



Pollution Prevention and Control Act 1999

1999 CHAPTER 24

1 General purpose of section 2 and definitions.

- (1) The purpose of section 2 is to enable provision to be made for or in connection with—
- implementing Council Directive [96/61/EC](#) concerning integrated pollution prevention and control;
 - regulating, otherwise than in pursuance of that Directive, activities which are capable of causing any environmental pollution;
 - otherwise preventing or controlling emissions capable of causing any such pollution.
- (2) In this Act—
- “activities” means activities of any nature, whether—
- industrial or commercial or other activities, or
 - carried on on particular premises or otherwise,
- and includes (with or without other activities) the depositing, keeping or disposal of any substance;
- “environmental pollution” means pollution of the air, water or land which may give rise to any harm; and for the purposes of this definition (but without prejudice to its generality)—
- “pollution” includes pollution caused by noise, heat or vibrations or any other kind of release of energy, and
 - “air” includes air within buildings and air within other natural or man-made structures above or below ground.
- (3) In the definition of “environmental pollution” in subsection (2), “harm” means—
- harm to the health of human beings or other living organisms;
 - harm to the quality of the environment, including—
 - harm to the quality of the environment taken as a whole,
 - harm to the quality of the air, water or land, and
 - other impairment of, or interference with, the ecological systems of which any living organisms form part;
 - offence to the senses of human beings;

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- (d) damage to property; or
- (e) impairment of, or interference with, amenities or other legitimate uses of the environment (expressions used in this paragraph having the same meaning as in Council Directive 96/61/EC).

2 Regulation of polluting activities.

- (1) The Secretary of State may by regulations make provision for any of the purposes listed in Part I of Schedule 1; and Part II of that Schedule has effect for supplementing Part I.
- (2) In accordance with subsection (1) of section 1, the provision which may be made by regulations under this section is provision for or in connection with any of the matters mentioned in paragraphs (a) to (c) of that subsection.
- (3) Regulations under this section may—
 - (a) contain such consequential, incidental, supplementary, transitional or saving provisions (including provisions amending, repealing or revoking enactments) as the Secretary of State considers appropriate; and
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances, areas or localities.
- (4) Before making any regulations under this section, the Secretary of State shall consult—
 - (a) the Environment Agency if the regulations are to apply in relation to England or Wales;
 - (b) the Scottish Environment Protection Agency if the regulations are to apply in relation to Scotland;
 - (c) such bodies or persons appearing to him to be representative of the interests of local government, industry, agriculture and small businesses respectively as he may consider appropriate; and
 - (d) such other bodies or persons as he may consider appropriate.
- (5) Consultation undertaken before the passing of this Act shall constitute as effective compliance with subsection (4) as if undertaken after that passing.
- (6) The power to make regulations under this section shall be exercised by statutory instrument.
- (7) A statutory instrument containing regulations under this section, if made without a draft having been laid before, and approved by a resolution of, each House of Parliament, shall be subject to annulment in pursuance of a resolution of either House.
- (8) No regulations to which this subsection applies shall be made (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (9) Subsection (8) applies to—
 - (a) the first regulations to be made under this section which apply in relation to England;
 - (b) the first regulations to be made under this section which apply in relation to Wales;

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- (c) the first regulations to be made under this section which apply in relation to Scotland;
- (d) regulations under this section which create an offence or increase a penalty for an existing offence;
- (e) regulations under this section which amend or repeal any provision of an Act.

3 Prevention etc. of pollution after accidents involving offshore installations.

- (1) The Secretary of State may, in relation to offshore installations, by regulations make provision which, subject to any modifications that he considers appropriate, corresponds or is similar to any provision made by, or capable of being made under, sections 137 to 140 of the ^{M1}Merchant Shipping Act 1995 (powers to prevent and reduce pollution, and the risk of pollution, by oil or other substances following an accident) in relation to ships.
- (2) In this section—
 - “offshore installation” means any structure or other thing (but not a ship) in or under—
 - (a) United Kingdom territorial waters, or
 - (b) any waters mentioned in section 7(9)(b) or (c),which is used for the purposes of, or in connection with, the exploration, development or production of petroleum;
 - “petroleum” has the meaning given by section 1 of the ^{M2}Petroleum Act 1998;
 - “ship” has the same meaning as in the Merchant Shipping Act 1995.
- (3) Regulations under this section may—
 - (a) contain such consequential, incidental, supplementary, transitional or saving provisions as the Secretary of State considers appropriate; and
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances, areas or localities.
- (4) Before making any regulations under this section, the Secretary of State shall consult—
 - (a) the Environment Agency, the Scottish Environment Protection Agency and the Department of the Environment for Northern Ireland;
 - (b) such bodies or persons appearing to him to be representative of the interests of owners or operators of offshore installations as he may consider appropriate; and
 - (c) such other bodies or persons as he may consider appropriate.
- (5) The power to make regulations under this section shall be exercised by statutory instrument.
- (6) No regulations shall be made under this section (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

Marginal Citations

M1 1995 c. 21

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M2 1998 c. 17.

4 Time-limited disposal or waste management licences.

(1) Where—

- (a) a disposal licence under section 5 of the 1974 Act became a site licence by virtue of section 77(2) of the 1990 Act (conversion, on the appointed day, of existing disposal licence under section 5 of the 1974 Act into a site licence),
- (b) the licence has expired at a time (“the time of expiry”) falling before the day on which this Act is passed but not earlier than the appointed day,
- (c) the licence authorised the carrying on of activities in or on land in England or Wales, and
- (d) relevant activities have taken place at a time falling not more than one year before the day on which this Act is passed,

the licence shall (subject to subsection (7)) for all purposes be deemed not to have expired but to have become, at the time of expiry, a site licence continuing in force in accordance with section 35(11) of the 1990 Act.

(2) Subsection (3) applies where—

- (a) a disposal licence under section 5 of the 1974 Act expired at a time (“the time of expiry”) falling before the appointed day (so that it was not converted into a site licence by section 77(2) of the 1990 Act),
- (b) the licence authorised the carrying on of activities in or on land in England or Wales, and
- (c) relevant activities have taken place at a time falling not more than one year before the day on which this Act is passed.

(3) The licence shall (subject to subsection (7)) for all purposes be deemed—

- (a) not to have expired, and
- (b) to have been subsisting on the appointed day and (accordingly) to have become on that day a site licence by virtue of section 77(2) of the 1990 Act,

and the site licence which the licence is deemed to have become on that day shall for all purposes be deemed to have been one that continues in force in accordance with section 35(11) of the 1990 Act.

(4) Where—

- (a) a site licence in force immediately before the day on which this Act is passed—
 - (i) became a site licence by virtue of section 77(2) of the 1990 Act, and
 - (ii) will expire on or after the day on which this Act is passed (if it has not previously been revoked entirely, or had its surrender accepted, under Part II of the 1990 Act), and
- (b) relevant activities have taken place at a time falling not more than one year before that day,

the licence shall for all purposes be deemed to have become at the beginning of that day a site licence continuing in force in accordance with section 35(11) of the 1990 Act.

(5) Where subsection (1), (3) or (4) has effect in relation to a licence, the terms and conditions of the licence as continued in force by that subsection shall, except so far as providing for the expiry of the licence and subject to subsection (6)(b) and (c), be

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- such as were in force immediately before the relevant time (unless and until varied under Part II of the 1990 Act); and “the relevant time” means—
- (a) where subsection (1) or (3) has effect in relation to a licence, the time of expiry;
 - (b) where subsection (4) has effect in relation to a licence, the beginning of the day on which this Act is passed.
- (6) Where subsection (1) or (3) has effect in relation to a licence (but without prejudice to the generality of that subsection)—
- (a) activities carried out during the interim period which (by virtue of subsection (1) or (3)) become authorised by the licence shall be treated as authorised at the time they were carried out (even though at that time their being carried out amounted to a contravention of section 33(1)(a) or (b) of the 1990 Act or section 3(1) of the 1974 Act);
 - (b) anything done in relation to the licence before the time of expiry but purporting to take effect after that time (such as the serving of a notice under section 37(4) or 38(12) of the 1990 Act, or in pursuance of section 7 of the 1974 Act, specifying a time falling during or after the interim period) shall be treated as having had (or having) effect as if the licence had not in fact expired;
 - (c) anything which during the interim period purported to be done in relation to the licence (such as a modification of the licence or the revocation, suspension, transfer or acceptance of the surrender of the licence or the carrying out of consultation, exercise of functions under section 9 of the 1974 Act or section 42 of the 1990 Act, imposition of requirements during a suspension or bringing or determination of an appeal) shall be treated as having had effect as if the licence had then been in force;
 - (d) any fees which (by virtue of subsection (1) or (3)) are treated as having become payable before the passing of this Act shall be taken to have become payable at the time they would have become payable had the licence not in fact expired; and
 - (e) the holder of the licence shall be treated as having been, during the interim period, an authorised person for the purposes of section 34(1)(c) of the 1990 Act.
- (7) Where subsection (1) or (3) has effect in relation to a licence, a person shall not be guilty of an offence under section 33(6) or 38(10) or (11) of the 1990 Act as a result of anything done or omitted to be done during the interim period becoming (by virtue of subsection (1) or (3)) a contravention of any condition of the licence or (as the case may be) a failure to comply with any requirement imposed under section 38(9) of the 1990 Act.
- (8) Nothing in this section affects any criminal proceedings which have been concluded before the passing of this Act.
- (9) The waste regulation authority (within the meaning given by section 30(1) of the 1990 Act) shall notify the holder of a licence affected by this section of the fact that the licence is so affected and of how it is so affected.
- (10) For the purposes of this section “relevant activities”, in relation to a licence, are—
- (a) any activities authorised by the licence or, in the case of an expired licence, any which would have been authorised by it had it not expired, and
 - (b) any precautions or works required by the licence to be taken or carried out in connection with or in consequence of those activities or, in the case of an

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expired licence, any which would have been so required had the licence not expired.

(11) In this section—

“the 1974 Act” means the Control of Pollution Act 1974;

“the 1990 Act” means the Environmental Protection Act 1990;

“the appointed day”, in relation to a licence, means the day which in relation to that licence is (or would have been if the licence had not previously expired) the relevant appointed day for licences (within the meaning of section 77 of the 1990 Act);

“the interim period”, in connection with a licence in relation to which subsection (1) or (3) has effect, means the period beginning with the time of expiry and ending immediately before the day on which this Act is passed;

“site licence” has the same meaning as it has in Part II of the 1990 Act by virtue of section 35(12) of that Act.

5 Application to Wales and Scotland.

(1) Subsection (2) applies to an Order in Council under section 22 of the ^{M3}Government of Wales Act 1998 (transfer of Ministerial functions) if the Order in Council contains a statement that it makes no provision which is not—

- (a) provision about functions under this Act; or
- (b) provision in connection with such provision.

(2) An Order in Council to which this subsection applies—

- (a) shall not be subject to subsection (4)(a) of that section (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) For the purposes of the ^{M4}Scotland Act 1998, this Act shall be taken to be a pre-commencement enactment within the meaning of that Act.

Marginal Citations

M3 1998 c. 38.

M4 1998 c. 46.

VALID FROM 21/03/2000

6 Consequential and minor amendments and repeals.

(1) The consequential and minor amendments specified in Schedule 2 shall have effect.

(2) The enactments specified in Schedule 3 are repealed to the extent specified.

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Commencement Information

- II** S. 6 partly in force; s. 6 not in force at Royal Assent see s. 7(3); s. 6(1) in force (E.W.) (21.3.2000) by S.I. 2000/800, art. 2; s. 6(1) in force (S.) for certain purposes at 29.9.2000 by S.S.I. 2000/322, art. 2(a)

7 Short title, interpretation, commencement and extent.

- (1) This Act may be cited as the Pollution Prevention and Control Act 1999.
- (2) In this Act—
 - “enactment” includes an enactment comprised in subordinate legislation within the meaning of the ^{M5}Interpretation Act 1978;
 - “modifications” includes additions, alterations and omissions and “modify” shall be construed accordingly.
- (3) Section 6 and Schedules 2 and 3 shall not come into force until such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be so appointed for different purposes.
- (4) An order under subsection (3) may contain such consequential, incidental, supplementary, transitional or saving provisions (including provisions modifying enactments) as the Secretary of State considers appropriate.
- (5) This section and sections 3 and 5 extend to Northern Ireland but, subject to subsections (6) to (8), the other provisions of this Act do not extend there.
- (6) The amendment by this Act of any enactment extending to Northern Ireland also extends there.
- (7) The repeal by this Act of any enactment extending to Northern Ireland, except section 3(5) to (7) of the ^{M6}Environmental Protection Act 1990, also extends there.
- (8) Where an enactment extending to Northern Ireland is amended or repealed by any regulations or order under this Act, the regulations or order may provide for the amendment or repeal to extend to Northern Ireland.
- (9) Regulations and orders under this Act may make provision applying in relation to (and to places above and below)—
 - (a) the territorial waters adjacent to any part of the United Kingdom,
 - (b) the sea in any designated area within the meaning of the ^{M7}Continental Shelf Act 1964, and
 - (c) the sea in any area specified under section 10(8) of the ^{M8}Petroleum Act 1998.

Subordinate Legislation Made

- P1** S. 7(2) power partly exercised (20.3.2000): 21.3.2000 appointed for specified provisions by S.I. 2000/800, art. 2
S. 7(2) power partly exercised (14.9.2000) : 29.9.2000 appointed for specified provisions by S.I. 2000/322, art. 2
S. 7(2) power partly exercised (14.9.2000): 29.9.2000 appointed for specified provisions by S.S.I. 2000/322, art. 2

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Marginal Citations

M5 1978 c. 30.

M6 1990 c. 43.

M7 1964 c. 29.

M8 1998 c. 17.

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