
Changes to legislation: Water Industry Act 1991, SCHEDULE 8 is up to date with all changes known to be in force on or before 15 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 8

Section 140.

PRE-1989 ACT TRANSITIONAL AUTHORITY FOR TRADE EFFLUENT DISCHARGES ETC.

Trade effluent agreements

- 1 Nothing in Chapter III of Part IV of this Act (except so far as it relates to special category effluent) or in the repeals made by the ^{M1}Water Consolidation (Consequential Provisions) Act 1991 shall affect—
- (a) any agreement with respect to any trade effluent to which a sewerage undertaker is a party by virtue of its having been duly made before 1st July 1937 between a predecessor of the undertaker and the owner or occupier of any trade premises; or
 - (b) any agreement saved by section 63(8) of the ^{M2}Public Health Act 1961 (pre-1961 Act agreements with respect to discharges from premises used for farming or for scientific research or experiment).

Marginal Citations

M1 1991 c. 60.

M2 1961 c. 64.

Authorisations having effect as deemed consents under the Control of Pollution Act 1974

- 2 (1) Where, by virtue of section 43(2) of the ^{M3}Control of Pollution Act 1974 there is, immediately before the commencement of this Act, a deemed consent for the purposes of the ^{M4}Public Health (Drainage of Trade Premises) Act 1937 which has effect under the ^{M5}Water Act 1989 in relation to any sewerage undertaker, that deemed consent shall have effect as a deemed consent for the purposes of Chapter III of Part IV of this Act subject to the following provisions of this paragraph.
- (2) The sewerage undertaker—
- (a) may at any time; and
 - (b) shall if requested to do so by any person entitled to make a discharge in pursuance of the deemed consent,
- by notice served on the owner and any occupier of the premises in question cancel the deemed consent and, subject to sub-paragraph (3) below, give its actual consent for such discharges as were authorised by the deemed consent.
- (3) An actual consent given under sub-paragraph (2) above shall be so given either conditionally or subject to any conditions which may be attached to consents by virtue of section 121 of this Act.

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[^{F1}(3A) If a sewerage undertaker serves a notice under sub-paragraph (2) in relation to premises in respect of which a sewerage licensee provides sewerage services, the sewerage undertaker must send a copy of the notice to the sewerage licensee.]

(4) It is hereby declared that the provisions of Chapter III of Part IV of this Act with respect to the variation of conditions of a consent apply in relation to an actual consent under sub-paragraph (2) above as they apply in relation to any other actual consent under Chapter III of Part IV of this Act.

(5) A notice signifying an actual consent under sub-paragraph (2) above shall indicate that a right of appeal is conferred under the following paragraph in respect of the notice.

Textual Amendments

F1 Sch. 8 para. 2(3A) inserted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 123**; [S.I. 2017/462](#), art. 3(k)(xxiii)

Modifications etc. (not altering text)

C1 Sch. 8 para. 2 amended (27.8.1993) by [1993 c. 12](#), ss. 40, 51(2), **Sch. 3 Pt. I para. 8** (with ss. 42, 46).

C2 Sch. 8 paras. 2-4 modified by [S.I. 2010/675](#), Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 1**)

C3 Sch. 8 paras. 2-4 modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 23 paras. 1(3), 2 Table 9 (with regs. 1(3), 77-79, Sch. 4)

Marginal Citations

M3 [1974 c. 40](#).

M4 [1937 c. 40](#).

M5 [1989 c. 15](#).

Appeals in respect of consents under paragraph 2

- 3 (1) A person on whom notice is served in pursuance of paragraph 2(2) above may, in accordance with regulations made by the Secretary of State, appeal to the Director.
- (2) Section 137 of this Act shall apply, with the necessary modifications, in relation to appeals under this paragraph as it applies in relation to appeals under section 122 of this Act.
- (3) On an appeal under this paragraph the Director may give the sewerage undertaker in question any such direction as he thinks fit with respect to the notice and it shall be the duty of the undertaker to comply with the direction.

Modifications etc. (not altering text)

C2 Sch. 8 paras. 2-4 modified by [S.I. 2010/675](#), Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 1**)

C3 Sch. 8 paras. 2-4 modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 23 paras. 1(3), 2 Table 9 (with regs. 1(3), 77-79, Sch. 4)

C4 Sch. 8 para. 3 amended (27.8.1993) by [1993 c. 12](#), ss. 40, 51(2), **Sch. 3 Pt. I para. 8** (with ss. 42, 46).

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Determinations of disputes as to transitional matters

- 4 (1) Any dispute in so far as it—
- (a) arises after the commencement of this Act and relates to a deemed consent in respect of discharges previously authorised under section 4 of the ^{M6}Public Health (Drainage of Trade Premises) Act 1937; and
 - (b) is a dispute as to the nature or composition of any trade effluent discharged from any trade premises into a sewer during any period, as to the quantity of trade effluent so discharged on any one day during any period or as to the rate of trade effluent so discharged during any period,
- shall, unless the parties otherwise agree, be referred to the Director for determination.
- (2) On a reference under this paragraph the Director may make such order in the matter as he thinks just.
- (3) An order on a reference under this paragraph shall be final; but section 137 of this Act shall apply, with the necessary modifications, in relation to references under this paragraph as it applies in relation to appeals under section 122 of this Act.

Modifications etc. (not altering text)

- C2** Sch. 8 paras. 2-4 modified by S.I. 2010/675, Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 1**)
- C3** Sch. 8 paras. 2-4 modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 23 paras. 1(3), 2 Table 9 (with regs. 1(3), 77-79, Sch. 4)
- C5** Sch. 8 para. 4 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. 1 para. 8** (with ss. 42, 46).

Marginal Citations

- M6** 1937 c. 40.

Regulations as to residue of agreements

- 5 The Secretary of State may by regulations make provisions in relation to the provisions of any agreement to which subsection (1) of section 43 of the ^{M7}Control of Pollution Act 1974 applied and which apart from that section would be in force after the commencement of this Act—
- (a) for determining, by arbitration or otherwise, whether any such agreement continues to have effect as relating to a matter other than the discharge of trade effluent into a sewerage undertaker's sewer;
 - (b) for determining, by arbitration or otherwise, what modifications (if any) are appropriate in consequence of any prescribed provision of section 43 of that Act or any provision of this Schedule re-enacting any such provision; and
 - (c) in a case in which the conditions on which any discharges authorised by such an agreement included, immediately before the coming into force of section 43 of that Act, a condition as to charges in respect of the discharges and other matters—
 - (i) for determining, by arbitration or otherwise, the proportion of the charges attributable to the discharges; and

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- (ii) for limiting accordingly the conditions which are to be treated by virtue of section 43 of that Act as included in the deemed consent which has effect by virtue of this Schedule.

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Marginal Citations

M7 1974 c. 40.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 3 Ch. 2B inserted by [2014 c. 21 s. 12](#)
- s. 17(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(4)(b) (as substituted) by [S.I. 2019/1245 reg. 21](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17A(c) repealed by [2014 c. 21 Sch. 5 para. 4\(2\)\(c\)](#)
- s. 17A(d) repealed by [2014 c. 21 Sch. 5 para. 4\(2\)\(c\)](#)
- s. 17A(2)(ba) and word inserted by [2014 c. 21 Sch. 5 para. 4\(2\)\(b\)](#)
- s. 17R(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(7)(b) (as substituted) by [S.I. 2019/1245 reg. 21](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17AA(1)(ba)(bb) inserted by [2014 c. 21 Sch. 5 para. 5\(2\)](#)
- s. 17BA(5A) inserted by [2014 c. 21 Sch. 5 para. 7\(3\)](#)
- s. 17HA(9)(b)(ia) inserted by [2014 c. 21 Sch. 5 para. 16\(2\)](#)
- s. 23(2AA) inserted by [2014 c. 21 Sch. 7 para. 35\(4\)](#)
- s. 23(8)(9) inserted by [2014 c. 21 Sch. 7 para. 35\(10\)](#)
- s. 39E-39H inserted by [2021 c. 30 s. 78\(7\)](#)
- s. 87(7C)-(7F) inserted by [2012 c. 7 s. 35\(6\)](#)
- s. 94A-94E inserted by [2021 c. 30 s. 79](#)
- s. 95ZA(6) inserted by [2014 c. 21 Sch. 5 para. 39\(4\)](#)
- s. 96ZA(2)-(5) substituted for s. 96ZA(2) by [2014 c. 21 Sch. 5 para. 40](#)
- s. 106B(3A) inserted by [2014 c. 21 Sch. 7 para. 94](#)
- s. 117G(2)(aa) inserted by [2014 c. 21 Sch. 5 para. 41\(2\)](#)
- s. 117G(4)-(4D) substituted for s. 117(4) by [2014 c. 21 Sch. 5 para. 41\(3\)](#)
- s. 117G(6)(aa) inserted by [2014 c. 21 Sch. 5 para. 41\(4\)](#)
- s. 117K(2)(aa) inserted by [2014 c. 21 Sch. 5 para. 42\(2\)](#)
- s. 117K(5)(5A) substituted for s. 117(5) by [2014 c. 21 Sch. 5 para. 42\(3\)](#)
- s. 117L(9) inserted by [2014 c. 21 Sch. 5 para. 43\(3\)](#)
- s. 117N(4)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(2\)](#)
- s. 117N(8)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(3\)](#)
- s. 117N(11)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(4\)](#)
- s. 117O(4)(aa) inserted by [2014 c. 21 Sch. 5 para. 46\(2\)](#)
- s. 117O(8)(aa) inserted by [2014 c. 21 Sch. 5 para. 46\(3\)](#)
- s. 117S(7)-(9) inserted by [2014 c. 21 Sch. 5 para. 49](#)
- s. 119(2)(ab) inserted by [2003 c. 37 s. 89\(1\)\(a\)](#)
- s. 119(3) inserted by [2003 c. 37 s. 89\(1\)\(b\)](#)
- s. 121(1)(ba) inserted by [2003 c. 37 s. 89\(2\)\(a\)](#)
- s. 141DA inserted by [2021 c. 30 s. 81](#)
- s. 141DC inserted by [2021 c. 30 s. 83](#)
- s. 177K(7)(aa) inserted by [2014 c. 21 Sch. 5 para. 42\(4\)](#)
- s. 207D and cross-heading inserted by [2014 c. 21 s. 39](#)
- s. 207D(5) word repealed by [2014 c. 21 Sch. 5 para. 52\(a\)](#)
- s. 207D(5) words inserted by [2014 c. 21 Sch. 5 para. 52\(b\)](#)

- s. 213(1ZA) inserted by [2014 c. 21 Sch. 7 para. 119\(3\)](#)
- s. 213(1ZA) repealed by [2014 c. 21 Sch. 5 para. 53](#)