



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### PART VI

#### MISCELLANEOUS AND GENERAL

##### *General*

#### 105 Interpretation etc—general. **E+W**

(1) In this Act—

[<sup>F1</sup> “the Alkali Act” means the <sup>M1</sup>Alkali, &c. Works Regulation Act 1906;]  
“county” [<sup>F2</sup> county borough] and “district”, except in relation to Scotland, have the same meanings as in the <sup>M2</sup>Local Government Act 1972;

“mine” and “quarry” have the same meanings as in the <sup>M3</sup>Mines and Quarries Act 1954;

“modifications” includes additions, omissions and amendments and “modify” and cognate expressions shall be construed accordingly;

“notice” means notice in writing;

“owner”, except in relation to Scotland, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent;

“premises” includes land;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State;

[<sup>F3</sup> “road” (except where the context otherwise requires) has the same meaning as in the [<sup>F4</sup>Part IV of the New Roads and Street Works Act 1991]:

“roads authority” has the same meaning as in the Roads (Scotland) Act 1984;][<sup>F5</sup> “SEPA” means the Scottish Environment Protection Agency;]

“trade effluent” includes any liquid (either with or without particles of matter in suspension in it) which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage, and

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for the purposes of this definition on any premises wholly or mainly used (whether for profit or not) for agricultural or horticultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade; and

“vessel” includes a hovercraft within the meaning of the <sup>M4</sup>Hovercraft Act 1968.

- (2) Except so far as this Act expressly provides otherwise and subject to the provisions of [<sup>F6</sup>section 18 of the <sup>M5</sup>Interpretation Act 1978] (which relates to offences under two or more laws), nothing in this Act—
- (a) confers a right of action in any civil proceedings (other than the proceedings for the recovery of a fine) in respect of any contravention of this Act or an instrument made in pursuance of this Act;
  - (b) Affects any restriction imposed by or under any other enactment, whether public, local or private; or
  - (c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.
- (3) In so far as any interest in Crown land is not an interest belonging to Her Majesty or a Crown interest or a Duchy interest, this Act shall apply to the land as if it were not Crown land; and expressions used in this subsection and [<sup>F7</sup>subsection (1) of section 293 of the Town and Country Planning Act 1990] or, in relation to Scotland, [<sup>F8</sup>subsections (1) to (3) of section 242 of the Town and Country Planning (Scotland) Act 1997] have the same meanings in this subsection as in that subsection.
- (4) References in this Act to any enactment are references to it as amended by or under any other enactment.

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F1** Definition repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. I**
- F2** Words in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(5)** (with Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, **art. 3**
- F3** Definitions inserted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(6)**
- F4** Words in s. 105(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22), s. 168(1), **Sch. 8 Pt. IV para. 105**; S.I. 1992/2990, art. 2(2), **Sch. 2**.
- F5** S. 105(1): definition of “SEPA” inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(35)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F6** Words substituted by virtue of Interpretation Act 1978 (c. 30), s. 25(2)
- F7** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 31(2)**
- F8** Words in s. 105(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2**, para. 23(2)

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

- C8** S. 105(3) amended (E.W.) (25.9.1991) by Atomic Weapons Establishment Act 1991 (c. 46), ss. 3, 6(2), **Sch. para. 8(2)**

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#### Marginal Citations

- M1 1906 c. 14.
- M2 1972 c. 70.
- M3 1954 c. 70.
- M4 1968 c. 59.
- M5 1978 c. 30.

### 105 Interpretation etc—general. **S**

(1) In this Act—

<sup>F9</sup> ...

“county” [<sup>F10</sup>county borough] and “district”, except in relation to Scotland, have the same meanings as in the <sup>M6</sup>Local Government Act 1972;

“mine” and “quarry” have the same meanings as in the <sup>M7</sup>Mines and Quarries Act 1954;

“modifications” includes additions, omissions and amendments and “modify” and cognate expressions shall be construed accordingly;

“notice” means notice in writing;

“owner”, except in relation to Scotland, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent;

“premises” includes land;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State;

[<sup>F11</sup>“road” (except where the context otherwise requires) has the same meaning as in the [<sup>F12</sup>Part IV of the New Roads and Street Works Act 1991]:

“roads authority” has the same meaning as in the Roads (Scotland) Act 1984;][<sup>F13</sup>“SEPA” means the Scottish Environment Protection Agency;]

<sup>F14</sup>

“vessel” includes a hovercraft within the meaning of the <sup>M8</sup>Hovercraft Act 1968.

(2) Except so far as this Act expressly provides otherwise and subject to the provisions of [<sup>F15</sup>section 18 of the <sup>M9</sup>Interpretation Act 1978] (which relates to offences under two or more laws), nothing in this Act—

- (a) confers a right of action in any civil proceedings (other than the proceedings for the recovery of a fine) in respect of any contravention of this Act or an instrument made in pursuance of this Act;
- (b) Affects any restriction imposed by or under any other enactment, whether public, local or private [<sup>F16</sup>or by or under any Act of the Scottish Parliament]; or
- (c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

[<sup>F17</sup>(3) Subject to subsections (3A) to (3D) below, this Act shall bind the Crown.

(3A) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the Court of Session may, on the application of—

- (a) the Scottish Environment Protection Agency; or

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- (b) any other public or local authority charged with enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3B) Notwithstanding anything in subsection (3A) above, any provision made by or under this Act shall apply to persons in the public service of the Crown as it applies to other persons.
- (3C) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises; and in this subsection “Crown premises” means premises held or used by or on behalf of the Crown.
- (3D) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity.]
- (4) References in this Act to any enactment are references to it as amended by or under any other enactment.

#### Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F9** Words in s. 105(1) repealed (1.4.2015 for S.) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 164(3), [Sch. 16 Pt. I](#); S.S.I. 2015/72, art. 2(1)(b)
- F10** Words in s. 105(1) inserted (1.4.1996) by [1994 c. 19](#), s. 22(3), [Sch. 9 para. 10\(5\)](#) (with [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, [art. 3](#)
- F11** Definitions inserted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 74\(6\)](#)
- F12** Words in s. 105(1) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22\)](#), s. 168(1), [Sch. 8 Pt. IV para. 105](#); S.I. 1992/2990, art. 2(2), [Sch. 2](#).
- F13** S. 105(1): definition of “SEPA” inserted (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 29\(35\)](#) (with [ss. 7\(6\), 115, 117](#)); S.I. 1996/186, [art. 3](#)
- F14** Words in s. 105(1) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [Sch. 3 para. 16\(10\)](#); S.S.I. 2014/160, art. 2(1)(2), [Sch.](#)
- F15** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 25\(2\)](#)
- F16** Words in s. 105(2)(b) added (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [Sch. 3 para. 39\(4\)](#); S.S.I. 2014/160, art. 2(1)(2), [Sch.](#)
- F17** S. 105(3)(3A)(3B)(3C)(3D) substituted (S.) (8.4.1998) for s. 105(3) by [1995 c. 25](#), s. 116, [Sch. 21 Pt. II para. 4](#) (with [ss. 7\(6\), 115, 117](#)); S.I. 1998/781, [art. 2](#) (subject to transitional provisions in [art. 3](#))

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

- C9** S. 105(3C): 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](#))

#### Marginal Citations

- M6** 1972 c. 70.  
**M7** 1954 c. 70.  
**M8** 1968 c. 59.  
**M9** 1978 c. 30.

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**Skip to:**

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**Changes to legislation:**

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