



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### PART I

#### WASTE ON LAND

##### *Licensing of disposal of controlled waste.*

#### [<sup>F13</sup> **Prohibition of unlicensed disposal of waste.**

- (1) Except in prescribed cases, a person shall not—
- deposit controlled waste on any land or cause or knowingly permit controlled waste to be deposited on any land; or
  - 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—
- the waste in question is of a kind which is poisonous, noxious or polluting; and
  - its presence on the land is likely to give rise to an environmental hazard; and
  - 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

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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
  - (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 <sup>F2</sup>(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

- F1** S. 3 repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162, 164(3), [Sch. 16 Pt. II](#)
- F2** 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](#)

#### [<sup>F3</sup>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.

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- (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—
- (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 <sup>F4</sup>(4) which covers any land above low-water mark of ordinary spring tides and is not water <sup>F5</sup>in a stream]]<sup>F5</sup>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

- F3** S. 4 repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. II**
- F4** 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**
- F5** 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**

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## [<sup>F6</sup>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 . . . <sup>F7</sup>
- (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 [<sup>F8</sup>the Town and Country Planning Act 1990] or, in Scotland, the <sup>M1</sup>Town and Country Planning (Scotland) Act 1972 unless such permission is in force; . . . <sup>F7</sup>
- (3) Where a disposal authority receives an application 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 the authority not to reject the application unless the authority is satisfied that its rejection is necessary for the purpose of preventing pollution of water or danger to public health.
- (4) Where a disposal authority proposes to issue a disposal licence, it shall be the duty of the authority before it does so—
  - (a) to refer the proposal to the water authority [<sup>F9</sup>, and in the case of an English county disposal authority any collection authority,] of which the area includes any of the relevant land . . . <sup>F7</sup>; 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 . . . <sup>F7</sup> mentioned in paragraph (a) of this subsection or during such longer period as the disposal authority and that body . . . <sup>F7</sup> agree in writing, the disposal authority receives from that body . . . <sup>F7</sup> (including in particular any representations about the conditions which that body . . . <sup>F7</sup> considers should be specified in the licence);

and if [<sup>F10</sup>a water authority to which the proposal is referred][<sup>F10</sup>the National Rivers Authority] requests the disposal authority not to issue the licence or disagrees with the disposal authority as to the conditions to be specified in the licence either of them may refer the matter to the Secretary of State and the licence shall not be issued except in accordance with his decision.
- (5) The preceding subsection shall not apply to Scotland, but in Scotland where a disposal authority (other than an islands council) proposes to issue a disposal licence, it shall be the duty of the authority before it does so—
  - (a) to refer the proposal to—
    - (i) the river purification authority whose area includes any of the relevant land,
    - (ii) where the disposal authority is not also a district planning authority within the meaning of section 172 of the <sup>M2</sup>Local Government (Scotland) Act 1973, the general planning authority within the meaning of that section whose area includes any of the relevant land; . . . <sup>F7</sup> 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 . . . <sup>F7</sup> mentioned in paragraph (a) of this subsection or during such longer period as the disposal authority and that body . . . <sup>F7</sup> agree in writing, the disposal authority receives from that body . . . <sup>F7</sup> (including in particular any representations about the conditions which that body . . . <sup>F7</sup> considers should be specified in the licence);

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and if a river purification authority to which the proposal is referred requests the disposal authority not to issue the licence or disagrees with the disposal authority as to the conditions to be specified in the licence either of them may refer the matter to the Secretary of State and the licence shall not be issued except in accordance with his decision.

- (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

- F6** S. 5 repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. II**
- F7** Words repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**
- F8** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 31(1)**
- F9** By Local Government Act 1985 (c. 51, SIF 81:1), s. 9, **Sch. 6 para. 3(3)** it is provided that with effect from 1.4.1986 for the words “and any collection authority” there shall be substituted “, and in the case of an English county disposal authority any collection authority,”
- F10** Words commencing “the National” substituted (E.W.) for words commencing “a water” 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(3)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### Modifications etc. (not altering text)

- C1** 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))
- C2** 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))
- C3** By S.I. 1985/1884 art. 5, Sch. 2 para. 6 (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 1.4.1986) it was provided (E.W.) that (coming into operation on 27.12.1985) s. 5(4)(a) shall be modified to have effect as if subsection (a) were substituted and so substituted and amended as indicated below s. 5(4) is as follows:  
(a) to refer the proposal to [the National Rivers Authority] and—  
(i) in the case of the London Waste Regulation Authority, to any London waste disposal authority [and in the case of an English county disposal authority any collection authority,] whose area includes any part of the relevant land;  
(ii) in the case of an English county disposal authority, to any collection authority whose area includes any part of the relevant land; and expressed to be 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(3)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**]

#### Marginal Citations

- M1** 1972 c. 52.  
**M2** 1973 c. 65.

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## [<sup>F11</sup>6] Provisions supplementary to s. 5.

- (1) Provision may be made by regulations . . . <sup>F12</sup> 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) . . . <sup>F12</sup>, a disposal licence may include such conditions as the disposal authority which issues it 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 the authority 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 exceeding [<sup>F13</sup>£400][<sup>F13</sup>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 the disposal authority which issued the licence.
- (4) It shall be the duty of each disposal authority—
  - (a) to maintain a register containing [<sup>F14</sup>copies] of all disposal licences issued by the authority which are for the time being in force; and
  - (b) to secure that the register is open to inspection at its principal office 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 the authority, 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 a disposal authority receives an application duly made to it for a disposal licence, or within such longer period as the authority and the applicant may at any time agree in writing, the authority has neither issued a licence in consequence of the application nor given notice to the applicant that the authority has rejected the application, the authority shall be deemed to have rejected the application.

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- (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

- F11** S. 6 repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. II](#)
- F12** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 34 Pt. II](#)
- F13** 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)
- F14** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 1(2), [Sch. 2 para. 9\(2\)](#)

#### [<sup>F157</sup> Variation of conditions and revocation of licences.

- (1) While a disposal licence issued by a disposal authority is in force, then—
- (a) subject to any regulations in force by virtue of subsection (1) of the preceding section, the authority 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 the authority, 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 the authority 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) or, in relation to Scotland, subsection (5) 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—
- (a) the disposal authority may postpone the reference in pursuance of the said subsection (4) or (5) so far as the authority considers that by reason of an emergency it is appropriate to do so; and
- (b) the disposal authority may disregard any other authority for the purposes of the preceding provisions of this subsection in relation to a modification which, in the opinion of the disposal authority, will not affect the other 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 issued by a disposal authority is in force and it appears to the authority—

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- (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 the authority by a notice served on the holder of the licence to revoke the licence.

- (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

**F15** S. 7 repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), Sch. 16 Pt. II

#### [<sup>F16</sup> **Transfer and relinquishment of licences.**

- (1) The holder of a disposal licence may, after giving notice to the authority which issued the licence 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 the authority receives the notice if during the period of eight weeks beginning with that date the authority 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.
- (4) The holder of a disposal licence may cancel the licence by delivering it to the authority which issued it and giving notice to the authority that he no longer requires the licence.]

#### Textual Amendments

**F16** S. 8 repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), Sch. 16 Pt. II

#### [<sup>F17</sup> **Supervision of licensed activities.**

- (1) While a disposal licence is in force it shall be the duty of the authority which issued the licence to take the steps needed—
  - (a) 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



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- (b) 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 a disposal authority by the preceding subsection in connection with a licence, any officer of the authority authorised in writing in that behalf by the authority 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 a disposal authority incurs any expenditure by virtue of the preceding subsection, the authority 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 a disposal authority that a condition specified in a disposal licence issued by the authority 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, the authority may—
- (a) serve on the licence holder a notice requiring him to comply with the condition before a time specified in the notice; and
  - (b) if in the opinion of the authority 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

**F17** S. 9 repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. II](#)

#### [<sup>F18</sup>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 the disposal authority concerned 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 the decision shall be effective again from the end of the day on which the appeal is dismissed or withdrawn.

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- (3) The preceding subsection shall not apply to a decision of a disposal authority 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 in the opinion of the authority 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 the authority 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 the authority 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

- F18** S. 10 repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(3), [Sch. 16 Pt. II](#)

#### [<sup>F19</sup>11 Special provisions for land occupied by disposal authorities.

- (1) Nothing in subsection (1) of section 3 of this Act shall apply to—
- (a) the deposit of controlled waste on land in the area of a disposal authority which is occupied by the authority; or
  - (b) the use on land so occupied of any plant or equipment for the purpose of disposing of controlled waste or of dealing with controlled waste in a manner prescribed in pursuance of paragraph (b) of that subsection,
- if the deposit is made or the plant or equipment is used by the authority or is made or used with the consent of the authority and in accordance with the conditions, if any, to which the consent is subject (other than a condition as to which it is provided by regulations that the condition shall be disregarded for the purposes of this subsection).
- (2) If any land occupied by a disposal authority is used by the authority as a site on which to deposit or permit other persons to deposit controlled waste or on which to use or permit other persons to use any plant or equipment for the purpose aforesaid, it shall be the duty of the authority to ensure that the land is used in accordance with conditions which are—
- (a) calculated to prevent its use from causing pollution of water, danger to public health and serious detriment to the amenities of the locality in which the land is situated; and
  - (b) specified in a resolution passed by the authority in accordance with the following provisions of this section.
- (3) Where a disposal authority proposes that any land which the authority occupies or intends to occupy should be used by the authority as mentioned in the preceding subsection, it shall be the duty of the authority before it gives effect to the proposal—

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- (a) to prepare a statement of the conditions which the authority intends to specify in a resolution to be passed by the authority in pursuance of paragraph (e) of this subsection;
  - <sup>F20</sup>(b) . . . . .
  - (c) to refer the proposal and the statement to each water authority [<sup>F21</sup>, and in the case of an English county disposal authority each collection authority,] of which the area includes any of the land question . . . <sup>F22</sup>
  - (d) to consider any representations about the proposal and statement which, during the period of twenty-one days beginning with that on which the proposal and statement are received by [<sup>F23</sup>the National Rivers Authority, a] or collection authority or during such longer period as the disposal authority and the other authority agree in writing, the disposal authority receives from the other authority (including in particular any representations about the conditions which the other authority considers should be included in any resolution passed in pursuance of the following paragraph);
  - (e) subject to subsection (5) of this section, to pass a resolution specifying the conditions in accordance with which the land in question is to be used by the disposal authority as mentioned in the preceding subsection.
- (4) In the application of the preceding subsection to Scotland—
- (a) for paragraphs (c) and (d) there shall be substituted the following paragraphs—
    - “(c) to refer the proposal and the statement to the river purification authority whose area includes any of the land in question and, where the disposal authority is not also a district planning authority within the meaning of section 172 of the Local Government (Scotland) Act 1973, to the general planning authority within the meaning of that section whose area includes any of the land . . . <sup>F22</sup>
    - (d) to consider any representations about the proposal and statement which, during the period of twenty-one days beginning with that on which the proposal and statement are received by the river purification authority or the general planning authority or during such longer period as the disposal authority and the other authority agree in writing, the disposal authority receives from that authority (including in particular any representations about the conditions which the river purification authority or the general planning authority considers should be included in any resolution passed in pursuance of the following paragraph);”
  - (b) paragraphs (a) to (d), and in paragraph (e) the words “subject to subsection (5) of this section”, shall have effect only in a case where the proposal is made by a disposal authority other than an islands council.
- (5) If [<sup>F24</sup>a water authority][<sup>F24</sup>the National Rivers Authority] or, in Scotland, a river purification authority to which a proposal is referred by a disposal authority in pursuance of paragraph (c) of subsection (3) of this section requests the disposal authority not to proceed with the proposal or disagrees with the disposal authority as to the conditions to be specified in a resolution in pursuance of paragraph (e) of that subsection, either of them may refer the matter to the Secretary of State and it shall be the duty of the disposal authority not to pass a resolution in pursuance of that paragraph except in accordance with his decision.

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- (6) A disposal authority by which a resolution has been passed in pursuance of paragraph (e) of subsection (3) of this section or this subsection—
- (a) may vary or rescind the resolution by a subsequent resolution of the authority; . . . <sup>F25</sup>
  - <sup>F25</sup>(b) . . . . .
- (7) Paragraphs (a) to (d) of subsection (3) and subsection (5) of this section shall with the necessary modifications apply to a proposal to pass a resolution in pursuance of paragraph (a) of the preceding subsection and to such a resolution as they apply to such a proposal as is mentioned in those provisions and to a resolution in pursuance of the said paragraph (e), except that—
- (a) those provisions shall not apply to or to a proposal to pass a resolution which only rescinds a previous resolution; and
  - (b) the disposal authority may postpone the reference in pursuance of the said subsection (3) so far as the authority considers that by reason of an emergency it is appropriate to do so; and
  - (c) the disposal authority may disregard any other authority for the purposes of the preceding provisions of this subsection in relation to a resolution which, in the opinion of the disposal authority, will not affect the other authority.
- (8) If while a resolution is in force in pursuance of the preceding provisions of this section it appears to the authority which passed the resolution—
- (a) that the continuation of activities to which the resolution 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 activities ought not to continue; and
  - (b) that the pollution, danger or detriment cannot be avoided by modifying the conditions relating to the carrying on of the activities,
- it shall be the duty of the authority to discontinue the activities and to rescind the resolution.
- (9) <sup>F26</sup>If it appears to a water authority or, in Scotland, a river purification authority that activities to which a resolution in pursuance of this section relates are causing or likely to cause pollution to <sup>F27</sup>controlled waters] (within the meaning of Part II of this Act) in the area of the authority the authority may, without prejudice to the provisions of the preceding subsection or the said Part II, request<sup>F26</sup>If it appears to the National Rivers Authority that activities to which a resolution in pursuance of this section relates are causing or are likely to cause pollution to controlled waters, the National Rivers Authority may, without prejudice to the provisions of the preceding subsection or of Chapter I of Part III of the Water Act 1989, request] the Secretary of State to direct the disposal authority which passed the resolution to discontinue the activities; and it shall be the duty of a disposal authority to comply with a direction given to it in pursuance of this subsection.
- (10) While a resolution passed by a disposal authority in pursuance of subsection (3) or (6) of this section is in force it shall be the duty of the authority to secure that <sup>F28</sup>copies] of the resolution are included in the register maintained by the authority in pursuance of section 6(4)(a) of this Act.
- <sup>F29X1</sup>(11) References to land in this section include such water as is mentioned in section 4(4) of this Act.]
- <sup>F29</sup>(11) In this section—

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- (a) “land” has the same meaning as in section 3 of this Act; and
- (b) “controlled waters” has the same meaning as in Chapter I of Part III of the Water Act 1989.]

#### Editorial Information

- X1** S. 11(11) beginning “In this section” substituted (E.W.) for S. 11(11) beginning “References” 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(4)(d), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### Textual Amendments

- F19** S. 11 repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. II**
- F20** S. 11(3)(b) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**
- F21** By Local Government Act 1985 (c. 51, SIF 81:1), s. 9, **Sch. 6 para. 3(4)** it is provided that with effect from 1.4.1986 for the words “and collection authority” there shall be substituted “, and in the case of an English county disposal authority each collection authority,”
- F22** Words repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**
- F23** 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(4)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F24** “the National Rivers Authority” substituted (E.W.) for “a water authority” 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(4)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F25** Word and s. 11(6)(b) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**
- F26** Words commencing “If it appears to the National Rivers Authority” substituted (E.W.) for words commencing “If it appears to a water authority” 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(4)(c), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F27** Words “controlled waters” substituted (S.) for “relevant waters” 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. 3, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F28** Word substituted by Local Government Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 9(3)**
- F29** S. 11(11) beginning “In this section” substituted (E.W.) for S. 11(11) beginning “References” 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(4)(d), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### Modifications etc. (not altering text)

- C4** S. 11 shall have effect as if at the end of subsection (11) there were added (E.W.) by S.I. 1985/1884, art. 5, **Sch. 2 para. 7(c)** the following:  
(12) Any resolution passed in pursuance of this section by the Greater London Council or the Greater Manchester County Council which is in force immediately before 1st April 1986 in relation to land transferred by or under the Local Government Act 1985 to a London waste disposal authority, the Common Council of the City of London, the council of a London borough or the council of the metropolitan district of Wigan (“the transferee authority”) shall have effect from that date as if it were a disposal licence granted under section 5 of this Act by the London Waste Regulation Authority or, as the case may be, the Greater Manchester Waste Disposal Authority to the transferee authority to use the land in question subject to the conditions specified in the resolution.
- C5** By S.I. 1985/1884, art. 5, **Sch. 2 para. 7(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 1.4.1986) it was provided that (coming into operation on 27.12.1985) s.

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11(3)(c) shall be modified to have effect as if subsection (c) were substituted as therein specified and so specified and amended as indicated below, subsection (c) is as follows:

(c) to refer the proposal and the statement to [the National Rivers Authority] and

(i) in the case of the London Waste Regulation Authority, to any London waste disposal authority and any collection authority whose area includes any of the land in question;

(ii) in the case of an English county disposal authority, to any collection authority whose area includes any of the land in question; expressed to be 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(4)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**]

- C6** By S.I. 1985/1884, art. 5, **Sch. 2 para. 7(b)** (which was made under 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 1.4.1986) it was provided that (coming into operation on 27.12.1985) s. 11(3)(d) shall be modified to have effect as if in subsection (d) after the words “a water authority” the following words were inserted “, London waste disposal authority”

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