



Rivers (Prevention of Pollution) (Scotland) Act 1951

1951 CHAPTER 66

An Act to provide for establishing river purification boards in Scotland and for conferring on or transferring to such boards functions relating to the prevention of river pollution; to make new provision for maintaining or restoring the cleanliness of the rivers and other inland waters and the tidal waters of Scotland in place of the Rivers Pollution Prevention Act, 1876, and certain other enactments; and for purposes connected with the matters aforesaid. [1st August 1951.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CENTRAL AUTHORITY

1 Duty of Secretary of State in relation to prevention of pollution of rivers and other waters

- (1) It shall be the duty of the Secretary of State to promote the cleanliness of the rivers and other inland waters and the tidal waters of Scotland.
- (2) The Secretary of State shall appoint a committee (to be called the Scottish River Purification Advisory Committee) for the purpose of advising him on any matter relating to the cleanliness of the rivers and other inland waters and the tidal waters of Scotland and to the prevention of pollution of such rivers and waters and of considering the enactments relating to the prevention of the pollution of such rivers and waters and of making to the Secretary of State such representations as the Committee think desirable concerning the matters aforesaid.

- (3) The Scottish River Purification Advisory Committee shall consist of such number of persons as the Secretary of State may from time to time decide, being persons appointed, after consultation with such bodies representative of the interests concerned as the Secretary of State thinks fit, to represent local authorities, agriculture, fisheries and industry and any other interests which in the opinion of the Secretary of State should be represented on the Committee; and the Secretary of State may pay such expenses of the Committee as he may, with the approval of the Treasury, determine.
- (4) The Secretary of State shall lay before each House of Parliament a copy of any report made to him by the Scottish River Purification Advisory Committee upon any matter which in his opinion is likely to be of general public interest.

PART II

RIVER PURIFICATION BOARDS

2 Establishment of river purification boards

- (1) The Secretary of State may in accordance with the provisions of this Part of this Act by order define areas (to be known as "river purification board areas ") and establish boards (to be known as " river purification boards ") for the areas so defined.
- (2) Orders under the foregoing subsection defining river purification board areas and establishing river purification boards may be made at different times for different areas.
- (3) The Secretary of State shall by order determine in respect of each river purification board established under this section the date on which the board shall commence to exercise their functions.

3 Definition of river purification board areas and establishment of river purification boards

- (1) Each river purification board area shall consist of such area, together with such tidal waters (being waters to which this Act for the time being applies) as the Secretary of State may determine; and the order defining a river purification board area shall do so either by reference to a map or by reference to the line of any watershed or the boundary of any local government district existing immediately before the making of the order, or partly by one method and partly by another.
- (2) An order establishing a river purification board shall provide for the appointment of a board consisting of such number of members as may be specified in the order; and such members shall be appointed as follows, that is to say—
 - (a) such proportion, .not being less than three-fifths or more than two-thirds, of the members as may be specified in the order shall be appointed, in accordance with the administrative scheme made under the next following section, by the several councils of the counties and large burghs whose districts are comprised wholly or partly in the river purification board area; and
 - (b) the remainder of the members shall be appointed by the Secretary of State for such periods and subject to such conditions as he may think fit and shall consist of persons appointed to represent the interests of persons concerned with the carrying on of agriculture, fisheries or industry in the

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river purification board area or any other interests which in the opinion of the Secretary of State should be represented on the board ; and such persons shall be appointed after consultation with such persons as appear to the Secretary of State to be representative of the interests of those so concerned.

- (3) An order establishing a river purification board may provide that the board shall be a body corporate with such name as may be specified in the order, and that the board shall have a common seal and may hold land and may sue and be sued in the name so specified.
- (4) In the selection of members to be appointed by them the council of a county shall have regard to the relative rateable valuations of the small burghs and of the landward area of the county respectively comprised in the river purification board area ; and in making appointments under this section the councils of counties and large burghs shall not appoint any officer or servant of the council or of any other local authority:

Provided that the council of a county or a large burgh shall not be precluded from appointing a member of the council who is also the officer or servant of another local authority.
- (5) An order defining a river purification board area or establishing a river purification board shall be made in accordance with the provisions of Part I of the First Schedule to this Act, and Part II of that Schedule shall apply with respect to the validity of any such order.

4 Administrative schemes for river purification boards

- (1) It shall be the duty of the councils of the counties and large burghs whose districts are comprised wholly or partly within a river purification board area jointly to prepare and submit to the Secretary of State, within such period as may be specified in the order establishing the board or within such further period as the Secretary of State may in special circumstances allow, a scheme (in this Act referred to as an " administrative scheme ") with respect to the constitution of the board and the administrative arrangements for the discharge of their functions, and the Secretary of State may approve with or without modification the scheme so submitted to him.
- (2) Without prejudice to the foregoing generality, an administrative scheme may make provision with regard to the following matters:—
 - (a) the numbers of members of the board to be appointed severally by the councils aforesaid ;
 - (b) the tenure of office of such members and the filling of casual Vacancies among such members ;
 - (c) the mode of defraying the expenses of the board and, in particular, the proportions of those expenses which are to be borne severally by the councils aforesaid ;
 - (d) the furnishing, on such terms and conditions as may be specified in the scheme, by any of the councils aforesaid of any service connected with the administration or discharge of any of the board's functions;
 - (e) the transfer to the board of property, rights or liabilities, or of the services of any officer or servant, of any of the councils aforesaid;
 - (f) the settlement of differences between the councils aforesaid or between the board and such councils or any of them; and

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- (g) any other matters incidental to or consequential on any provision contained in the scheme.
- (3) In determining the numbers of members to be appointed severally by the councils aforesaid regard shall be had to the relative rateable valuations of the districts, or the parts of the districts, of the councils aforesaid comprised in the river purification board area.
- (4) If the councils aforesaid fail to submit within the time limited under subsection (1) of this section an administrative scheme for the area satisfactory to the Secretary of State, he may by order make an administrative scheme therefor, and the foregoing provisions of this section shall apply to any such scheme as they apply to schemes made under those provisions:
- Provided that before making any such scheme the Secretary of State shall give to the councils aforesaid notice of the general nature of the proposed scheme ; and if within twenty-eight days after the giving of such notice any of those councils intimate objections thereto, the Secretary of State shall cause a local inquiry to be held.
- (5) If it appears to the board that it is expedient that their administrative scheme should be varied, they may prepare and submit to the Secretary of State a scheme varying the first-mentioned scheme, and the Secretary of State may approve, with or without modification, the varying scheme.
- (6) Where it appears to the Secretary of State that it is expedient that the administrative scheme of a board should be varied, the Secretary of State may require the board to submit to him within such time as he may specify a scheme varying the first-mentioned scheme in such respects as he may specify in the requirement, and if the board fail to comply with the requirement the Secretary of State may by order himself make the varying scheme.
- (7) The board before submitting, and the Secretary of State before making, a scheme under subsection (5) or subsection (6) of this section varying any provision of an existing scheme with respect to the number of members to be appointed by any of the councils aforesaid or with respect to the proportion of the expenses to be borne by any of those councils shall consult with those councils.
- (8) A river purification board shall have power, subject to any directions given by the Secretary of State, to fix and regulate their own procedure.

5 Variation of river purification board areas and of constitution of river purification boards

- (1) The Secretary of State may by order—
- (a) alter an existing river purification board area, whether by way of extension or reduction; or
 - (b) define a new river purification board area which includes or consists of one or more existing river purification board areas or any part or parts thereof;
- and subsection (1) of section three of this Act shall apply to any order made under this subsection and to the area as defined thereby.
- (2) An order made under the foregoing subsection shall state whether it is to be regarded as altering an existing river purification board area or as defining a new river purification board area for which a new river purification board is required to be established ; and in the latter case the Secretary of State shall by the order establish a new river

purification board in accordance with the foregoing provisions of this Act, and in the former case the Secretary of State may, to such extent as appears to him necessary in consequence of the alteration of the river purification board area, by the order vary the constitution of the river purification board for the altered area, but not so as to depart from the requirements of section three of this Act.

- (3) The Secretary of State shall by order determine in respect of any new river purification board established under this section the date on which the board shall commence to exercise their functions.
- (4) An order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient.
- (5) Any order made under subsection (1) of this section shall be made in accordance with Part I of the First Schedule to this Act, and Part II of that Schedule shall apply with respect to the validity of any such order.

6 Financial provisions

- (1) The expenses of a river purification board, so far as they are not defrayed out of revenues of the board under any enactment other than this section, shall be defrayed by the councils of the counties and large burghs whose districts are, comprised wholly or partly in the river purification board area in the proportions specified in the administrative scheme of the board.

In this subsection the expression "expenses" includes the interest on, and provision for the repayment of, borrowed moneys.

- (2) A river purification board shall issue requisitions to the councils of counties and large burghs for the payment of the amounts apportioned to those councils in pursuance of the foregoing subsection, and the provisions of sections two hundred and sixteen and two hundred and nineteen of the Local Government (Scotland) Act, 1947 (which relate to the issue of requisitions by a joint committee or joint board and to the recovery of sums due under such requisitions) shall, subject to any necessary modifications, apply to requisitions by a river purification board under this section as they apply to requisitions by a joint committee or joint board.

7 Borrowing powers

- (1) A river purification board may borrow temporarily, by way of overdraft or otherwise, such sums as they may require—
 - (a) for the purpose of defraying current expenses of an annual nature pending the receipt of revenue 'receivable by them in respect of the period of account to which those expenses are chargeable and taken into account in the estimates made by them for that period ;
 - (b) for the purpose of defraying, pending the raising of money which they have been authorised to raise under the next following subsection, expenses intended to be defrayed out of that money:

Provided that all sums borrowed under paragraph (a) of this subsection shall be repaid before the expiration of the financial year in which such sums were borrowed.

- (2) A river purification board may, with the consent of the Secretary of State, borrow money for all or any of the following purposes, that is to say—

- (a) the acquisition of land or the erection of buildings ;
 - (b) the execution of any permanent work or the doing of any other thing the cost of which ought, in the opinion of the Secretary of State, to be spread over a term of years;
 - (c) the repayment of any money temporarily borrowed by them under paragraph (b) of the foregoing subsection.
- (3) The provisions of sections two hundred and sixty to two hundred and ninety six of the Local Government (Scotland) Act, 1947 (which relate to borrowing by local authorities), shall apply to such borrowing, subject to such modifications as may be specified in the order establishing the board.

8 Accounts and audit of accounts of river purification boards

The provisions of Part IX and Part X of the Local Government (Scotland) Act, 1947 (which relate respectively to the accounts and the audit of the accounts of local authorities) shall apply to the accounts of a river purification board and to the audit of such accounts subject to such modifications as may be specified in the order establishing the board.

9 Acquisition and disposal of land; and provision of buildings

- (1) A river purification board may acquire by agreement any land which they require for any purpose connected with the exercise of their functions:
- Provided that land not immediately required for such a purpose as aforesaid shall not be acquired, under this subsection except with the approval of, and subject to any conditions imposed by, the Secretary of State.
- (2) The Secretary of State may authorise a river purification board to purchase compulsorily any land which they require for such a purpose as aforesaid, and the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.
- (3) A river purification board may, with the approval of the Secretary of State, sell or otherwise dispose of any land vested in them which is not required for any purpose connected with the exercise of their functions.
- (4) A river purification board shall have power to provide such offices and other buildings as they may require for any purpose connected with the exercise of their functions.

10 Provisions as to officers and servants

- (1) The provisions of sections ninety-five, ninety-six and ninety-seven of the Local Government (Scotland) Act, 1947 (which relate respectively to the appointment of officers by a joint committee or joint board, to the superannuation rights and to the regulation of the duties of such officers) shall apply in relation to a river purification board as they apply in relation to a joint committee or joint board.
- (2) Without prejudice to the generality of the foregoing subsection, each river purification board shall, as soon as may be after they are established, appoint a person to be river inspector for their area.

- (3) Except with the sanction of the Secretary of State, no person shall be appointed to be river inspector unless he has such qualifications as the Secretary of State may by order prescribe.
- (4) The same person may be appointed to be river inspector for two or more river purification board areas, but a river purification board shall not appoint to be river inspector for their area a person who is an officer or servant of the council of any county or burgh whose district is comprised wholly or partly in the area.

11 Provisions as to making of byelaws

- (1) Subject to the provisions of this section, the provisions of sections three hundred and one to three hundred and three of the Local Government (Scotland) Act, 1947 (which relate to the making and enforcement of byelaws) shall apply to the making of byelaws by a river purification board by virtue of any power to make byelaws conferred, on them by this Act and in relation to byelaws so made as they apply to the making of byelaws by a local authority and in relation to byelaws made by a local authority.
- (2) So much of subsection (6) of the said section three hundred and one as provides for the sending of copies of byelaws in certain cases to registrars and town clerks shall not apply in relation to byelaws made by a river purification board, but the clerk of a river purification board shall send a copy of any byelaws made by the board—
 - (a) where the byelaws will apply to any part of the district of a county council, to the clerk of that council and to the registrar of every registration district under the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1938, within that part; and
 - (b) where the byelaws will apply to any part of a burgh, to the town clerk of the burgh ;and, subject as aforesaid, the said subsection (6) shall apply to the county clerk as it applies to the registrar or the town clerk, as the case may be.

12 Power to appoint agents and to delegate functions

- (1) Subject to the provisions of their administrative scheme, a river purification board may, on such terms and conditions as they may agree with the councils concerned, appoint the council of any county or burgh whose district is comprised wholly or partly in the river purification board area to act as the agents of the river purification board to carry out any function vested in the board and exercisable within the county or burgh, as the case may be; and, subject to the terms of the appointment, the council so acting as agent may act through a committee or sub-committee thereof.
- (2) A river purification board may, on the application of a local water authority who have made byelaws under section sixty-one of the Water (Scotland) Act, 1946, defining any part of the board area as an area within which they deem it necessary to exercise control, delegate to the authority on such terms and conditions as they may agree with the authority the exercise of such of the functions exercisable by the board in relation to any stream or part of a stream within the area so defined as may be so agreed.
- (3) If any such local water authority as aforesaid is aggrieved by the refusal of a river purification board to delegate to them any functions under the last foregoing subsection or if any question arises as to the functions to be delegated or the terms and conditions on which functions are to be delegated, they may refer the matter to

the Secretary of State for determination, and it shall be the duty of the board to give effect to any such determination.

- (4) Nothing in the foregoing provisions of this section shall authorise a river purification board to appoint a county or town council to act as their agents in the exercise of, or to delegate to a local water authority the exercise of, any of the following functions, that is to say—
- (a) the making of byelaws ;
 - (b) the granting of authorisations under section twenty seven of this Act; or
 - (c) the granting of consents under section twenty-eight thereof.

13 Application to river purification boards of certain provisions of Local Government (Scotland) Act, 1947

The following provisions of the Local Government (Scotland) Act, 1947, that is to say—

- (a) section three hundred and four (which empowers a county council to promote or oppose private legislation) ;
- (b) section three hundred and forty-nine (which relates to the service of notices by or on behalf of a local authority);
- (c) section three hundred and fifty-four (which relates to the making by a local authority of reports and returns);
- (d) section three hundred and fifty-six (which makes provision for default of a local authority); and
- (e) section three hundred and sixty-three (which provides for the application by the order constituting a joint board to the board of any provisions of the said Act of 1947),

shall apply in relation to a river purification board and to an order under this Act establishing or varying the constitution of a river purification board as if such board and such order were respectively a local authority, a county council or a joint board, as the case may require, and an order constituting a joint board.

14 Pension rights of officers and servants of river purification boards

- (1) The Local Government Superannuation (Scotland) Act, 1937, shall have effect as if river purification boards were specified in Part I of the First Schedule to that Act (which specifies the local authorities whose whole-time officers are to be compulsorily superannuable).
- (2) Any statutory resolution passed under subsection (2) of section three of the said Act by an authority whose district or part of whose district is comprised in a river purification board area or from whom functions are transferred to a river purification board by or under this Act, and in force immediately before the day on which that district or part thereof was first so comprised or on which functions were so transferred, as the case may be, in respect of a servant or a part-time officer who becomes on that day a servant or part-time officer of the board, shall continue in force and have effect as if it had been passed by the board.
- (3) In relation to officers and servants of a river purification board the appropriate superannuation fund for the purposes of the said Act shall be the superannuation fund maintained by such local authority as may agree with the river purification board that the superannuation- fund maintained by them shall be treated as the appropriate

superannuation fund aforesaid, or, in default of such agreement, the superannuation fund maintained by such local authority as the Secretary of State may direct.

15 Compensation of officers and servants

- (1) The Secretary of State shall by regulations require every river purification board to pay, in such cases and to such extent as may be specified in the regulations, compensation to officers and servants of any local authority, joint board, joint committee or other authority (including another river purification board) being officers or servants who suffer loss of employment or loss or diminution of emoluments in consequence of the passing of this Act or of any order made under section three or section five thereof.
- (2) Different regulations may be made under this section in relation to different classes of persons, and any such regulations may be so framed as to have effect as from a date earlier than the making thereof, so however that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than the river purification board in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.
- (3) Regulations made under this section may include provision as to the manner in which and the person to whom any claim for compensation under this section is to be made and for the determination of all questions arising under the regulations.
- (4) Regulations made under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

16 Reports

- (1) Every river purification board shall, before such date in every year as the Secretary of State may fix, send to the Secretary of State a report in respect of the preceding year, and shall at the same time send a copy of the report to the council of every county or large burgh whose district is comprised wholly or partly in the river purification board area.
- (2) Every report under this section shall be in such form and shall contain particulars with respect to such matters as the Secretary of State may direct.
- (3) A river purification board shall cause a copy of every report made by them under this section to be open to public inspection at all reasonable hours without payment and shall on application furnish a copy thereof to any person on payment of such sum not exceeding one shilling for every copy as the board may determine.

PART III

PREVENTION OF POLLUTION

River Purification Authorities

17 River purification authorities

- (1) It shall be the duty of the authorities specified in the next following subsection (in this Act referred to as " river purification authorities ") to promote the cleanliness of the rivers and other inland waters and the tidal waters in their areas, to conserve so far as practicable the water resources of their areas and to exercise for those purposes the functions conferred on them by this Act.
- (2) The authorities referred to in the foregoing subsection are—
 - (a) in relation to any area in which a river purification board are entitled under this Act to exercise functions, that board; and
 - (b) in relation to any other area, the council of the county or large burgh within whose district the area is situate.

18 Provision and obtaining of information

- (1) For the purpose of enabling them to perform the functions conferred on them a river purification authority may make surveys of their area and gauge and keep records of the flow or volume and other characteristics of any stream in their area, and may take steps for the measurement and recording of the rainfall in their area or any part thereof and for the installation and maintenance for these purposes of gauges or other apparatus and works connected therewith, and may take such other steps as may be necessary in order to obtain any information required for the purposes aforesaid.
- (2) The Secretary of State may give directions requiring any river purification authority to exercise all or any of the powers conferred on them by the foregoing subsection and to furnish to him such information obtained in pursuance of the directions at such times and in such form as may be specified in the directions, and it shall be the duty of the authority to comply with any directions so given.
- (3) Every river purification authority shall give reasonable facilities for the inspection of records kept by them of the rainfall or the flow or volume of any stream in their area and for the taking of copies or extracts from such records, and such facilities shall be available free of charge to all local authorities whose districts are wholly or partly included in the area of the river purification authority and shall be available to other persons on payment of such fees as may be approved by the Secretary of State.
- (4) A river purification authority may give directions requiring any person who in their opinion is abstracting water from any stream in the area of the authority in quantities which are substantial in relation to the flow or volume of the stream or is discharging effluents into any such stream to give such information as to the abstraction or discharge at such times and in such form as may be specified in the directions :

Provided that any person to whom such directions are given may, if he considers the directions are unreasonable or unduly onerous, make representations to the Secretary of State with respect thereto, and the Secretary of State may thereupon, if he thinks fit, require the river purification authority to revoke or modify the said directions, and

the river purification authority shall comply with the requirements of the Secretary of State.

- (5) Any person who fails to comply with any directions given under the last foregoing subsection within such time as may be specified in the directions shall in respect of each such failure be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine not exceeding five pounds for each day on which the failure continues after conviction therefor.

19 Power to take samples of effluents

- (1) A river purification authority shall have a right to obtain and take away samples of water from any stream or of any effluent which is passing from any land or vessel into any stream in the area of the authority.
- (2) The result of any analysis of a sample taken under this section shall not be admissible as evidence in any legal proceedings in respect of any effluent passing from any land or vessel unless the following requirements have been complied with, that is to say, the person taking the sample shall forthwith notify to the occupier of the land or vessel his intention to have it analysed and shall there and then divide the sample into three parts, shall cause each part to be placed in a container which shall be sealed up and marked, and shall—
 - (a) deliver one part to the occupier of the land or vessel;
 - (b) retain one part for future comparison;
 - (c) if he thinks fit to have an analysis made, submit one part to an analyst:

Provided that, if it is not reasonably practicable forthwith to comply with the aforesaid requirement as to notification, the said requirement and the other requirements aforesaid shall be complied with as soon as reasonably practicable

- (3) Notwithstanding anything in this Act, any tidal waters adjoining the shore of the area of a river purification authority shall be deemed to be included in the expression "stream" for the purposes of the authority's powers under this section.

20 Powers of entry and inspection

- (1) Subject to the provisions of this section, any person authorised by a river purification authority shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter any land—
 - (a) for the purpose of exercising any functions of the authority;
 - (b) for the purpose of determining whether, and if so in what manner, any such functions are to be exercised or whether any provision of this Act or any notice, order, direction, byelaw or authorisation served, given, made or granted under this Act is being or has been complied with.
- (2) The right conferred by the foregoing subsection shall, without prejudice to the generality thereof, be exercisable for the purpose of inspecting any local Acts, statutory orders, records or other documents in the possession of any body relating to functions of that body which are or have been exercisable in the area of the authority, being documents which the authority may reasonably require to inspect for the purpose of exercising any of their functions under this Act, and the person carrying out any such inspection shall have a right to take copies of or extracts from any such documents.

- (3) Admission to any land used for residential purposes shall not be demanded as of right under this section unless twenty-four hours' notice of the intended entry has been given to the occupier.
- (4) If it is shown to the satisfaction of the sheriff on sworn information in writing—
- (a) that admission to any land to which any person is entitled to enter under this section has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or that the case is one of urgency, or that an application for admission will defeat the object of the entry; and
 - (b) that there is reasonable ground for entry on the land for the purpose for which entry is required,
- the sheriff may by warrant under his hand authorise that person to enter the land:
- Provided that such a warrant shall not be issued unless the sheriff is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the land is unoccupied, or that the case is one of urgency, or that the giving of such a notice would defeat the object of the entry; and any warrant so issued shall be expressed to remain in force for such period only as the sheriff, having regard to all the circumstances of the case, shall fix.
- (5) Any person entitled to enter any land by virtue of any right of entry under this section may take with him such other persons as may be necessary, and on leaving any unoccupied land which he has entered by virtue of such a right shall leave it as effectually secure against unauthorised entry as he found it.
- (6) If—
- (a) any person, who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory or work place, discloses otherwise than in the performance of his duty to any person any information obtained by him in the factory or work place with regard to any manufacturing process or trade secret; or
 - (b) any member or officer of a river purification authority, to whom by reason of his official position any information obtained as aforesaid is disclosed, discloses otherwise than in the performance of his duty that information to any person,
- he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.
- (7) The provisions of this section shall apply in relation to vessels as they apply in relation to land.

21 Penalty for obstruction

Any person who wilfully obstructs any person exercising a right conferred by this Act to enter any land or any vessel or to carry out any inspection or survey or to make copies of or extracts from any document or to obtain and take away samples shall in respect of each offence be liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence.

Provisions for Prevention of Pollution

22 Prohibition on use of stream for disposal of polluting matter, etc.

(1) Subject to the provisions of this Act, a person commits an offence punishable under this section—

- (a) if he causes or knowingly permits to enter a stream any poisonous, noxious or polluting matter ; or
- (b) if he causes or knowingly permits to enter a stream any matter so as to tend either directly or in combination with similar acts (whether his own or another's) to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences; or
- (c) if he deposits on any land the solid refuse of any mine or quarry so that it falls or is carried into a stream;

and for the purposes of paragraph (a) of this subsection a local authority shall be deemed to cause or knowingly to permit to enter a stream any poisonous, noxious or polluting matter which passes into the stream from any sewer or sewage disposal works vested in them in any case where either the local authority were bound to receive the matter into the sewer or sewage disposal works or they consented (whether expressly or impliedly) to do so unconditionally or they consented to do so subject to conditions and those conditions were observed.

(2) Subsection (1) of this section shall not by virtue of paragraph (a) thereof penalise the discharge of anything into a sewer or sewage disposal works vested in a local authority so that it passes into a stream in any such case as aforesaid.

(3) Where no byelaw made under paragraph (a) of subsection (1) of section twenty-five of this Act is in force as respects any stream or part of a stream prescribing a standard for the purpose of determining when matter is in any particular respect to be treated as poisonous, noxious or polluting, it shall be a defence for a person charged with an offence under paragraph (a) of subsection (1) of this section in respect of the discharge into that stream or part of matter which is poisonous, noxious or polluting in that respect to prove that—

- (a) it is not reasonably practicable for him to dispose of the matter otherwise than by discharging it (directly or indirectly) into that or some other stream; and
- (b) he is taking all reasonably practicable steps to prevent the matter being unnecessarily poisonous, noxious or polluting.

(4) Subsection (1) of this section shall not by virtue of paragraph (b) or (c) thereof penalise the depositing with the consent of the river purification authority (which consent shall not be unreasonably withheld) of the solid refuse of a mine or quarry on any land so that it falls or is carried into a stream if no other site for the deposit is reasonably practicable and all reasonably practicable steps are taken to prevent the refuse entering the stream.

(5) Any question whether the consent of a river purification authority for the purposes of the last foregoing subsection has or has not been unreasonably withheld shall be determined by the Secretary of State.

(6) A person shall not be guilty of an offence punishable under this section by reason only of having done or caused to be done any of the following acts—

Status: This is the original version (as it was originally enacted).

- (a) constructing, improving or maintaining in or across or in or on the bank or bed of any stream, any building, bridge, weir, dam, sluice, fish-pass, dock, pier, harbour, drain or sewer or other permanent works which he has a right to construct, improve or maintain ;
- (b) depositing any suitable materials on the bank or in the bed of any stream, for the purpose of reclaiming land or of supporting, repairing or protecting the bank or bed of such stream ;
- (c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream, or depositing any suitable materials on the bank of any stream, for the purpose of filling up any areas affected by subsidence if, in either case, no substantial obstruction of the channel or pollution of the water of the stream is caused thereby;
- (d) causing or permitting, with the consent of the river purification authority, the deposit accumulated in any pond or reservoir to enter any stream.

(7) Any person guilty of an offence punishable under this section shall be liable—

- (a) on conviction on indictment to a fine not exceeding two hundred pounds; or
- (b) on summary conviction to a fine not exceeding fifty pounds:

Provided that, where a person is convicted of any such offence and it is shown to the satisfaction of the court that the offence was substantially a repetition or continuation of an earlier offence by him after he had been convicted of the earlier offence (whether under this Act or otherwise) he shall be liable, if he is convicted on indictment, to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds for every day on which the earlier offence has been so repeated or continued by him, or five hundred pounds (whichever is the greater) or to both, or, if he is convicted summarily, to imprisonment for a term not exceeding three months or to a fine not exceeding ten pounds for every such day or one hundred pounds (whichever is the greater) or to both.

(8) Where an offence punishable under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection the expression " director ", in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body.

(9) Where a person is convicted of an offence by virtue of the last foregoing subsection as having at the time of its commission been a director, manager, secretary or other similar officer of a body corporate within the meaning of that subsection (or been purporting to act in any such capacity) and it is shown to the satisfaction of the court that the offence was substantially a repetition or continuation of an earlier offence by the body corporate after it had been convicted of the earlier offence (whether under this Act or otherwise) he shall be liable to the same penalties as the body corporate under the proviso to subsection (7) of this section, including the imprisonment to which it would be liable if a natural person:

Provided that—

- (a) he shall not be so liable if he shows that at the time of the first-mentioned offence he did not know of the body corporate's conviction for the earlier offence and that at the time of the earlier offence he was not acting or purporting to act in any such capacity; and
 - (b) in determining the maximum amount of any fine to which he is so liable any repetition or continuation of the earlier offence by the body corporate shall be disregarded if he shows either—
 - (i) that at the time when the repetition or continuation occurred he was not acting or purporting to act in any such capacity; or
 - (ii) that the repetition or continuation occurred without his consent or connivance and that he exercised all such diligence to prevent its occurrence as he ought to have exercised having regard to the nature of his functions in any such capacity in which he was acting or purporting to act and to all the circumstances.
- (10) Notwithstanding any rule of law or practice to the contrary it shall be competent in any proceedings for an offence under this section to adduce evidence after conviction for the purpose of proving or showing anything the proving or showing of which tends, under subsection (7) or subsection (9) of this section, to increase or mitigate the penalty which may be imposed on the accused:

Provided that the prosecutor shall not be entitled to adduce evidence for the purpose of showing that an offence was a repetition or continuation of an earlier offence or that the earlier offence has been repeated or continued on one or more days unless he has caused to be served on the accused, along with the indictment or complaint, as the case may be, notice of his intention so to do and has specified in such notice the day or days on which it is intended to show that the offence was so repeated or continued.

23 Prevention and making good of defaults under s. 22

- (1) Where a river purification authority apprehend that a contravention of subsection (1) of the last foregoing section as respects any stream in their area (whether a new contravention or a repetition or continuation of one already occurred or occurring) is likely to occur—
- (a) by reason of any use or proposed use of the stream or of any land for the disposal of any matter ; or
 - (b) by reason of any use or proposed use of any land for the storage of any matter ; or
 - (c) by reason of any use or proposed use of a vessel in a defective state of repair for the carriage of cargoes from which poisonous, noxious or polluting matter may enter the stream,
- then, subject to this Act, the authority may apply to the sheriff and the sheriff (if satisfied of the matters complained of by the authority) may make an order prohibiting the use or proposed use complained of or permitting it only on terms designed to remove the grounds of complaint or such other order as the sheriff thinks fit.
- (2) For the purposes of the proviso to subsection (7) and of subsection (9) of the last foregoing section, an order made against a person under subsection (1) of this section shall be treated as a conviction of an offence punishable under that section and any contravention by him of subsection (1) of that section shown to have been, or to have been wholly or partly due to, a contravention of or failure to comply with the order shall be treated as a repetition or continuation of that offence by him.

Status: This is the original version (as it was originally enacted).

- (3) The sheriff to whom an application is made for an order under subsection (1) of this section with respect to the disposal or storage of any matter, or who has made such an order, may make an order—
- (a) directing the removal from the stream or from any land of any matter which before the giving of the direction has been dealt with in the way complained of in the application, or prohibited by the first-mentioned order, as the case may be ; and
 - (b) authorising the river purification authority, if the direction is not complied with, to undertake the removal and to dispose of the matter removed in any manner authorised by the court.
- (4) A river purification authority shall at the request of any person appearing to them to be interested in any land and at his expense furnish him or such other person as may be specified in the request with such particulars as may be so specified of any orders made under subsection (1) of this section with respect to any stream in their area, being orders relating to any use or proposed use of land or otherwise material to its use.
- (5) On a person's conviction of an offence punishable under the last foregoing section which consists of or arises out of the use by him of any stream or of any land for the disposal or storage of any matter, the court by which he is convicted may, on the application of the river purification authority of which not less than ten days' notice has been given to the person charged, make any such order as could be made under subsection (3) of this section by the sheriff on an application for an order prohibiting that use.
- (6) Any expenses reasonably incurred by a river purification authority in removing any matter under the authority of an order under subsection (3) or subsection (5) of this section or in disposing of any matter so removed may be defrayed out of any money obtained by the authority from the disposal of it, and in so far as they are not so defrayed shall be recoverable as a debt due to them from the person in default under the order.

24 Cleansing bed of stream, cutting vegetation, etc.

- (1) Subject to this Act, a person commits an offence punishable under this section—
- (a) if without the consent of the river purification authority (which shall not be unreasonably withheld) he causes or knowingly permits to enter any stream the natural deposit accumulated in any pond or reservoir or cleanses any part of the channel or bed of a stream from deposit accumulated by reason of any dam, weir or sluice holding back the water of the stream, and does so (in either case) by causing the deposit to be carried 'away in suspension in the water of the stream; or
 - (b) if by his wilful default and without the consent of the river purification authority (which shall not be unreasonably withheld) any substantial amount of vegetation cut or uprooted in the stream or so near to the stream that it falls into the stream is allowed to remain in the stream.
- (2) Paragraph (a) of the foregoing subsection shall not apply to anything done in the exercise of statutory powers conferred by or under any enactment relating to land drainage, flood prevention or navigation.

- (3) Any question whether the consent of the river purification authority for the purposes of subsection (1) of this section has or has not been unreasonably withheld shall be determined by the Secretary of State.
- (4) Any person guilty of an offence punishable under this section shall be liable on summary conviction to a fine not exceeding fifty pounds.

25 Byelaws

- (1) Subject to the provisions of the next following section, a river purification authority may by byelaws make such provision as respects any stream or part of a stream in their area as appears to them expedient—
 - (a) for prescribing standards for the purpose of determining when matter is to be treated as poisonous, noxious or polluting for the purposes of this Act;
 - (b) for prohibiting or regulating the washing or cleansing in the stream of any cloth, wool, leather or skins, or of any other thing the washing or cleansing of which is likely to pollute the stream, or the putting into the stream of fitter or other objectionable matter, whether poisonous, noxious or polluting or not;
 - (c) for prohibiting or regulating the keeping or use on the stream of vessels provided with sanitary appliances from which polluting matter passes or can pass into the stream;
 - (d) for regulating the siting and construction of outlets for the discharge of effluent from any place used for the dipping of sheep.
- (2) For the avoidance of doubt it is hereby declared that byelaws made by virtue of paragraph (a) of the foregoing subsection may prescribe standards for the purpose of determining when matter is to be treated as poisonous, noxious or polluting—
 - (a) by reason of its temperature;
 - (b) by reason of its effect in discolouring a stream,and may provide for an effluent to be or not to be so treated according to the relation between the volume and rate of flow of the water of the stream and the volume and rate of discharge of the effluent.
- (3) In so far as standards are prescribed for any stream or part of a stream by byelaws so made they shall be conclusive for the purposes of this Act on the question what is or is not poisonous, noxious or polluting in relation to that stream or part.
- (4) Any person contravening byelaws made by virtue of paragraph (b), (c) or (d) of subsection (1) of this section shall be liable on summary conviction to a fine not exceeding fifty pounds, and where a contravention of byelaws made by virtue of the said paragraph (c) or (d) is continued after a person has been convicted therefor, that person shall be guilty of a further offence and shall be liable on summary conviction to a fine not exceeding five pounds for every day on which the contravention is so continued.

26 Supplementary provisions with regard to byelaws

- (1) Before making byelaws under paragraph (d) of subsection (1) of the last foregoing section, a river purification authority shall make such survey as may be necessary of the area in which the stream or the part thereof to which it is intended that the proposed byelaws shall apply is situate.

Status: This is the original version (as it was originally enacted).

- (2) A river purification authority in exercising the powers conferred by the last foregoing section to make byelaws for any stream or part of a stream shall have regard to the character and flow of the stream and to the extent to which the stream is, or may in the future be, used for industrial purposes, fisheries, water supply, agriculture or navigation.
- (3) No byelaw made under the last foregoing section as respects any stream or part of a stream from which a supply of water for domestic purposes is taken by a local water authority under a local enactment containing provisions designed to secure the wholesomeness of that supply shall permit the doing of anything which renders or tends to render the water in the stream or part less suitable for the purposes of that supply than it was immediately before the commencement of this Act.
- (4) The confirming authority in relation to byelaws made" under the last foregoing section shall be the Secretary of State.
- (5) The provisions of section three hundred and one of the Local Government (Scotland) Act, 1947 (which relates to the procedure for making byelaws) shall in their application to the making by a river purification authority of byelaws under paragraph (a) of subsection (1) of the last foregoing section have effect subject to the following modifications—
 - (a) the period within which objections to such byelaws may be notified to the Secretary of State shall be three months, and accordingly in subsections (4), (5), (6) and (8) for references to one month there shall be substituted references to three months;
 - (b) if any objections to such byelaws are received by the Secretary of State he shall, before confirming the byelaws, cause a local inquiry to be held, and accordingly in subsection (9) for the words " may, if he considers it necessary or desirable " there shall be substituted the word " shall " :

Provided that nothing in this subsection shall require the Secretary of State to cause a local inquiry to be held in relation to an objection made by a person who, in the opinion of the Secretary of State, has no material interest in the stream or part of the stream to which the byelaws relate.

- (6) Where any person serves on a river purification authority a written request to be registered for the purpose of receiving notices under this subsection and states his name and address, the authority shall enter his name and address in a register to be kept by them for the purpose, and so long as his name appears in the register the authority shall send to him a copy of any notice which they are required by any enactment, including this Act, to publish in connection with the making of any byelaws under paragraph (a) of subsection (1) of the last foregoing section or the confirmation of such byelaws.

A river purification authority may refuse to enter in the register the name of any person who appears to them to have no reasonable interest to receive such notices, and shall remove from the register the name of any person who requests them in writing so to do or who has ceased to be the occupier of premises within their area.

- (7) The Secretary of State may by notice require a river purification authority to make byelaws under the last foregoing section in relation to such matters as he may specify and, if the authority do not within three months after such requirement make in relation to the matters specified byelaws satisfactory to him, the Secretary of State may himself make byelaws with respect to those matters,

- (8) If after they have been in operation for a period of not less than three years the Secretary of State considers unsatisfactory any byelaws made by a river purification authority under the last foregoing section, he may after consultation with the river purification authority by notice require the authority to revoke those byelaws and to make such new byelaws under the said section as he considers necessary and, if the authority do not within three months after such requirement comply therewith, the Secretary of State may himself revoke the byelaws and make such new byelaws under the said section as he considers necessary.
- (9) The provisions of this section with respect to the giving of notice, the lodging of objections and the holding of inquiries shall apply subject to any necessary modifications in relation to the making of byelaws by the Secretary of State under subsection (7) or subsection (8) of this section as they apply in relation to the making of byelaws by a river purification authority under the last foregoing section; and any byelaws so made by the Secretary of State shall have effect as if they had been made by the authority concerned and confirmed by the Secretary of State.

27 Power to grant relaxation in certain cases from compliance with standard prescribed by byelaws

- (1) Where it appears to a river purification, authority that—
- (a) any matter which a person is causing or permitting to enter any stream is, by the standard prescribed by bye-laws made under paragraph (a) of subsection (1) of section twenty-five of this Act and applicable to the part of the stream entered by such matter, to be treated as poisonous, noxious or polluting ; and
 - (b) it is not reasonably practicable for that person to dispose of the matter otherwise than by discharging it (directly or indirectly) into that or some other stream; and
 - (c) that person is taking, or is prepared to take, within such period as the authority in the circumstances of the case consider reasonable, all reasonably practicable steps to prevent the matter being unnecessarily poisonous, noxious or polluting,

the river purification authority may grant to that person on an application by him an authorisation prescribing in respect of the matter a lower standard for the purpose of determining when the matter is to be treated as poisonous, noxious or polluting and authorising him, subject to compliance with the lower standard so prescribed, to continue for such limited period as may be specified in the authorisation to cause or permit the matter the stream.

- (2) Before granting such an authorisation the river purification authority shall publish in one or more newspapers circulating in the area of the authority a notice stating that the authority propose to grant an authorisation and specifying a place in the area where a copy of the proposed authorisation may be seen and inspected free of charge at all reasonable hours.
- (3) The applicant for such an authorisation or any person having an interest so to do may, within twenty-eight days after the refusal is intimated to him or within the like period after the publication of the notice referred to in the last-foregoing subsection, as the case may be, appeal to the Secretary of State against the refusal or the grant of the authorisation or against any provision contained in the authorisation; and on any such appeal the Secretary of State, after affording, if he thinks it necessary so to do, to the

appellant and to any other person (including the river purification authority) concerned an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, may give such directions to the river purification authority as he deems proper, and the authority shall refuse or grant the authorisation in conformity with the directions.

- (4) Every river purification authority shall maintain a register containing such particulars as the Secretary of State may by order prescribe of authorisations granted by them under this section, and such register shall be open to public inspection free of charge at all reasonable hours.
- (5) The Secretary of State may from time to time review the authorisations granted under this section by river purification authorities and may, if he thinks fit so to do, direct any authority to vary or revoke any authorisation granted by them; and if the authority fail, within such period as the Secretary of State may allow, to give effect to any such direction the Secretary of State may himself vary or revoke the authorisation concerned.
- (6) A person shall not be liable to be convicted of an offence consisting of a contravention of paragraph (a) of subsection (1) of section twenty-two of this Act or to have an order made against him under section twenty-three thereof by reason only of his having caused or permitted matter to enter any stream in conformity with the provisions of any authorisation granted to him under this section and for the time being in force.

28 Restrictions on new outlets and new discharges

- (1) Subject to this section, no person shall without the consent of the river purification authority (which consent shall not be unreasonably withheld) bring into use any new or altered outlet for the discharge of trade or sewage effluent to a stream, or begin to make any new discharge of trade or sewage effluent to a stream.
- (2) On an application for consent under the foregoing subsection the river purification authority may grant their consent subject to such conditions as they may reasonably impose, being—
 - (a) in the case of a new or altered outlet, conditions as to the point of discharge into the stream or the construction of the outlet or as to the use of that outlet or any other outlet for trade or sewage effluent from the same land or premises ; and
 - (b) in the case of a new discharge, conditions as to the nature or composition, temperature, volume or rate of discharge of effluent from the land or premises from which the new discharge is to be made.
- (3) A river purification authority shall not grant their consent to the bringing into use of a new or altered outlet unless the outlet is so constructed as to comply with any conditions reasonably imposed by the authority to enable them to exercise their right to take samples of the effluent.
- (4) Where without the consent of the river purification authority there is brought into use a new or altered outlet for the discharge of trade or sewage effluent to a stream, or there begins to be made a new discharge of trade or sewage effluent to a stream, the river purification authority may give the person using the outlet or making the discharge, as the case may be, a notice imposing any such conditions as they might have imposed had an application been made for their consent for bringing the outlet into use or beginning to make the discharge.

- (5) A river purification authority shall from time to time review any condition imposed under this section (other than a condition to be satisfied before an outlet is brought into use or a new discharge begins to be made) or any consent granted or deemed to have been granted unconditionally under this section or under paragraph 2 of the Third Schedule to this Act, and may give the person using the outlet or making the discharge, as the case may be, a notice making any reasonable variation. of or revoking any such condition, or imposing any such condition (other than a condition to be satisfied as aforesaid) as they might have imposed under this section; and the Secretary of State may, if he thinks fit so to do, direct the authority to vary or revoke any such condition, or to impose any condition which might have been imposed as aforesaid; and, if the authority fail within such period as the Secretary of State may allow to give effect to any such direction, the Secretary of State may himself give such a notice as aforesaid.
- (6) Any condition imposed under this section shall continue in force (subject to any variation under the last foregoing subsection) until revoked under that subsection and shall be binding on any person using the outlet or discharging effluent from the land or premises to which the condition relates.
- (7) Every river purification authority shall maintain a register containing such particulars as the Secretary of State may by order prescribe of conditions which have been imposed under this section in relation to outlets in their area, or in relation to effluent from land or premises in their area, and are for the time being in force (except conditions to be satisfied before the outlet is brought into use or the new discharge begins to be made) and so much of the register as relates to any outlet or to any land or premises—
 - (a) shall be open to inspection at all reasonable hours by any person appearing to the authority to be interested in the outlet or in the land or premises, as the case may be, or by any person authorised by him ; and
 - (b) in favour of a person charged under this section with causing or knowingly permitting to enter a stream an effluent not complying with any such conditions shall be conclusive as to the conditions with which the effluent is required to comply.
- (8) For the purposes of this section—
 - (a) the expression " new or altered outlet " means any outlet which is wholly or partly constructed on or after the date on which this section comes into force or which (whether so constructed or not) is substantially altered after that date;
 - (b) the expression " new discharge" means a discharge which is not, as respects the nature and composition, temperature, volume and rate of discharge of the effluent, substantially a repetition .or continuation of a previous discharge made within the preceding twelve months (whether from the same or a different outlet) so however that a discharge which is in other respects a repetition or continuation of a previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.
- (9) Subsection (1) of this section shall not apply to the bringing into use of any new or altered outlet which forms part of the sewage disposal or sewerage works of a local authority if its construction or alteration, as the case may be, or the raising of a loan to defray the cost thereof, has been approved or authorised by the Secretary of State.

Status: This is the original version (as it was originally enacted).

- (10) Any question whether the consent of a river purification authority has or has not been unreasonably withheld or as to the reasonableness of any condition or of any variation of any condition shall be determined for the purposes of this section by the Secretary of State.
- (11) If, on an application to the Secretary of State for him to determine a question under the last foregoing subsection, he determines that the withholding of consent, or the condition imposed, or the variation of a condition, as the case may be, was unreasonable, then—
- (a) where the application was in respect of the withholding of consent, he may direct that the consent shall be treated as given either unconditionally or subject to such conditions as appear to him to be reasonable;
 - (b) where the application was in respect of the unreasonableness of any condition imposed, he may direct either that the condition shall be treated as annulled or that there shall be substituted for it such condition as appears to him to be reasonable ;
 - (c) where the application was in respect of the reasonableness of any variation of a condition, he may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to him to be reasonable ;
- but, as respects the period before the giving of the direction, this section shall apply as if the withholding of consent, or the condition imposed, or the variation of a condition, as the case may be, had not been unreasonable.
- (12) If a river purification authority fail, within three months of the making to them of an application for their consent under this section, to give the person proposing to bring into use the new or altered outlet or to begin to make the new discharge, as the case may be, notice that they give or refuse their consent, the consent shall be deemed to be granted unconditionally at the expiration of those three months.
- (13) Where a person in contravention of this section brings into use a new or altered outlet or begins to make a new discharge without obtaining the consent of the river purification authority or without observing any conditions imposed by the authority under this section (being conditions to be satisfied before the outlet is brought into use or the new discharge begins to be made) he shall be liable on conviction on indictment to a fine not exceeding two hundred pounds or on summary conviction to a fine not exceeding fifty pounds.
- (14) No person shall cause or knowingly permit to enter a stream by an outlet or from land or premises in relation to which conditions have been imposed under this section and are for the time being in force a trade or sewage effluent not complying with those conditions, and any person who does so shall be guilty of an offence punishable under section twenty-two of this Act.
- (15) Section twenty-three of this Act shall apply in relation to the last foregoing subsection as it applies in relation to subsection (1) of section twenty-two of this Act.

PART IV

GENERAL

Tidal Waters

29 Application of Act to tidal waters

- (1) The provisions of this Act shall, as from such day as the Secretary of State may by order appoint for the purpose, apply to the tidal waters specified in the Second Schedule to this Act, subject, however, to such modifications of those provisions as may be specified in the order and to any restrictions on the powers exercisable thereunder by a river purification authority which may be so specified.
- (2) Subject to this section, the Secretary of State may by order direct that the provisions of this Act shall apply to any tidal waters (other than the tidal waters referred to in the foregoing subsection) specified in the order, subject, however, to such modifications of those provisions as may be so specified and to any restrictions on the powers exercisable thereunder by a river purification authority which may be so specified.
- (3) The Secretary of State shall not make an order under subsection (2) of this section except on the application of a river purification authority or of some other person appearing to him to be interested.
- (4) The provisions of paragraphs 1 to 5 of the First Schedule to this Act shall apply with respect to the making of an order under this section, subject to the modification that any references to councils of counties or large burghs shall include references to river purification boards.
- (5) Notwithstanding anything in subsection (1) of this section or in an order under subsection (2) of this section, paragraph (c) of subsection (1) of section twenty-three of this Act shall not apply to the use or proposed use of a vessel in any tidal waters in which a harbour authority within the meaning of the Merchant Shipping Act, 1894, exercises jurisdiction.

Miscellaneous Provisions

30 Local inquiries

- (1) Where the Secretary of State is required under any provision of this Act to cause a local inquiry to be held or where in any case it appears to him to be advisable so to do in connection with any matter arising under this Act or otherwise in connection with any functions of river purification boards or river purification authorities, he shall or may, as the case may be, cause a local inquiry to be held.
- (2) Subject to the next following subsection, the provisions of subsections (2) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947 (which relate to the holding of local inquiries) shall apply to any inquiry held under this Act.
- (3) Any inquiry in relation to an order under this Act which becomes in certain circumstances subject to special parliamentary procedure shall, if the Secretary of

State so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where any direction is so given—

- (a) it shall be deemed to have been given under section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945;
- (b) if publication of notice in accordance with paragraph 1 of the First Schedule to this Act has been made, the provisions of subsection (1) of the aforesaid section two with regard to advertisement of notice shall be deemed to have been complied with; and
- (c) the provisions of subsection (2) of this section shall not apply to such inquiry.

31 Orders

- (1) Any power conferred on the Secretary of State by this Act to make an order shall be exercisable by statutory instrument, and any statutory instrument made in exercise of the powers conferred by subsection (1) or subsection (2) of section twenty-nine of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power conferred on the Secretary of State by this Act to make orders shall include a power, exercisable in the like manner and subject to the like conditions, to vary or revoke any such order.

32 Expenses

- (1) Any expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.
- (2) Any increase attributable to this Act in the sums payable out of moneys provided by Parliament under Part "II of the Local Government Act, 1948, shall be defrayed out of moneys so provided.

33 Supplementary powers of Secretary of State

For the purpose of enabling the Secretary of State to perform any of his functions under this Act, he or any person authorised by him shall have the like right to enter any land or vessel or to carry out any inspection or survey or to make copies of or extracts from any document or to obtain and take away samples as is conferred by this Act on a river purification authority or any person authorised by such an authority.

34 Repeal or amendment of local enactments

- (1) The provisions of this Act shall have effect in substitution for the provisions of any local enactment with respect to the prevention of river pollution, and any such enactment shall, in so far as it is inconsistent with the provisions of this Act, cease to have effect.
- (2) If it appears to the Secretary of State that any provision of a local enactment such as is mentioned in the foregoing subsection in force immediately before the coming into operation of Part III of this Act is inconsistent with any of the provisions of this Act, or is no longer required, or requires to be amended having regard to the provisions of this Act, he may by order repeal or amend that provision as he may consider appropriate.

- (3) The provisions of the First Schedule to this Act shall apply to orders made under this section.
- (4) Nothing in this Act shall be construed as authorising, or as empowering the making of any order or byelaw or the granting of any authorisation so as to authorise, the discharge into any stream to which a local enactment applies of any matter the discharge of which into that stream is prohibited by that enactment, or the doing of any thing the doing of which is so prohibited, for the purpose of securing the cleanliness of that stream.

35 Interpretation

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—
- " contravention " includes failure to comply with, and " contravene " shall be construed accordingly ;
 - " fishery district board " means the district board for a fishery district for the purposes of the Salmon Fisheries (Scotland) Act, 1862, and includes the Commissioners appointed under the Tweed Fisheries Act, 1857;
 - " functions " includes powers and duties;
 - " land " includes land covered by water;
 - " large burgh " and " small burgh " have the like meanings as in the Local Government (Scotland) Act, 1947;
 - " local authority " means a county or town council, and includes a development corporation within the meaning of the New Towns Act, 1946, where the corporation is by virtue of an order made under subsection (2) of section nine of the said Act of 1946 entitled to exercise any powers under the Public Health (Scotland) Act, 1897, in relation to the construction of sewage disposal or sewerage works ;
 - " local enactment " means any local Act of Parliament, any statutory order or any provision in any such Act of Parliament or statutory order;
 - " local water authority " has the meaning assigned to it by section five of the Water (Scotland) Act, 1946;
 - " navigation authority " means any persons or body of persons, whether incorporated or not, having powers under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock ;
 - " river purification authority " has the meaning assigned to it by section seventeen of this Act;
 - " river purification board " and " river purification board area " have the meanings assigned to them by section two of this Act;
 - " sewage effluent " includes any effluent from the sewage disposal or sewerage works of a local authority;
 - " 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;
 - " stream " includes any river, watercourse or inland water (whether natural or artificial) and any tidal waters to which this Act applies, except that it does not include either—
 - (a) any body of water which does not discharge into a stream ; or

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(b) any sewer vested in a local authority,

but any reference to a stream includes a reference to the channel or bed of a stream which is for the time being dry;

" tidal waters " means any part of the sea or the tidal part of any river, watercourse or inland water (whether natural or artificial) and includes the waters of any enclosed dock which adjoins tidal waters;

" trade effluent " includes any liquid (either with or without particles of matter in suspension therein) which is discharged from any premises other than surface water and domestic sewage.

- (2) For the purposes of this Act a small burgh shall be deemed to be included in the county in the area of which it is situate.
- (3) Subject to any byelaws made by virtue of paragraph (a) of subsection (1) of section twenty-five of this Act, matter shall not be deemed for the purposes of this Act to be poisonous, noxious or polluting by reason of any effect it may have in discolouring a stream, if the discoloration is harmless and inoffensive.
- (4) For the purposes of this Act, matter shall not be deemed to enter a stream on passing from one stream to another, but the two shall be regarded as together forming a single stream.
- (5) References in this Act to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment including this Act.
- (6) Nothing contained in this Act shall affect the law relating to nuisance.
- (7) Nothing contained in this Act shall affect section fifty of the Water (Scotland) Act, 1946 (which relates to temporary discharges of water by local water authorities in connection with the execution of works on any part of their undertaking) or any corresponding provisions of a local enactment, but where under the said section fifty or the said provisions notice of the intended discharge is required to 'be given to any person, notice shall also be' given to the river purification authority within whose area the stream affected by the discharge is situate.
- (8) Nothing contained in this Act shall affect sections sixty-one to sixty-three of the Water (Scotland) Act, 1946 (which authorise the making of byelaws for the purpose of protecting against pollution water which belongs to or may be taken by a local water authority) or any byelaws made thereunder.

36 Short title, transitional provisions, repeal, commencement and extent

- (1) This Act may be cited as the Rivers (Prevention of Pollution) (Scotland) Act, 1951.
- (2) The Third Schedule to this Act shall have effect in relation to the matters therein referred to, being matters arising before or shortly after the coming into operation of this Act, and for adapting to" this Act the provisions of the enactments referred to in that Schedule.
- (3) The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) Part III, section thirty-four and subsection (3) of this section of this Act shall come into operation on such day as the Secretary of State may by order appoint, and the Secretary of State may appoint different days for different provisions and for different localities.

(5) This Act shall extend to Scotland only.

SCHEDULES

FIRST SCHEDULE

Sections 3, 5, 29 and 34.

PROCEDURE FOR MAKING ORDERS AND PROVISIONS AS TO THE VALIDITY OF ORDERS

PART I

Procedure for making orders

- 1 Before making an order to which this Schedule applies the Secretary of State shall, after consultation with any river purification board concerned and with the council of every county or large burgh whose district is comprised wholly or partly in the area affected by the order, prepare a draft order, and shall publish once in the Edinburgh Gazette and once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the draft order a notice—
 - (a) stating the general effect of the draft, order;
 - (b) specifying a place in or near the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours; and
 - (c) specifying the time (not being less than twenty-eight days) within which and the manner in which objections to the draft order may be made.
- 2 Not later than the date on which the notice aforesaid is first published, the Secretary of State shall serve a copy of the said notice and of the draft order on any river purification board concerned and on the council of every county or large burgh whose district is comprised wholly or partly in the area affected by the order, on the fishery district board of every fishery district so comprised and on any navigation authority or harbour authority exercising functions in relation to any stream in that area.
- 3 The Secretary of State shall, at the request of any person interested, furnish him with a copy of the draft order on payment of such charge not exceeding two shillings as the Secretary of State thinks reasonable.
- 4 The Secretary of State may make the order either in the terms of the draft or in those terms as modified in such manner as he thinks fit, but, where he proposes to make any modification and considers that persons other than those to whom the draft order relates may be adversely affected thereby, he shall give and publish additional notices in such manner as he thinks best adapted for informing all persons likely to be affected by the modification proposed.
- 5 If before the expiration of the time specified under paragraph 1 of this Schedule or before the expiration of any period specified in notices given under the last-foregoing paragraph an objection is duly received by the Secretary of State from any body on whom notice is required to be served under paragraph 2 of this Schedule or from any person appearing to him to be affected by the order, or, as the case may

be, by the proposed modification, and the objection is not withdrawn, the Secretary of State before making the order shall cause a local inquiry to be held.

- 6 On the making of an order to which this Schedule applies, the Secretary of State shall, if an objection has been duly made by any person under the foregoing provisions of this Schedule and has not been withdrawn, give notice of the making of the order and of the effect thereof to every person who has made such an objection which has not been withdrawn, and in that case the order shall not have effect until the expiration of twenty-eight days from the date of the said notice ; and if within that period any such person gives notice to the Secretary of State that he objects to the order and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.
- 7 In this Part of this Schedule, the expression " area affected by the order " means—
- (a) in the case of an order defining or altering any river purification board area the river purification board area as proposed to be defined or altered by the order ;
 - (b) in the case of an order establishing or varying the constitution of a river purification board for a river purification board area, that river purification board area;
 - (c) in the case of an order made under section twenty-nine of this Act, the area of the river purification authority to which the waters proposed to be affected by the order are adjacent; and
 - (d) in the case of an order made under section thirty-four of this Act, the area to which the local enactment proposed to be affected by the order applies.

PART II

Provisions with respect to the validity of orders not confirmed by Parliament

- 8 After the making of an order, the Secretary of State shall publish in the Edinburgh Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the order has been made and naming a place where a copy thereof may be seen at all reasonable hours :

Provided that in the case of an order to which paragraph 6 of this Schedule applies the said notice shall not be published until the expiration of the period of twenty-eight days referred to in that paragraph, and the notice shall state whether or not the order is subject to special parliamentary procedure.

- 9 (1) If any person aggrieved by an order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may within six weeks after the date of the first publication of the said notice make an application for the purpose to the Court of Session, and on any such application the Court, if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may quash the order either generally or in so far as it affects the applicant; but except as aforesaid the order shall not at any time be questioned in any proceedings whatsoever:

Provided that this paragraph shall not apply to an order which is confirmed by Act of Parliament under section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, and shall have effect in relation

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to any other order which is subject to special parliamentary procedure by virtue of paragraph 6 of this Schedule as if for the reference to the date of the publication of the notice there were substituted a reference to the date on which the order becomes operative under the said Act.

- (2) Except by leave of the Court of Session no appeal shall lie to the House of Lords from a decision of the Court of Session under this paragraph.

SECOND SCHEDULE

Section 29.

TIDAL WATERS TO WHICH THIS ACT APPLIES

- 1 The tidal waters of the Firth of Clyde (including the waters of Holy Loch, Loch Goil, Loch Long and Gareloch) to the north and east of an imaginary line drawn across the Firth of Clyde in a westerly direction from Cloch Point in the County of Renfrew to Castle Hill, Dunoon, in the County of Argyll and of any stream flowing into those waters.
- 2 The tidal waters of the Firth of Forth west of an imaginary line drawn across the Firth of Forth in a southerly direction from Kincaig Point in the County of Fife to Gullane Point in the County of East Lothian and of any stream flowing into those waters.

THIRD SCHEDULE

Section 36.

TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

- 1 (1) Any proceedings begun before the coming into operation of Part III of this Act for the enforcement of the provisions of the Rivers Pollution Prevention Act, 1876, or of the corresponding provisions of any local enactment, may be carried on, and any order made in any such proceedings (whether before or after the coming into operation of the said Part III) shall continue in force, and any further proceedings may be taken by virtue of or in relation to any order so made as if this Act had not passed.
- (2) Subsection (2) of section twenty-three of this Act shall apply to any order made in any such proceedings as are mentioned in the foregoing sub-paragraph as it applies to an order made under subsection (1) of that section.
- 2 Any person who, within three months after the date on which section twenty-eight of this Act comes into operation in any area, brings into use in that area any new or altered outlet for the discharge of trade or sewage effluent to a stream or begins to make in that area any new discharge of trade or sewage effluent to a stream shall be deemed for the purposes of the said section twenty-eight to do so with the consent of the river purification authority.
- 3 Paragraphs 2 and 19 of the First Schedule to the Water (Scotland) Act, 1946 (which Schedule relates to the procedure to be followed in connection with the making and approval of certain orders and agreements under that Act) shall, in relation to an order under section twenty-one of that Act for the taking of water from any stream so as to affect the flow thereof and in relation to any order under section eighty-eight of that Act repealing or amending a local enactment relating to the supply of water by a local water authority so as to affect the flow of any stream, have effect as

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if among the persons to whom notice of the proposal to make the order is required to be given there were included the river purification authority within whose area the stream affected is situate.

FOURTH SCHEDULE

Section 36.

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
20 & 21 Vict. c. clxviii.	The Tweed Fisheries Act, 1857.	Sections sixty-five and sixty-six, except in relation to tidal waters to which this Act does not apply.
25 & 26 Vict. c. 97.	The Salmon Fisheries (Scotland) Act, 1862.	Section thirteen, except in relation to tidal waters to which this Act does not apply.
39 & 40 Vict. c. 75.	The Rivers Pollution Prevention Act, 1876.	The whole Act except sections one and seven and so much of section twenty-one as relates to section seven.
52 & 53 Vict. c. 50.	The Local Government (Scotland) Act, 1889.	Section fifty-live.
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act, 1892.	In section two hundred and twenty-two, the words from "it shall not be lawful " to " any source and and the words from " and every person who " to the end of the section. In section two hundred and thirty-three, the words " river or inland lock or public reservoir or dock".
56 & 57 Vict. c. 31.	The Rivers Pollution Prevention Act, 1893.	The whole Act.
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act, 1897.	In section one hundred and sixteen the words "river stream ditch" and the words "or other channel".

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Tweed Fisheries Act, 1857	20 & 21 Vict. c. clxviii
Salmon Fisheries (Scotland) Act, 1862	25 & 26 Vict. c. 97.

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Short Title	Session and Chapter
Rivers Pollution Prevention Act, 1876	39 & 40 Vict. c. 75.
Merchant Shipping Act, 1894	57 & 58 Vict. c. 60.
Public Health (Scotland) Act, 1897	60 & 61 Vict. c. 38.
Private Legislation Procedure (Scotland) Act, 1936	26 Geo. 5. & 1 Edw. 8 c. 52.
Local Government Superannuation (Scotland) Act, 1937	1 Edw. 8. & 1 Geo. 6 c. 69.
Statutory Orders (Special Procedure) Act, 1945	9 & 10 Geo. 6. c. 18.
Water (Scotland) Act, 1946	9 & 10 Geo. 6. c. 42.
New Towns Act, 1946	9 & 10 Geo. 6. c. 68.
Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947	10 & 11 Geo. 6. c. 42.
Local Government (Scotland) Act, 1947	10 & 11 Geo. 6. c. 43.
Local Government Act, 1948	11 & 12 Geo. 6. c. 26.