in that subsection.
- (4) References in this Act to any enactment are references to it as amended by or under any other enactment.

Extent Information

- E4** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F332** Definition repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. I](#)
- F333** Words in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(3), [Sch. 9 para. 10\(5\)](#) (with [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, [art. 3](#)
- F334** Definitions inserted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 74\(6\)](#)
- F335** Words in s. 105(1) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22\)](#), s. 168(1), [Sch. 8 Pt. IV para. 105](#); S.I. 1992/2990, [art. 2\(2\)](#), [Sch. 2](#).
- F336** S. 105(1): definition of “SEPA” inserted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 29\(35\)](#) (with [ss. 7\(6\), 115, 117](#)); S.I. 1996/186, [art. 3](#)
- F337** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 25\(2\)](#)
- F338** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 31\(2\)](#)
- F339** Words in s. 105(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2, para. 23\(2\)](#)

Modifications etc. (not altering text)

- C155** S. 105(3) amended (E.W.) (25.9.1991) by [Atomic Weapons Establishment Act 1991 \(c. 46\)](#), ss. 3, 6(2), [Sch. para. 8\(2\)](#)

Marginal Citations

- M72** 1906 c. 14.
M73 1972 c. 70.
M74 1954 c. 70.
M75 1968 c. 59.

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M76 1978 c. 30.

105 Interpretation etc—general. **S**

(1) In this Act—

[^{F377} “the Alkali Act” means the ^{M80}Alkali, &c. Works Regulation Act 1906;]

“county” [^{F378} county borough] and “district”, except in relation to Scotland, have the same meanings as in the ^{M81}Local Government Act 1972;

“mine” and “quarry” have the same meanings as in the ^{M82}Mines and Quarries Act 1954;

“modifications” includes additions, omissions and amendments and “modify” and cognate expressions shall be construed accordingly;

“notice” means notice in writing;

“owner”, except in relation to Scotland, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent;

“premises” includes land;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State;

[^{F379} “road” (except where the context otherwise requires) has the same meaning as in the [^{F380}Part IV of the New Roads and Street Works Act 1991];

“roads authority” has the same meaning as in the Roads (Scotland) Act 1984;][^{F381} “SEPA” means the Scottish Environment Protection Agency;]

“trade effluent” includes any liquid (either with or without particles of matter in suspension in it) which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage, and for the purposes of this definition on any premises wholly or mainly used (whether for profit or not) for agricultural or horticultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade; and

“vessel” includes a hovercraft within the meaning of the ^{M83}Hovercraft Act 1968.

(2) Except so far as this Act expressly provides otherwise and subject to the provisions of [^{F382}section 18 of the ^{M84}Interpretation Act 1978] (which relates to offences under two or more laws), nothing in this Act—

- (a) confers a right of action in any civil proceedings (other than the proceedings for the recovery of a fine) in respect of any contravention of this Act or an instrument made in pursuance of this Act;
- (b) Affects any restriction imposed by or under any other enactment, whether public, local or private; or
- (c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

[^{F383}(3) Subject to subsections (3A) to (3D) below, this Act shall bind the Crown.

(3A) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the Court of Session may, on the application of—

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- (a) the Scottish Environment Protection Agency; or
- (b) any other public or local authority charged with enforcing that provision,
- declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3B) Notwithstanding anything in subsection (3A) above, any provision made by or under this Act shall apply to persons in the public service of the Crown as it applies to other persons.
- (3C) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises; and in this subsection “Crown premises” means premises held or used by or on behalf of the Crown.
- (3D) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity.]
- (4) References in this Act to any enactment are references to it as amended by or under any other enactment.

Extent Information

- E7** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

- F377** Definition repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. I**
- F378** Words in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(5)** (with Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, **art. 3**
- F379** Definitions inserted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(6)**
- F380** Words in s. 105(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22), s. 168(1), **Sch. 8 Pt. IV para. 105**; S.I. 1992/2990, art. 2(2), **Sch. 2** .
- F381** S. 105(1): definition of “SEPA” inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(35)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F382** Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**
- F383** S. 105(3)(3A)(3B)(3C)(3D) substituted (S.) (8.4.1998) for s. 105(3) by 1995 c. 25, s. 116, **Sch. 21 Pt. II para. 4** (with ss. 7(6), 115, 117); S.I. 1998/781, **art. 2** (subject to transitional provisions in art. 3)

Modifications etc. (not altering text)

- C161** S. 105(3C): certain functions made exercisable by the Scottish Ministers concurrently with the Minister (1.7.1999) by S.I. 1999/1750, arts. 1(1), 3, **Sch. 2** (with art. 7)

Marginal Citations

- M80** 1906 c. 14.
M81 1972 c. 70.
M82 1954 c. 70.
M83 1968 c. 59.
M84 1978 c. 30.

Status: Point in time view as at 11/08/2004.

Changes to legislation: Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

106 General application to Scotland.

- (1) The provisions of this section shall, in addition to any express provision for the application to Scotland of any provision of this Act, have effect for the general application of this Act to Scotland.
- ^{F340}(2)
- [^{F341}(3) In this Act “region”, “district”, “regional council”, “islands council” and “district council” have respectively the same meanings as in the ^{M77}Local Government (Scotland) Act 1973.]
- [^{F342}(4) Any reference in this Act to a highway shall, unless the contrary intention appears, include a reference to any public right of way.]
- (5) Any question which is required by any provision of this Act to be determined by arbitration shall be determined by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties.
- (6) For any reference in this Act to a magistrates’ court there shall be substituted a reference to the sheriff.
- (7) For any reference in this Act to a port health authority there shall be substituted a reference to a port local authority constituted under Part X of the ^{M78}Public Health (Scotland) Act 1897.
- (8) For any reference in this Act to the London Gazette there shall be substituted a reference to the Edinburgh Gazette.
- (9) In this Act “owner” means the person for the time being entitled to receive or who would, if the same were let, be entitled to receive, the rents of the premises in connection with which the word is used and includes a trustee, factor, tutor or curator, and, in the case of public or municipal property, includes the persons to whom the management thereof is entrusted.

Textual Amendments

F340 S. 106(2) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F341 S. 106(3) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F342 S. 106(4) repealed (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 74(7), **Sch. 11**

Marginal Citations

M77 1973 c. 65.

M78 1897 c. 38.

107 Application to Isles of Scilly.

This Act shall have effect in its application to the Isles of Scilly with such modifications as the Secretary of State may by order specify, and the Secretary of State may by order vary or revoke any order previously made in pursuance of this section.

Status: Point in time view as at 11/08/2004.

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Modifications etc. (not altering text)

C156 S. 107 extended (16.7.1991) by [Control of Pollution \(Amendment\) Act 1989 \(c. 14, SIF 46:4\)](#), s. 11(3); [S.I. 1991/1618](#), art. 2(a)

108 Minor and consequential amendments of enactments, and repeals.

- ^{x2}(1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments there specified (which are minor amendments and amendments consequential on provisions of this Act).
- ^{x2}(2) The enactments mentioned in the first and second columns of Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The Secretary of State may by order repeal or amend any provision of any local Act passed before this Act (including an Act confirming a provisional order) or of any order or other instrument made under an Act so passed if it appears to him that the provision is inconsistent with, or has become unnecessary or requires alteration in consequence of, any provision of this Act or corresponds to any provision repealed by this Act or relates to trade effluent.

Editorial Information

X2 The text of ss. 99, 108(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

109 Short title, commencement and extent.

- (1) This Act may be cited as the Control of Pollution Act 1974.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint; and—
- (a) without prejudice to the generality of section 104(1)(a) of this Act, different days may be appointed in pursuance of this subsection for different provisions of this Act and for such different purposes of the same provision as may be specified in the order;
- (b) Any provision appointing a day in pursuance of this subsection may be revoked or varied by an order made by the Secretary of State which comes into force before that day.
- (3) This Act, except sections ^{F343} ... ^{F344} ... 101 and this section, does not extend to Northern Ireland.

Subordinate Legislation Made

P1 Power of appointment conferred by s. 109(2) partly exercised by [S.I. 1974/2039](#), 2169, 1975/230, 2118, 1976/731, 956, 1080, 1977/336, 476, 1587, 2164, 1978/816, 954, 1981/196, 1982/624, 1983/1175, 1984/853, 1985/70, 1988/818

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S. 109(2) power partly exercised: 31. 5. 1991 appointed for s. 108(2) and Sch. 4 (so far as it concerns the repeal of ss. 25(1)(c)(4) and 26(2)(4)(7)(8)(9) of the Rivers (Prevention of Pollution) (Scotland) Act 1951) by [S.I. 1991/1173](#)

Textual Amendments

F343 Words in s.109(3) repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch. 6**

F344 Words in s. 109(3) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 13**

Status:

Point in time view as at 11/08/2004.

Changes to legislation:

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