



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### PART II

#### POLLUTION OF WATER

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

- C1** 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**
- C2** 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**
- C3** Pt. II modified by S.I. 1984/1200, **reg. 3, Sch. 1** and 1985/5, regs. 3(1)(2), 4(1)(a)
- C4** 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**
- C5** 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*

##### **[<sup>F1</sup>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

---

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

---

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 [F<sup>2</sup>SEPA] showing what appear to him to be the fresh-water limits of every relevant river or watercourse . . . F<sup>3</sup>; 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 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 [F<sup>2</sup>SEPA] 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

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

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

#### Textual Amendments

- F1** 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](#)
- F2** 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](#)
- F3** 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)

- C6** 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)
- C7** S. 30A(1)(c) modified (6.1.1997) by [S.I. 1996/3047, reg. 15\(1\)](#)

### [<sup>F4</sup>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—
- general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;
  - 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;
  - 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

- F4** 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)

- C8** 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)

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

### [<sup>F5</sup>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 [<sup>F6</sup>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. . . <sup>F7</sup>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—
  - (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) [<sup>F8</sup>SEPA], 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. . . <sup>F9</sup>he shall—
  - (a) give notice to [<sup>F10</sup>SEPA] 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 [<sup>F11</sup>SEPA].
- (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 <sup>F12</sup>. should remain unchanged, he shall serve notice of that decision on [<sup>F13</sup>SEPA].

#### Textual Amendments

**F5** 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,](#)

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

- 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
- F6** 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**
- F7** 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**
- F8** 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**
- F9** 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**
- F10** 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**
- F11** 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**
- F12** 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**
- F13** 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)**

- C9** 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)**
- C10** 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**
- C11** 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)**.

#### **[<sup>F14</sup>30D General duties to achieve and maintain objectives etc.**

- (1) It shall be the duty of the Secretary of State and of [<sup>F15</sup>SEPA] to exercise the powers conferred on him or it by or under the following provisions of this Part or the provisions of the <sup>F16</sup>... [<sup>F17</sup>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 [<sup>F18</sup>section 83 of the Water Resources Act 1991], are achieved at all times.
- (2) It shall be the duty of [<sup>F15</sup>SEPA], for the purposes of the carrying out of its functions under the following provisions of this Part <sup>F19</sup>... , to monitor the extent of pollution in controlled waters.]

#### **Textual Amendments**

- F14** 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,

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

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

- F15** 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**
- F16** Words in s. 30D(1) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. IV para. 3(2)(a)**
- F17** 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.
- F18** 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)**
- F19** Words in s. 30D(2) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. IV para. 3(2)(b)**

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

- C12** 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)

#### [<sup>F20</sup>30E Consultation and collaboration.

In the performance of [<sup>F21</sup>its]] functions in relation to waters partly in Scotland and partly in England [<sup>F22</sup>SEPA] shall, in matters of common interest, consult and collaborate with the [<sup>F22</sup>Environment Agency].

#### Textual Amendments

- F20** 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
- F21** 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**
- F22** 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**

*[<sup>F23</sup> Control of entry of polluting matter and effluents into water]*

#### Textual Amendments

- F23** 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**

#### <sup>F24</sup>30F Pollution offences.

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

**Textual Amendments**

**F24** Ss. 30F-31A repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **sch. Pt. I** (with sch. Pt. III)

**<sup>F24</sup>30G Prohibition of certain discharges by notice or regulations.**

.....

**Textual Amendments**

**F24** Ss. 30F-31A repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **sch. Pt. I** (with sch. Pt. III)

**<sup>F24</sup>30H Discharges into and from sewers etc.**

.....

**Textual Amendments**

**F24** Ss. 30F-31A repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **sch. Pt. I** (with sch. Pt. III)

**<sup>F24</sup>30I Defence to principal offences in respect of authorised discharges.**

.....

**Textual Amendments**

**F24** Ss. 30F-31A repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **sch. Pt. I** (with sch. Pt. III)

**<sup>F24</sup>30J Other defences to principal offences.**

.....

**Textual Amendments**

**F24** Ss. 30F-31A repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **sch. Pt. I** (with sch. Pt. III)

*Control of entry of polluting matter and effluents into water*

**<sup>F24</sup>31 Control of pollution of rivers and coastal waters etc.**

.....

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

**Textual Amendments**

**F24** Ss. 30F-31A repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **sch. Pt. I** (with sch. Pt. III)

**<sup>F24</sup>31A Requirements to take precautions against pollution.**

.....

**Textual Amendments**

**F24** Ss. 30F-31A repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **sch. Pt. I** (with sch. Pt. III)

**[<sup>F25</sup>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) [<sup>F26</sup>the absolute owner (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 1949)] of any agricultural land in that area; or
  - (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.



*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

- (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 [F27 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—
- (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

**F25** 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. 1](#) 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**

**F26** 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

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

section 93 of the Agricultural Holdings (Scotland) Act 1949" there shall be substituted (25.9.1991) "the owner of the dominium utile".

**F27** 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**

**[<sup>F28</sup>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**

**F28** 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**

**[<sup>F29</sup>31D .....**

**Textual Amendments**

**F29** 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**

**[<sup>F30</sup>32 .....**

**Textual Amendments**

**F30** 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**

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

**F31 33 Control of sanitary appliances on vessels.**

.....

**Textual Amendments**

**F31** Ss. 33-40 repealed (1.4.2006) by *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181)*, art. 1, **Sch. Pt. I** (with sch. Pt. III)

*Consents for discharges*

**F31 34 Consents for discharges of trade and sewage effluent etc.**

.....

**Textual Amendments**

**F31** Ss. 33-40 repealed (1.4.2006) by *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181)*, art. 1, **Sch. Pt. I** (with sch. Pt. III)

**F31 35 Reference to Secretary of State of certain applications for consent.**

.....

**Textual Amendments**

**F31** Ss. 33-40 repealed (1.4.2006) by *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181)*, art. 1, **Sch. Pt. I** (with sch. Pt. III)

**F31 36 Provisions supplementary to ss. 34 and 35.**

.....

**Textual Amendments**

**F31** Ss. 33-40 repealed (1.4.2006) by *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181)*, art. 1, **Sch. Pt. I** (with sch. Pt. III)

**F31 37 Revocation of consents and alteration and imposition of conditions.**

.....

**Textual Amendments**

**F31** Ss. 33-40 repealed (1.4.2006) by *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181)*, art. 1, **Sch. Pt. I** (with sch. Pt. III)

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

**F31 38 Restriction on variation and revocation of consent and of previous variation.**

.....

**Textual Amendments**  
**F31** Ss. 33-40 repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with sch. Pt. III)

**F31 38A General review of consents.**

.....

**Textual Amendments**  
**F31** Ss. 33-40 repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with sch. Pt. III)

**F31 39 Appeals to the Secretary of State.**

.....

**Textual Amendments**  
**F31** Ss. 33-40 repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with sch. Pt. III)

**F31 40 Transitional provisions relating to consent.**

.....

**Textual Amendments**  
**F31** Ss. 33-40 repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with sch. Pt. III)

*Ancillary provisions relating to control of discharges*

**[F32 41 Registers.**

- (1) It shall be the duty of [F33 SEPA] to maintain in accordance with regulations, registers containing prescribed particulars of [F34 or relating to]—
  - (a) any notices of water quality objectives or other notices served under section 30C above;
  - F35(b) .....
  - F35(c) .....
  - (d) samples—
    - F36(i) .....

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

- <sup>F37</sup>(ii) . . . . .
- (iii) of water taken by [<sup>F38</sup>SEPA];
- and information produced by analyses of the samples and the steps taken in consequence of the information;
- <sup>F39</sup>(e) . . . . .
- <sup>F40</sup>(f) . . . . .
- <sup>F41</sup>(f) . . . . .
- (g) directions given by the Secretary of State in relation to SEPA’s functions under this Part of this Act;
- <sup>F42</sup>(h) . . . . .
- <sup>F42</sup>(j) . . . . .
- <sup>F42</sup>(k) . . . . .
- <sup>F42</sup>(l) . . . . .
- <sup>F42</sup>(m) . . . . .
- (n) such other matters relating to the quality of water as may be prescribed.]
- (2) It shall be the duty of [<sup>F33</sup>SEPA]—
- (a) to secure that registers maintained by [<sup>F38</sup>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 [<sup>F38</sup>SEPA], on payment of reasonable charges, copies of entries in the register.<sup>F43</sup> 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.]

[ The Secretary of State may give SEPA directions requiring the removal from any <sup>F44</sup>(3) 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

- F32** 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](#)
- F33** 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](#)
- F34** 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](#)
- F35** S. 41(1)(b)(c) repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, [Sch. Pt. I](#) (with sch. Pt. III)
- F36** S. 41(1)(d)(i) repealed (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, [Sch. Pt. I](#) (with sch. Pt. III)
- F37** 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](#)
- F38** 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](#)

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

- F39** 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**
- F40** S. 41(1)(f) repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)
- F41** 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**
- F42** S. 41(1)(h)-(m) repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)
- F43** 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**
- F44** 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)

- C13** S. 41 extended by S.I. 1985/708, reg. 4(1), **Sch. 1**
- C14** S. 41 modified by S.I. 1985/813, **reg. 3(2)**
- C15** 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)

#### [<sup>F45</sup>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
  - (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

- F45** 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**

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

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

**C16** s. 42A applied (with modifications) (1.4.1999) by [S.I. 1998/2746, reg. 14\(3\)](#)

**C17** 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](#))

[<sup>F46</sup>**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—

<sup>F47</sup>(a) .....

<sup>F47</sup>(b) .....

(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 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—

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

- (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.
- (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

**F46** 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**

**F47** S. 42B(2)(a)(b) repealed (1.4.2006) by *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006* (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

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

**C18** s. 42B applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**

**C19** 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**



*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

<sup>F48</sup><sup>F49</sup> **42 Power of Secretary of State to exempt applications, consents and conditions etc. from publicity.**

(1) If a person who proposes to make or has made an application to a river purification authority for any consent in pursuance of section 34 of this Act (hereafter in this subsection referred to as “the relevant application”)—

(a) applies to the Secretary of State within a prescribed period for a certificate providing that section 36(1) of this Act and paragraphs (b) to (d) of subsection (1) of the preceding section shall not apply to the relevant application or to any consent given or conditions imposed in consequence of the relevant application or to any sample of effluent taken from a discharge for which consent is given in consequence of the relevant application or to information produced by analysis of such a sample; and

(b) satisfies the Secretary of State that it would—

(i) prejudice to an unreasonable degree some private interest by disclosing information about a trade secret, or

(ii) be contrary to the public interest,

if a certificate were not issued in pursuance of his application to the Secretary of State,

the Secretary of State may issue a certificate to that person providing that section 36(1) of this Act and those paragraphs shall not apply to such of the things mentioned in paragraph (a) of this subsection as are specified in the certificate.

(2) If a person who is making or proposes to make a discharge which is the subject of a consent given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts <sup>M1</sup>1951 and <sup>M2</sup>1965—

(a) applies to the Secretary of State for a certificate providing that subsection (1) (c) or (d) of the preceding section shall not apply to the consent or any conditions to which the consent is subject or any sample of effluent taken from a discharge to which the consent relates or any information produced by analysis of such a sample; and

(b) satisfies the Secretary of State as mentioned in paragraph (b) of the preceding subsection,

the Secretary of State may issue a certificate to that person providing that the said subsection (1)(c) or (d) shall not apply to such of the things mentioned in paragraph (a) of this subsection as are specified in the certificate.]

**Textual Amendments**

**F48** S. 42 replaced (1.4.1996) by ss. 42A, 42B (q.v.)

**F49** 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)**

**C20** S. 42 extended by [S.I. 1984/863, reg. 3, Sch. 1](#)

**C21** S. 42 extended (2.12.1991) by [S.I. 1991/2539, reg. 3, Sch.](#)

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

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

**Marginal Citations**

- M1** 1951 c.66(46:4).
- M2** 1965 c.13(46:4).

*Control of discharges of trade effluent into public sewers*

<sup>F50</sup>**43** .....

**Textual Amendments**

- F50** 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)

<sup>F51</sup>**44** .....

**Textual Amendments**

- F51** 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)

<sup>F52</sup>**45** .....

**Textual Amendments**

- F52** 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)

*Miscellaneous*

<sup>F53</sup>**46** **Operations by river purification authorities to remedy or forestall pollution of water.**

.....

**Textual Amendments**

- F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

**F53 46A Notices requiring persons to carry out anti-pollution operations.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**F53 46B Grant of, and compensation for, rights of entry etc.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**F53 46C Appeals against works notices.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**F53 46D Consequences of not complying with a works notice.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**F53 47 Duty of water authorities to deal with waste from vessels etc.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**F53 48 Power of water authorities to exclude unregistered vessels from rivers etc.**

.....

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**<sup>F53</sup> 49 Deposits and vegetation in rivers etc.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**<sup>F53</sup> 49A Enforcement notices as respects discharge consents.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**<sup>F53</sup> 49B Appeals against enforcement notices.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**<sup>F53</sup> 50 Investigation of water pollution problems arising from closure of mines.**

.....

**Textual Amendments**

**F53** Ss. 46-50 repealed (S.) (1.4.2006) by [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\)](#), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

**[<sup>F54</sup> 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

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

- (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 [<sup>F55</sup>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.
- (3) The Secretary of State shall not make an order under this section unless he has first consulted the river purification authorities.]

#### Textual Amendments

- F54** 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
- F55** 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)

- C22** S. 51 extended by [S.I. 1985/708, art. 3](#), [Sch. 1](#)

### [<sup>F56</sup>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 <sup>M3</sup>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 <sup>M4</sup>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 <sup>M5</sup>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);

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

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**

**F56** 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**

**Marginal Citations**

- M3** 1973 c. 37.
- M4** 1937 c. 40.
- M5** 1961 c. 64.

<sup>F57</sup>**53** .....

**Textual Amendments**

**F57** 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**

<sup>F58</sup>**54** .....

**Textual Amendments**

**F58** 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*

<sup>F59</sup>**55** .....

**Textual Amendments**

**F59** 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**

[<sup>F60</sup>**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—

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

- (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.]

**Textual Amendments**

**F60** 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.](#)

**[<sup>F61</sup>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 <sup>M6</sup> 1948;
  - “coastal waters”, “controlled waters”, “ground waters”, “inland waters” and “relevant territorial waters” have the meanings given by section 30A(1) above;
  - [<sup>F62</sup>“drain” has the same meaning as in the <sup>M7</sup>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;
  - [<sup>F63</sup>“operations” includes works;]
  - [<sup>F64</sup>“sewage effluent” includes any effluent from sewage disposal, or sewerage, works vested in a sewerage authority;]
  - [<sup>F62</sup>“sewer” has the same meaning as in the Sewerage (Scotland) Act 1968;]
  - <sup>F65</sup>  
.....
  - “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;
  - <sup>F65</sup>  
.....
  - “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 [<sup>F66</sup>Scottish Water] or are used by [<sup>F67</sup>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

*Status: Point in time view as at 01/04/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II. (See end of Document for details)*

- (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) 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.
- <sup>F68</sup>(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

- F61** 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**
- F62** 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**
- F63** 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**
- F64** 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)**
- F65** 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)**
- F66** 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)**
- F67** 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)**
- F68** 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)

- C23** 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

- M6** 1948 c.45(2:1).  
**M7** 1968 c. 47.



**Status:**

Point in time view as at 01/04/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Control of Pollution Act 1974, Part II.