

*Status: Point in time view as at 14/07/2014.*

*Changes to legislation: Water Act 2014, Cross Heading: Enforcement and offences is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 8

#### REGULATION OF THE WATER ENVIRONMENT

#### PART 1

##### PURPOSES FOR WHICH PROVISION MAY BE MADE

##### *Enforcement and offences*

- 20 (1) Conferring on regulators functions with respect to the monitoring and inspection of—
- (a) the carrying on of regulated activities, or
  - (b) regulated structures or obstructions.
- (2) Authorising regulators to appoint suitable persons to exercise any such functions and conferring on persons so appointed powers such as those specified in—
- (a) sections 169 to 174 of the Water Resources Act 1991;
  - (b) section 108(4) of the Environment Act 1995;
  - (c) regulation 26 of the Eels (England and Wales) Regulations 2009 (S.I. 2009/3344);
  - (d) sections 31 and 32 of the Salmon and Freshwater Fisheries Act 1975.
- (3) Functions which may be conferred in reliance on sub-paragraph (1) include—
- (a) power to take samples or to make copies of information;
  - (b) power to arrange for preventive or remedial action to be taken at the expense of holders of permits.
- (4) In sub-paragraph (1) “regulated structures or obstructions” means structures or obstructions which—
- (a) may be the subject of notices served by regulators under the regulations, or
  - (b) may be subject to requirements imposed under the regulations.
- 21 Authorising regulators to serve on holders of permits—
- (a) notices requiring them to take remedial action in respect of contraventions, actual or potential, of conditions to which their permits are subject;
  - (b) notices requiring them to provide such financial security as the regulators serving the notices consider appropriate pending the taking of remedial action in respect of any such contraventions;
  - (c) notices requiring them to take steps to remove or reduce, or to mitigate the effect of the potential consequences of, the following imminent risks (whether or not arising from any such contraventions)—
    - (i) an imminent risk of a significant waste of water resources or of significant damage to the environment, in the case of water regulations;

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- (ii) an imminent risk of a significant impediment to drainage or of a flood, in the case of flood regulations;
  - (iii) an imminent risk of a significant impediment to the movement of fish through regulated waters, in the case of fish regulations.
- 22 Authorising regulators to suspend the operation of permits so far as having effect to authorise the carrying on of activities to which they relate.
- 23 Establishing a procedure for the resolution of disputes in relation to notices served by regulators under the regulations.
- 24 Providing for the enforcement of notices served by regulators under the regulations by proceedings in—
- (a) the High Court, or
  - (b) in the case of fish regulations applying as mentioned in section 61(11)(b), the Sheriff Court.
- 25 Where action is required to be taken by a person under the regulations or pursuant to a notice served under the regulations, authorising regulators in specified circumstances to take action instead of that person; and making provision for the liability of that person in respect of reasonable costs incurred by the regulators in taking such action.
- 26 Creating offences and dealing with matters relating to such offences, including—
- (a) the provision of defences, and
  - (b) evidentiary matters.
- 27 Enabling, where a person has been convicted of an offence under the regulations—
- (a) a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment), or
  - (b) a regulator to arrange for such action to be taken at that person's expense.
- 28 Where a person causes damage to any structure constructed, altered or maintained by a regulator under these regulations, authorising the regulator to require the person to pay the expenses of the regulator in repairing the damage and providing for the manner in which such expenses may be recovered.

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