



Control of Pollution Act 1974

1974 CHAPTER 40

PART II

POLLUTION OF WATER

Control of entry of polluting matter and effluents into water

[^{F1}31] **Control of pollution of rivers and coastal waters etc.**

- (1) Subject to subsections (2) and (3) of this section, a person shall be guilty of an offence if he causes or knowingly permits—
- (a) any poisonous, noxious or polluting matter to enter controlled waters; or
 - (b) any matter to enter any inland waters so as to tend (either directly or in combination with other matter which he or another person causes or permits to enter those waters) to impede the proper flow of the waters in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of the consequences of such pollution; or
 - (c) any solid waste matter to enter controlled waters.
- (2) A person shall not be guilty of an offence by virtue of the preceding subsection if—
- (a) the entry in question is authorised by, or is a consequence of an act authorised by, a disposal licence or a consent given by the Secretary of State or a river purification authority in pursuance of this Act and the entry or act is in accordance with the conditions, if any, to which the licence or consent is subject; or
 - (b) the entry in question is authorised by, or is a consequence of an act authorised by—
 - (i) section 33 of the ^{M1}Water (Scotland) Act 1980 (which among other things relates to temporary discharges by water authorities in connection with the construction of works) or any prescribed enactment, or
 - (ii) any provision of a local Act or statutory order which expressly confers power to discharge effluent into water, or

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- (iii) any licence granted under Part II of the ^{M2}Food and Environment Protection Act 1985; or
 - (iv) any consent given under Chapter I of Part III of the Water Act 1989; or
 - [an authorisation granted under Part I of the Environmental Protection ^{F2}(v) Act 1990 for a prescribed process designated for central control; or
 - ^{F3}(vi) a waste management licence granted under Part II of the Environmental Protection Act 1990; or]]
 - (c) the entry in question is caused or permitted in an emergency in order to avoid danger to life or health and—
 - (i) he takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the entry in question and of its polluting effects; and
 - (ii) as soon as reasonably practicable after the entry occurs, particulars of the entry are furnished to the river purification authority in whose area it occurs; or
 - (d) the matter in question is trade or sewage effluent discharged as mentioned in paragraph (a) of subsection (1) of section 32 or matter discharged as mentioned in paragraph (b) or (c) of that subsection and the entry in question is not from a vessel;
- and a person shall not be guilty of an offence by virtue of the preceding subsection by reason only of his permitting water from an abandoned mine to enter controlled waters.
- (3) A person shall not by virtue of paragraph (b) or (c) of subsection (1) of this section be guilty of an offence by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into inland waters if—
- (a) he deposits the refuse on the land with the consent (which shall not be unreasonably withheld) of the river purification authority in whose area the land is situated; and
 - (b) no other site for the deposit is reasonably practicable; and
 - (c) he takes all reasonably practicable steps to prevent the refuse from entering those inland waters.
- (4) Where it appears to the Secretary of State that, with a view to preventing poisonous, noxious or polluting matter from entering any controlled waters, it is appropriate to prohibit or restrict the carrying on in a particular area of activities which he considers are likely to result in pollution of the waters, then, subject to subsection (5) below, he may by regulations—
- (a) designate the area; and
 - (b) provide that prescribed activities shall not be carried on at any place within the area except with the consent (which shall not be unreasonably withheld) of the river purification authority in whose area the place is situated and in accordance with any reasonable conditions to which the consent is subject;
 - (c) provide that a contravention of the regulations shall be an offence and prescribe the maximum penalty for the offence; and
 - (d) make provision for the imposition by river purification authorities of charges in respect of the consent mentioned in paragraph (b) above.
- (5) It shall be the duty of the Secretary of State, before he makes any regulations under subsection (4) above—

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- (a) to publish in the Edinburgh Gazette and in at least one newspaper circulating in the area in question a copy of the proposed regulations and a notice specifying—
- (i) a period of not less than twenty-eight days, beginning with the date on which the notice is first published, within which objections to the proposed regulations may be made, and
 - (ii) the person to whom such objections may be made; and
- (b) to consider any objections to the proposed regulations which are made within that period and, if such an objection is so made by a prescribed person and is not withdrawn, to cause a local inquiry to be held in pursuance of section 96 of this Act with respect to the proposed regulations;
- and the Secretary of State may, after considering any such objections as are mentioned in paragraph (b) of this subsection and the report of any person appointed to hold a local inquiry with respect to the proposed regulations, make the regulations either in the form in which a copy of them was published in pursuance of this subsection or in that form with such modifications as he considers appropriate.
- (6) A river purification authority may by byelaws make such provision as the authority considers appropriate for prohibiting or regulating the washing or cleaning, in any controlled waters in its area, of things of a kind specified in the byelaws; and a person who contravenes any byelaws made by virtue of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or such smaller sum as is specified in the byelaws.
- (7) A person guilty of an offence by virtue of subsection (1) of this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding [^{F4}£20,000] or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (8) The maximum penalty prescribed in pursuance of subsection (4) of this section shall not exceed the penalties specified in paragraphs (a) and (b) of the preceding subsection.
- (9) In subsection (4) of this section, the reference to the entry of poisonous, noxious or polluting matter into controlled waters shall not include a reference to the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes.
- (10) In subsection (2) of this section—
- “disposal licence” has the same meaning as in Part I of this Act;
- “local Act” includes enactments in a public general Act which amend a local Act;
- “statutory order” means an order, byelaw, scheme or award made under an Act of Parliament, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure.

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,](#)

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

F2 S. 31(2)(b)(v) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 16(2)**, S.I. 1991/1042, art. 2

F3 S. 31(2)(b)(vi) inserted (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1), 164(3), **Sch. 15 para. 16(2)**

F4 Word substituted by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 145(2)**

Modifications etc. (not altering text)

C1 S. 31 modified by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, Sch. 2 para. 14(3), **Sch. 7 Pt. VI para. 2**

C2 S. 31(1) extended by S.I. 1984/863, reg. 3, **Sch. 1**

C3 S. 31(1) extended by S.I. 1985/708, reg. 4(1), **Sch. 1**

C4 S. 31(2) extended by S.I. 1985/708, reg. 4(1), **Sch. 1**

C5 S. 31(3)(7)(9) extended by S.I. 1985/708, reg. 4(1), **Sch. 1**

Marginal Citations

M1 1980 c.45(130).

M2 1985 c.48(111).

[^{F5}31A Requirements to take precautions against pollution.

- (1) The Secretary of State may by regulations make provision—
 - (a) for prohibiting a person from having custody or control of any poisonous, noxious or polluting matter unless prescribed works and prescribed precautions and other steps have been carried out or taken for the purpose of preventing the matter from entering controlled waters;
 - (b) for requiring a person who already has custody or control of, or makes use of, any such matter to carry out such works for that purpose and to take such precautions and other steps for that purpose as may be prescribed.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, regulations under that subsection may—
 - (a) confer power on the river purification authorities—
 - (i) to determine for the purposes of the regulations the circumstances in which a person is required to carry out works or take any precautions or other steps; and
 - (ii) by notice to that person, to impose the requirement and to specify or describe the works, precautions or other steps which that person is required to carry out or take;
 - (b) provide for appeals to the Secretary of State against notices served by a river purification authority in pursuance of provision made by virtue of paragraph (a) above; and
 - (c) provide that a contravention of the regulations shall be an offence the penalty for which shall be—
 - (i) on summary conviction, imprisonment for a term not exceeding three months or to a fine not exceeding [^{F6}£20,000] or to both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.

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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, 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** Word substituted by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 145(2)**

Modifications etc. (not altering text)

- C6** S. 31A extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 31A amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

[^{F7}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) 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.

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- (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 subsection (7) of section 31 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

F7 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**

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[^{F8}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 infestment 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

F8 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**

[^{F9}31D Powers of entry in relation to agreements under section 31B.

The powers which by virtue of subsection (1) of section 91 of this Act are conferred in relation to any premises for the purpose—

- (a) of enabling the Secretary of State to determine whether or in what manner to exercise any power conferred on him by or under section 31B of this Act or to determine whether any provision of an order under that section is being or has been contravened; or
- (b) of enabling a river purification authority to determine whether to make an application for the purpose of paragraph 1 of Schedule 1A to this Act,

shall include power, in order to obtain information on which that determination may be made, to carry out experimental borings or other works on those premises and to install and keep monitoring and other apparatus there.]

Textual Amendments

F9 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**

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[^{F10}32 Control of discharges of trade and sewage effluent etc. into rivers and coastal waters etc.

(1) Subject to subsections (3) to (5) of this section, a person shall be guilty of an offence if he causes or knowingly permits—

- (a) any trade effluent or sewage effluent to be discharged—
 - (i) into any controlled waters, or
 - (ii) from land in Scotland through a pipe into the sea outside the seaward limits of controlled waters, or
 - (iii) from a building or from plant on to or into any land or into any waters of a loch or pond which are not inland waters; or
- (b) any matter other than trade or sewage effluent to be discharged into controlled waters from a sewer as defined by section 59(1) of the Sewerage (Scotland) Act ^{M3}1968 or from a drain as so defined; or
- (c) any matter other than trade or sewage effluent to be discharged into controlled waters from a drain which a roads authority is obliged or entitled to keep open by virtue of section 31 of the Roads (Scotland) Act ^{M4}1984, and in respect of which the river purification authority in whose area the discharge occurs has, not later than the beginning of the period of three months ending with the date of the discharge, served on the roads authority a notice stating that this paragraph is to apply to the drain,

unless the discharge is made with the consent in pursuance of section 34 of this Act of the river purification authority in whose area the discharge occurs (or, in a case falling within paragraph (a)(ii) of this subsection, of the river purification authority whose area includes the point at which the pipe passes or first passes into or under controlled waters from the sea outside them) and is in accordance with the conditions, if any, to which the consent is subject.

(2) Where any sewage effluent is discharged as mentioned in paragraph (a) of the preceding subsection from any works or sewer vested in a local authority and the authority did not cause or knowingly permit the discharge but was bound to receive into the works or sewer, either unconditionally or subject to conditions which were observed, matter included in the discharge, the authority shall be deemed for the purposes of that subsection to have caused the discharge.

(3) The Secretary of State may—

- (a) by an order made before subsection (1) of this section comes into force provide that that subsection shall not, while the order is in force, apply to discharges which are of a kind or in an area specified in the order and for which, if this Act had not been passed, consent in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 would not have been required;
- (b) by order vary or revoke any order in force by virtue of the preceding paragraph;

and an order made by virtue of this subsection may require any river purification authority specified in the order to publish in a manner so specified such information about the order as is so specified.

(4) Subsection (1) of this section shall not apply to any discharge which—

- (a) is from a vessel; or
- (b) is authorised by a licence granted under Part II of the ^{M5}Food and Environment Protection Act 1985, [^{F11}or

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- (c) is authorised by an authorisation granted under Part I of the Environmental Protection Act 1990 for a prescribed process designated for central control,]]
and a person shall not be guilty of an offence under subsection (1) if—
- (i) the discharge is caused or permitted in an emergency in order to avoid danger to life or health;
 - (ii) he takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the discharge and of its polluting effects; and
 - (iii) as soon as reasonably practicable after the discharge occurs, particulars of the discharge are furnished to the river purification authority in whose area it occurs.
- (5) A local authority shall not be guilty of an offence by virtue of subsection (1) of this section by reason only of the fact that a discharge from a sewer or works vested in the authority contravenes conditions of a consent relating to the discharge if—
- (a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works; and
 - (b) the authority either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions but the conditions were not observed; and
 - (c) the authority could not reasonably have been expected to prevent the discharge into the sewer or works;
- and a person shall not be guilty of such an offence in consequence of a discharge which he caused or permitted to be made into a sewer or works vested in a local authority if the authority was bound to receive the discharge there either unconditionally or subject to conditions which were observed.
- (6) In subsection (2) of this section and the preceding subsection, “local authority” means a local authority within the meaning of the Sewerage (Scotland) Act ^{M6}1968.
- (7) A person who is guilty of an offence by virtue of subsection (1) of this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding [^{F12}£20,000] or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

Textual Amendments

- F10** 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**
- F11** S. 32(4)(c) and the word “or” preceding it inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 16(3)**; S.I. 1991/1042, **art. 2**
- F12** Word substituted by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 145(2)**

Modifications etc. (not altering text)

- C7** S. 32 extended by S.I. 1985/708, reg. 4(1), **Sch. 1**
- C8** S. 32 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 32 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

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C9 S. 32(1) excluded by S.I. 1983/1182, **reg. 3**

C10 S. 32(3) extended by S.I. 1984/863, **reg. 3, Sch. 1** and S.I. 1985/708, **reg. 4(1), Sch. 1**

Marginal Citations

M3 1968 c.47(100:2).

M4 1984 c.54(108).

M5 1985 c.48(111).

M6 1968 c.47(100:2).

[^{F13}33] Control of sanitary appliances on vessels.

- (1) A water authority may by byelaws make such provision as the authority considers appropriate for prohibiting or regulating the keeping or use, on a stream or restricted waters in the area of the authority, of vessels of a kind specified in the byelaws which are provided with sanitary appliances; and a person who contravenes any byelaw made by virtue of this section shall be guilty of an offence.
- (2) The Secretary of State may by order provide that any byelaws specified in the order which were made by virtue of section 5(1)(c) of the ^{M7}Rivers (Prevention of Pollution) Act 1951 (which, as extended in pursuance of section 6 of that Act, relates to the keeping on streams and other waters of vessels provided with sanitary appliances) or of section 25(1)(c) of the ^{M8}Rivers (Prevention of Pollution) (Scotland) Act 1951 (which makes corresponding provision with respect to streams in Scotland) shall have effect, with such modifications (if any) as are so specified, as if made by virtue of the preceding subsection.
- (3) A person who, after the end of the year 1978, keeps or uses on a stream any vessel provided with a sanitary appliance shall, subject to subsection (8) of this section, be guilty of an offence; and at the end of that year the words “a stream or” in subsection (1) of this section shall cease to have effect.
- (4) The Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly or, in relation to Scotland, the Secretary of State may, by an order made after the end of the year 1978 on the application of a water authority or harbour authority, provide that a person who keeps or uses, on any restricted waters in the area of the authority which are specified in the order, any vessel provided with a sanitary appliance shall, subject to subsection (8) of this section, be guilty of an offence; and when an order is in force by virtue of the preceding provisions of this subsection in relation to any restricted waters, then—
 - (a) subsection (1) of this section shall not apply in relation to the waters; and
 - (b) the said Ministers acting jointly or, in relation to Scotland, the Secretary of State may, on the application of or after giving notice to the authority on whose application the order was made, by order revoke the order.
- (5) The said Ministers acting jointly or, in relation to Scotland, the Secretary of State may—
 - (a) by order provide that so much of any stream as is specified in the order shall be disregarded for the purposes of subsection (3) of this section and treated as restricted waters for the purposes of the preceding subsection; and
 - (b) by order revoke or vary any order in force by virtue of the preceding paragraph.

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- (6) In relation to England and Wales paragraphs 1 to 6 of Schedule 8 to the ^{M9}Water Resources Act 1963 (which among other things provide for the publication of a draft of an order to authorise the execution of works, the gazetting of notices relating to the draft order, the furnishing of copies of the draft, the making of an order in the terms of the draft or in those terms with alterations and the making and consideration of objections relating to the draft or alterations) shall have effect in relation to an application for an order in pursuance of subsection (4) of this section (except subsection (4)(b)) as those paragraphs have effect in relation to an application for such an order as is mentioned in the said paragraph 1 but with the substitution—
- (a) for any reference to the Secretary of State of a reference to him and the Minister of Agriculture, Fisheries and Food acting jointly;
 - (b) for any reference to a water authority of a reference to a harbour authority in a case where the application in question is made by a harbour authority;
 - (c) for any reference to the locality where the operations are to be carried out of a reference to the area of the applicant;
 - (d) for any reference to a period of twenty-eight or twenty-five days of a reference to a period of six weeks; and
 - (e) for the words from “engineering” onwards in paragraph 2(a) of the words “waters specified in the draft are situated”,
- and as if paragraph 2(b) were omitted.
- (7) In relation to Scotland paragraphs 1 to 6 of Part I of Schedule 1 to the ^{M10}Water (Scotland) Act [^{F14}1980]] (which make provision with respect to the procedure for the making of certain orders under that Act) shall have effect in relation to an application for an order in pursuance of subsection (4) of this section (except subsection (4)(b)) as those paragraphs have effect in relation to an application for an order to which the said Part applies, but with the following modifications—
- (a) for any reference to a period of twenty-eight or twenty-five days there shall be substituted a reference to a period of six weeks;
 - (b) in paragraph 2(i), for the words “water authority, regional council, district council and water development board for every area comprised wholly or partly in the area affected by the order” there shall be substituted the words “council of each region or district in which the waters specified in the draft order, or any part thereof, are situated, and on such other bodies or persons as the Secretary of State may direct”;
 - (c) paragraph 2(ii) shall be omitted;
 - (d) in paragraph 3, for the words “districts comprised wholly or partly in the area affected by the order” there shall be substituted the words “areas in which the waters specified in the draft order, or any part thereof, are situated”;
 - (e) in paragraph 6, for the words “authority or board or undertakers” there shall be substituted the words “council, body or person”.
- (8) At and after the end of the year 1978 it shall be the duty of each water authority to make arrangements for the fixing, at the request of a person in charge of a vessel provided with a sanitary appliance, of a seal to the vessel or appliance in such a manner that while the seal is affixed matter cannot pass from the appliance into the water on which the vessel is for the time being situated; and while a seal is affixed to a vessel or appliance in pursuance of the arrangements, the appliance to which the seal relates shall be disregarded for the purposes of subsections (3) and (4) of this section.

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- (9) Provision may be made by regulations for requiring a person who in prescribed circumstances hires out for payment to another person any vessel provided with a sanitary appliance to give to the other person notice in a prescribed form of prescribed provisions made by or under this section; and a person who fails to comply with a requirement imposed on him by virtue of this subsection shall be guilty of an offence.
- (10) In this section—
- “harbour authority” has the meaning assigned to it by section 57(1) of the ^{M11}Harbours Act 1964; and
- “sanitary appliance” means a water closet or other prescribed appliance (except a sink, a bath and a shower-bath) which is designed to permit polluting matter to pass into the water on which the vessel in question is for the time being situated;
- and a port health authority shall have power to make such arrangements with a water authority as are mentioned in subsection (8) of this section.
- (11) a person guilty of an offence by virtue of any of the preceding provisions of this section shall be liable on summary conviction to a fine of an amount not exceeding [^{F15}£200][^{F15}level 4 on the standard scale].

Textual Amendments

- F13** S. 33 repealed (E.W.) (1.9.1989) 1989 c. 15, s. 190(3), **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F14** Words substituted by **Water (Scotland) Act 1980** (c. 45), **Sch. 10 Pt. II**
- F15** Words “level 4 on the standard scale” substituted (11.4.1983) for words “£200” 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**)

Marginal Citations

- M7** 1951 c. 64.
- M8** 1951 c. 66.
- M9** 1963 c. 38.
- M10** 1980 c. 45.
- M11** 1964 c. 40.

Status:

Point in time view as at 01/04/1991.

Changes to legislation:

There are currently no known outstanding effects for the Control of Pollution Act 1974, Cross
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