



# Rivers (Prevention of Pollution) (Scotland) Act 1951

## 1951 CHAPTER 66

### 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

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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

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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—
- (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

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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.
- (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.
- (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—

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- (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.
- (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

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*Status: This is the original version (as it was originally enacted).*

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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.