



Food and Environment Protection Act 1985

1985 CHAPTER 48

PART II

DEPOSITS IN THE SEA

Licensing

5 Requirement of licences for deposit of substances and articles in the sea etc.

Subject to the following provisions of this Part of this Act, a licence under this Part of this Act is needed—

- (a) for the deposit of substances or articles within United Kingdom waters, either in the sea or under the seabed—
 - (i) from a vehicle, vessel, aircraft, hovercraft or marine structure;
 - (ii) from a container floating in the sea; or
 - (iii) from a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea ;
- (b) for the deposit of substances or articles anywhere in the sea or under the sea-bed—
 - (i) from a British vessel, British aircraft, British hovercraft or British marine structure ; or
 - (ii) from a container floating in the sea, if the deposit is controlled from a British vessel, British aircraft, British hovercraft or British marine structure;
- (c) for the deposit of substances or articles anywhere with in British fishery limits, either in the sea or under the sea-bed—
 - (i) from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure which was loaded in the United Kingdom or United Kingdom waters with any of those substances or articles; or

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- (ii) from a container floating in the sea which was loaded with any of those substances or articles in the United Kingdom or United Kingdom waters, if the deposit is controlled from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure ;
- (d) for the deposit of substances or articles anywhere under the sea-bed within British fishery limits from a vehicle which was loaded in the United Kingdom with any of those substances or articles ;
- (e) for the scuttling of vessels—
 - (i) in United Kingdom waters ;
 - (ii) anywhere at sea, if the scuttling is controlled from a British vessel, British aircraft, British hovercraft or British marine structure ; or
 - (iii) anywhere at sea within British fishery limits, if it is controlled from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure and the vessel scuttled was towed or propelled to the place where the scuttling takes place from the United Kingdom or United Kingdom waters ;
- (f) for the loading of a vessel, aircraft, hovercraft, marine structure or floating container in the United Kingdom or United Kingdom waters with substances or articles for deposit anywhere in the sea or under the sea-bed;
- (g) for the loading of a vehicle in the United Kingdom with substances or articles for deposit from that vehicle as mentioned in paragraph (a) or (d) above ; and
- (h) for the towing or propelling from the United Kingdom or United Kingdom waters of a vessel for scuttling anywhere at sea.

6 Requirement of licences for incineration at sea etc.

- (1) Subject to the following provisions of this Part of this Act, a licence is needed—
 - (a) for the incineration of substances or articles on a vessel or marine structure—
 - (i) in United Kingdom waters ;
 - (ii) anywhere at sea, if the incineration takes place on a British vessel or British marine structure ; or
 - (iii) anywhere at sea within British fishery limits, if the incineration takes place on a foreign vessel or foreign marine structure which was loaded in the United Kingdom or United Kingdom waters with any of those substances or articles ; and
 - (b) for the loading of a vessel or marine structure in the United Kingdom or United Kingdom waters with substances or articles for incineration anywhere at sea.
- (2) In this Act " incineration " means any combustion of substances and materials for the purpose of their thermal destruction.

7 Exemptions

- (1) The Ministers may jointly by order made by statutory instrument specify operations—
 - (a) which are not to need a licence; or
 - (b) which are not to need a licence if they satisfy conditions specified in the order.
- (2) The conditions that an order under this section may specify include conditions enabling a licensing authority to require a person to obtain the authority's approval before he does anything for which a licence would be needed but for the order.

- (3) Approval under subsection (2) above may be without conditions or subject to such conditions as the authority considers appropriate.
- (4) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

8 Licences

- (1) In determining whether to issue a licence a licensing authority—
 - (a) shall have regard to the need—
 - (i) to protect the marine environment, the living resources which it supports and human health ; and
 - (ii) to prevent interference with legitimate uses of the sea; and
 - (b) may have regard to such other matters as the authority considers relevant.
- (2) Without prejudice to the generality of subsection (1) above, where it appears to a licensing authority that an applicant for a licence has applied for the licence with a view to the disposal of the substances or articles to which it would relate, the authority, in determining whether to issue a licence, shall have regard to the practical availability of any alternative methods of dealing with them.
- (3) A licensing authority—
 - (a) shall include such provisions in a licence as appear to the authority to be necessary or expedient—
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
 - (b) may include in a licence such other provisions as the authority considers appropriate.
- (4) Without prejudice to the generality of subsection (3) above, a licensing authority—
 - (a) may include in any licence provisions requiring—
 - (i) that no operation authorised by the licence shall be carried out until the licensing authority has given such further consent to or approval of the operation as the licence may specify ; and
 - (ii) that automatic equipment shall be used for recording such information relating to any operation of deposit, scuttling or incineration mentioned in the licence as the licensing authority may specify; and
 - (b) may include in a licence which only authorises operations such as are mentioned in section 5(f) or (h) above or section 6(1)(b) above provisions requiring that any operation of deposit, scuttling or incineration which is mentioned in it shall take place at a specified site, whether in United Kingdom waters or not.
- (5) A licensing authority may require an applicant for a licence to supply such information and permit such examinations and tests as in the opinion of the authority may be necessary or expedient to enable the authority to decide whether a licence should be issued to the applicant and the provisions which any licence that is issued to him ought to contain.
- (6) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of subsection (4) (a) above, any record produced by means of

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- the equipment shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of the matters appearing from the record.
- (7) A licensing authority may require an applicant for a licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of processing his application.
- (8) A licensing authority may also require an applicant for a licence to pay a further reasonable fee towards the expense—
- (a) of carrying out any examinations and tests which in the opinion of the authority are necessary or expedient to enable the authority to decide—
 - (i) whether to issue a licence to the applicant; and
 - (ii) the provisions which any licence issued to him ought to include;
 - (b) of checking the manner in which operations for which a licence is needed have been or are being conducted; and
 - (c) of monitoring the effect of such operations.
- (9) Fees under this section shall be determined on principles settled by the Ministers with the consent of the Treasury and after consultation with organisations appearing to the Ministers to represent persons who are likely to apply for licences.
- (10) A licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that there has been a breach of any of its provisions.
- (11) A licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that the licence ought to be varied or revoked—
- (a) because of a change in circumstances relating to the marine environment, the living resources which it supports or human health ; or
 - (b) because of increased scientific knowledge relating to any of those matters ; or
 - (c) for any other reason that appears to the authority to be relevant.
- (12) Schedule 3 to this Act shall have effect.