



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### PART II

#### POLLUTION OF WATER

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

#### <sup>F1</sup>31 Control of pollution of rivers and coastal waters etc.

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##### Textual Amendments

**F1** Ss. 30F-31A repealed (1.4.2006) by *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006* (S.S.I. 2006/181), art. 1, **sch.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>F1</sup>31A Requirements to take precautions against pollution.

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##### Textual Amendments

**F1** Ss. 30F-31A repealed (1.4.2006) by *The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006* (S.S.I. 2006/181), art. 1, **sch.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>F2</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

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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>F3</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.

(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 [<sup>F4</sup>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;

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- (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

- F2** 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](#)
- F3** S. 31B: by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55\)](#), ss. 88(1), 89(2), [Sch. 11 para. 39](#) (with s. 45(3)), it is provided that in s. 31(B)(2)(a), for the words "an absolute owner (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 1949)" there shall be substituted (25.9.1991) "the owner of the dominium utile".
- F4** 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>F5</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.

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(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**

**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** **31D** .....

**Textual Amendments**

**F6** 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**

**F7** **32** .....

**Textual Amendments**

**F7** 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**

**F8** **33** **Control of sanitary appliances on vessels.**  
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**Textual Amendments**

**F8** 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)

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