Control of Pollution Act 1974

1974 CHAPTER 40

An Act to make further provision with respect to waste disposal, water pollution, noise, atmospheric pollution and public health; and for purposes connected with the matters aforesaid. [31st July 1974]

Extent Information

E1 Act applies to Great Britain with exceptions, see s. 109.

Modifications etc. (not altering text)

C1 Power to transfer certain functions conferred (E.W.) by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), **s. 7(3)**(*a*)(4)(*g*)
Transfer of certain functions (1.4.1996) by 1995 c. 25, **s. 2(1)(c)** (with ss. 115, 117); S.I. 1996/186, **art. 3**

C2 Act: Transfer of functions (except s. 102(2)) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

C3 Act modified (E.W.S.) (31.5.2007) by The St Marys (Isles of Scilly) Harbour Revision Order 2007 (S.I. 2007/1554), **art. 17** (with arts. 19, 20)

C4 Act modified (17.3.2010) by The Harwich Parkeston Quay Harbour Revision Order 2010 (S.I. 2010/626), **art. 10** (with art. 20)

PART I

WASTE ON LAND

Modifications etc. (not altering text)

C5 Part I (ss.1–30): power to transfer functions conferred by Local Government Act 1985 (c. 51, SIF 81:1), **s. 10(4)**
Pt. I (ss. 1-30) applied (with modifications) (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 para. 10** (as amended (15.5.2006) by S.I. 2006/937, reg. 6(10)(b))

C6 Pt. I (ss. 1-30) modified (1.2.1996) by 1995 c. 25, **s. 5(5)(c)** (with ss. 115, 117); S.I. 1996/186, **art. 2**
Pt. I modified (1.4.1996) by 1995 c. 25, **s. 33(5)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 28 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)*

Waste disposal arrangements

F1 1 . . . . . .

Textual Amendments

F1 S. 1 repealed (1.5.1994) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. II**; S.I. 1994/1096, **art. 2(1)**

Waste disposal plans

F2 2 . . . . . .

Textual Amendments

F2 S. 2 repealed (31.5.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. II**, S.I. 1991/1319, art. 2

Licensing of disposal of controlled waste.

[F3 3 Prohibition of unlicensed disposal of waste.

(1) Except in prescribed cases, a person shall not—

(a) deposit controlled waste on any land or cause or knowingly permit controlled waste to be deposited on any land; or

(b) use any plant or equipment, or cause or knowingly permit any plant or equipment to be used, for the purpose of disposing of controlled waste or of dealing in a prescribed manner with controlled waste,

unless the land on which the waste is deposited or, as the case may be, which forms the site of the plant or equipment is occupied by the holder of a licence issued in pursuance of section 5 of this Act (in this Part of this Act referred to as a "disposal licence") which authorises the deposit or use in question and the deposit or use is in accordance with the conditions, if any, specified in the licence.

(2) Except in a case falling within the following subsection, a person who contravenes any of the provisions of the preceding subsection shall, subject to subsection (4) of this section, be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(3) A person who contravenes paragraph (a) of subsection (1) of this section in a case where—

(a) the waste in question is of a kind which is poisonous, noxious or polluting; and

(b) its presence on the land is likely to give rise to an environmental hazard; and

(c) it is deposited on the land in such circumstances or for such a period that whoever deposited it there may reasonably be assumed to have abandoned

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it there or to have brought it there for the purpose of its being disposed of (whether by himself or others) as waste,

shall, subject to the following subsection, be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding £400 or both or, on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.

(4) It shall be a defence for a person charged with an offence under this section to prove—

(a) that he—

(i) took care to inform himself, from persons who were in a position to provide the information, as to whether the deposit or use to which the charge relates would be in contravention of subsection (1) of this section, and

(ii) did not know and had no reason to suppose that the information given to him was false or misleading and that the deposit or use might be in contravention of that subsection; or

(b) that he acted under instructions from his employer and neither knew nor had reason to suppose that the deposit or use was in contravention of the said subsection (1); or

(c) in the case of an offence of making, causing or permitting a deposit or use otherwise than in accordance with conditions specified in a disposal licence, that he took all such steps as were reasonably open to him to ensure that the conditions were complied with; or

(d) that the acts specified in the charge were done in an emergency in order to avoid danger to the public and that, as soon as reasonably practicable after they were done, particulars of them were furnished to the disposal authority in whose area the acts were done.

[In this section and subsections (5) and (6) of the following section "land" includes land
F4(5) covered with waters where the land is above the low-water mark of ordinary spring tides and the waters are not inland waters (within the meaning of Chapter I of Part III of the Water Act 1989).**]]**

Textual Amendments

F3 S. 3 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162, **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F4 S. 3(5) inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

Modifications etc. (not altering text)

C7 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

C8 S. 3(1) excluded (E.W.) (1.4.1991) and (S.) (1.4.1992) by S.I. 1991/508, **reg. 2(1)**.

C9 S. 3(1) modified (27.7.1999) by 1999 c. 24, **s. 4(6)(a)**

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[F5 4 Provisions supplementary to s. 3.

(1) Where activities for which a disposal licence is required apart from this subsection have been carried on on any land during the period of six months ending with the date when subsection (1) of the preceding section comes into force, nothing in that subsection shall apply to the carrying on of those activities on the land during the period of one year beginning with that date and, where at the end of that period an appeal is pending in pursuance of section 10 of this Act against a rejection of an application for a disposal licence in respect of those activities on the land or against a decision to issue such a licence which specifies conditions, until the appeal is determined.

(2) Nothing in subsection (1) of the preceding section applies to household waste from a private dwelling which is deposited, disposed of or dealt with within the curtilage of the dwelling by or with the permission of the occupier of the dwelling.

(3) It shall be the duty of the Secretary of State, in exercising the power conferred on him by subsection (1) of the preceding section to prescribe excepted cases, to have regard in particular to the expediency of excluding from the controls imposed by virtue of that subsection—

(a) any deposits which are small enough to be properly excluded from those controls or are of such a temporary nature that they may be so excluded;

(b) any uses of plant or equipment which are innocuous enough to be so excluded;

(c) cases for which adequate controls are provided by an enactment other than that subsection;

and without prejudice to the generality of section 104(1)(a) of this Act the said power may be so exercised as to prescribe different excepted cases for different areas.

[F6(4) References to land in the preceding section and this section include references to water which covers any land above low-water mark of ordinary spring tides and is not water **[**F7in a stream**]][**F7in inland waters**]** within the meaning of Part II of this Act.**]**

(5) For the purposes of subsection (3) of the preceding section—

(a) the presence of waste on land gives rise to an environmental hazard if the waste has been deposited in such a manner or in such a quantity (whether that quantity by itself or cumulatively with other deposits of the same or different substances) as to subject persons or animals to a material risk of death, injury or impairment of health or as to threaten the pollution (whether on the surface or underground) of any water supply; and

(b) the fact that waste is deposited in containers shall not of itself be taken to exclude any risk which might be expected to arise if the waste were not in containers.

(6) In the case of any deposit of waste, the degree of risk relevant for the purposes of the preceding subsection shall be assessed with particular regard—

(a) to the measures, if any, taken by the person depositing the waste, or by the owner or occupier of the land, or by others, for minimising the risk; and

(b) to the likelihood of the waste, or any container in which it is deposited, being tampered with by children or others.

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Textual Amendments

F5 S. 4 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162, **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F6 S. 4(4) repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F7 Words "in inland waters" substituted (S.) for "in a stream" by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)–(10), 190, 193(1), Sch. 23 para. 2, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

Modifications etc. (not altering text)

C10 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

[F8 5 Licences to dispose of waste.

(1) An application for a disposal licence in respect of any land in the area of a disposal authority must be made in writing to the authority F9. . .

(2) A disposal licence shall not be issued for a use of land, plant or equipment for which planning permission is required in pursuance of [F10the Town and Country Planning Act 1990] or, in Scotland, [F11the Town and Country Planning (Scotland) Act 1997] unless such permission is in force; F9. . .

(3) [F12Where an application has been received] for a disposal licence for a use of land, plant or equipment for which such planning permission as aforesaid is in force, it shall be the duty of [F12the appropriate Agency] not to reject the application unless [F12that Agency] is satisfied that its rejection is necessary for the purpose of preventing pollution of water or danger to public health.

(4) Where [F13the appropriate Agency] proposes to issue a disposal licence, it shall be the duty of [F13that Agency] before it does so—

[F14(a) to refer the proposal to any collection authority whose area includes any part of the relevant land; and]

(b) to consider any representations about the proposal which, during the period of twenty-one days beginning with that on which the proposal is received by a body F9. . . mentioned in paragraph (a) of this subsection or during such longer period as [that Agency] and that body F9. . . agree in writing, [F13that Agency] receives from that body F9. . . (including in particular any representations about the conditions which that body F9. . . considers should be specified in the licence);

F15. . .

F16(5) . . . . . .

(6) A person who, in an application for a disposal licence, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

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Textual Amendments

F8 S. 5 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162, **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F9 Words repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

F10 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 31(1)**

F11 Words in s. 5(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 23**

F12 Words in s. 5(3) substituted (1.4.1996) by 1995 c. 25, **s. 120(1)**, SCh. 22 para. 19(2)(a)(b) (Sch. 22 para. 19 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F13 Words in s. 5(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 19(3)(a)(b)(d)** (Sch. 22 para. 19 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F14 S. 5(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 19(3)(c)** (Sch. 22 para. 19 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F15 Words following s. 5(4)(b) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 19(3)(e), **Sch. 24** (Sch. 22 para. 19 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F16 S. 5(5) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 19(4), **Sch. 24** (Sch. 22 para. 19 is*prospectively* repealed by Sch. 24 of the same 1995 Act)(with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C11 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

C12 S. 5(2) modified (E.W.) by Town and Country Planning Act 1990 (c. 8), **s. 191(7)(b)** (as substituted (25.11.1991 for specified purposes, 27.7.1992 otherwise) by Planning and Compensation Act 1991 (c. 34), **s. 10(1)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1992/1630, **art. 2** (with art. 3)

C13 S. 5(2) modified (S.) by Town and Country Planning (Scotland) Act 1972 (c. 52), **s. 90(7)(b)** (as substituted (10.8.1992 for specified purposes, 25.9.1992 otherwise) by Planning and Compensation Act 1991 (c. 34), **ss. 42(1)**, 84(2) (with s. 84(5)); S.I. 1992/1937, **arts. 3**, 4 (with art. 5))
S. 5(2) extended (27.5.1997) (S.) by 1997 c. 8, **ss. 150(7)(b)**, 278(2)

[F17 6 Provisions supplementary to s. 5.

(1) Provision may be made by regulations . . . F18 as to the conditions specified in a disposal licence which shall be disregarded for the purposes of sections 3(1) and 31(2)(a) of this Act.

(2) . . . F18, a disposal licence may include such conditions as **[**F19the appropriate Agency**]]** sees fit to specify in the licence; and without prejudice to the generality of the preceding provisions of this subsection, any such conditions may relate to—

(a) the duration of the licence;

(b) the supervision by the holder of the licence of activities to which the licence relates;

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(c) the kinds and quantities of waste which may be dealt with in pursuance of the licence or which may be so dealt with during a specified period, the methods of dealing with them and the recording of information relating to them;

(d) the precautions to be taken on any land to which the licence relates;

(e) the steps to be taken with a view to facilitating compliance with any conditions of such planning permission as is mentioned in subsection (2) of the preceding section;

(f) the hours during which waste may be dealt with in pursuance of the licence; and

(g) the works to be carried out, in connection with the land, plant or equipment to which the licence relates, before the activities authorised by the licence are begun or while they are continuing;

and it is hereby declared that a condition may require the carrying out of works or the doing of any other thing which **[**F19that Agency**]** considers appropriate in connection with the licence notwithstanding that the licence holder is not entitled as of right to carry out the works or do the thing.

(3) The holder of a disposal licence who without reasonable excuse contravenes a condition of the licence which in pursuance of regulations made by virtue of subsection (1) of this section is to be disregarded for the purposes mentioned in that subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**F20£400**][**F20level 5 on the standard scale**]**; but no proceedings for such an offence shall be brought in England and Wales except by or with the consent of the Director of Public Prosecutions or by **[**F21the Environment Agency**]**.

(4) It shall be the duty of **[**F22the Environment Agency and of SEPA**]**—

[F23(a) to maintain a register containing copies of all disposal licences which are for the time being in force in respect of land in England and Wales or, as the case may be, Scotland;**]**

(b) to secure that the register is open to inspection . . . F24 by members of the public free of charge at all reasonable hours; and

(c) to afford members of the public reasonable facilities for obtaining from **[**F22that Agency**]**, on payment of reasonable charges, copies of entries in the register.

(5) If within the period of two months beginning with the date on which **[**F25a duly made application for a disposal licence was received**]**, or within such longer period as **[**F25the appropriate Agency**]** and the applicant may at any time agree in writing, **[**F25the appropriate Agency**]**has neither issued a licence in consequence of the application nor given notice to the applicant that **[**F25that Agency**]** has rejected the application, **[**F25that Agency**]** shall be deemed to have rejected the application.

(6) References to land in the preceding section and this section include such water as is mentioned in section 4(4) of this Act.

Textual Amendments

F17 S. 6 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162, **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F18 Words repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

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F19 Words in s. 6(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 20(2)(a)(b)** (Sch. 22 para. 20 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F20 Words "level 5 on the standard scale"substituted (11.4.1983) for words "£400"by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F21 Words in s. 6(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 20(3)** (Sch. 22 para. 20 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F22 Words in s. 6(4) and (4)(c) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 20(4)(a)** and (c) (Sch. 22 para. 20 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F23 S. 6(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 20(4)(b)** (Sch. 22 para. 20 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F24 Words in s. 6(4)(b) omitted (1.4.1996) by S.I. 1996/593, art. 3, **Sch. 2 para. 2**

F25 Words in s. 6(5) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 20(5)(a)(b)(c)** (Sch. 22 para. 20 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C14 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

[F26 7 Variation of conditions and revocation of licences.

(1) While a disposal licence. . . F27 is in force, then—

(a) subject to any regulations in force by virtue of subsection (1) of the preceding section, **[**F28the appropriate agency**]]** may—

(i) on its own initiative, serve a notice on the holder of the licence modifying the conditions specified in the licence to any extent which, in the opinion of **[**F28that agency**]**, is desirable and is unlikely to require unreasonable expenditure by the licence holder, and

(ii) on the application of the licence holder, serve a notice on him modifying the said conditions to the extent requested in the application;

and

(b) it shall be the duty of **[**F28that agency**]** to serve a notice on the licence holder modifying the conditions specified in the licence—

(i) subject to subsection (4) of this section, to the extent which in the opinion of the authority is required for the purpose mentioned in section 9(1)(a) of this Act, and

(ii) to the extent required by any regulations in force as aforesaid.

(2) Subsection (4) . . . F29of section 5 of this Act shall with the necessary modifications apply to a proposal to serve a notice in pursuance of paragraph (a) or paragraph (b)(i) of the preceding subsection as it applies to a proposal to issue a disposal licence, except that—

[F30(a) the Environment Agency or SEPA, as the case may be, may postpone the reference in pursuance of the said subsection (4) so far as it considers that by reason of an emergency it is appropriate to do so; and

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(b) the Environment Agency or SEPA, as the case may be, may disregard any collection authority for the purposes of the preceding provisions of this subsection in relation to a modification which, in the opinion of that Agency, will not affect that authority.**]**

(3) Section 5(6) of this Act shall apply to an application in pursuance of subsection (1)(a)(ii) of this section as it applies to an application for a disposal licence.

(4) Where a disposal licence. . . [F31]is in force and it appears to **[**[F32]the appropriate Agency**]**—

(a) that the continuation of activities to which the licence relates would cause pollution of water or danger to public health or would be so seriously detrimental to the amenities of the locality affected by the activities that the continuation of them ought not to be permitted; and

(b) that the pollution, danger or detriment cannot be avoided by modifying the conditions specified in the licence,

it shall be the duty of **[**[F32]that Agency**]** by a notice served on the holder of the licence to revoke the licence.

(5) A notice served in pursuance of this section shall state the time at which the modification or revocation in question is to take effect.

Textual Amendments

F26 S. 7 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162, **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F27 Words in s. 7(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 21(2)(a), **Sch. 24** (Sch. 22 para. 21 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F28 Words in s. 7(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 21(2)(b)** (Sch. 22 para. 21 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F29 Words in s. 7(2) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 21(3)(a), **Sch. 24** (Sch. 22 para. 21 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F30 S. 7(2)(a)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 21(3)(b)** (Sch. 22 para. 21 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F31 Words in s. 7(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 21(4)(a), **Sch. 24** (Sch. 22 para. 21 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F32 Words in s. 7(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 21(4)(b)** (Sch. 22 para. 21 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C15 S. 7 modified (27.7.1999) by 1999 c. 24, **s. 4(6)(b)**

C16 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

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[F33 8 Transfer and relinquishment of licences.

(1) The holder of a disposal licence may, after giving notice to [F34the appropriate Agency]] that he proposes to transfer it on a day specified in the notice to a person whose name and address are so specified, transfer the licence to that person; but a licence in respect of which such a notice is given shall cease to have effect on the expiration of the period of ten weeks beginning with the date on which [F34that Agency] receives the notice if during the period of eight weeks beginning with that date [F34that Agency] gives notice to the transferee that it declines to accept him as the holder of the licence.

(2) If by operation of law the right of the holder of a disposal licence to occupy the relevant land is transferred to some other person, that person shall be deemed to be the holder of the licence during the period of ten weeks beginning with the date of the transfer.

(3) Except as provided by the preceding provisions of this section, references in this Part of this Act to the holder of a disposal licence are references to the person to whom the licence was issued.

(4) The holder of a disposal licence may cancel the licence by delivering it to [F35the appropriate Agency] and giving notice to [F35that Agency] that he no longer requires the licence.

Textual Amendments

F33 S. 8 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162, **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F34 Words in s. 8(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 22(2)** (Sch. 22 para. 22 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F35 Words in s. 8(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 22(3)** (Sch. 22 para. 22 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C17 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

[F36 9 Supervision of licensed activities.

(1) While a disposal licence is in force it shall be the duty of [F37the appropriate Agency]] to take the steps needed—

(a) for the purpose of ensuring that the activities to which the licence relates do not cause pollution of water or danger to public health or become seriously detrimental to the amenities of the locality affected by the activities; and

(b) for the purpose of ensuring that the conditions specified in the licence are complied with.

(2) For the purpose of performing the duty which is imposed on [F38the Environment Agency or SEPA, as the case may be,] by the preceding subsection in connection with a licence, any officer of [F38that Agency] authorised in writing in that behalf by [F38that

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Agency**]** may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the relevant land and on any plant or equipment to which the licence relates.

(3) Where **[**F39the Environment Agency or SEPA**]** incurs any expenditure by virtue of the preceding subsection, **[**F40it**]** may recover the amount of the expenditure from the holder of the disposal licence in question, or if the licence has been revoked or cancelled from the last holder of it, except where the holder or last holder of the licence shows that there was no emergency requiring any work or except such of the expenditure as he shows was unnecessary.

(4) Where it appears to **[**F41the appropriate Agency**]** that a condition specified in a disposal licence . . . F42is not being complied with, then, without prejudice to any proceedings in pursuance of section 3 or 6(3) of this Act in consequence of any failure to comply with the condition, **[**F41that Agency**]** may—

(a) serve on the licence holder a notice requiring him to comply with the condition before a time specified in the notice; and

(b) if in the opinion of **[**F41that agency**]** the licence holder has not complied with the condition by that time, serve on him a further notice revoking the licence at a time specified in the further notice.

Textual Amendments

F36 S. 9 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162, **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F37 Words in s. 9(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 23(2)** (Sch. 22 para. 23 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F38 Words in s. 9(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 23(3)** (Sch. 22 para. 23 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, art, 3

F39 Words in s. 9(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 23(4)(a)** (Sch. 22 para. 23 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F40 Word in s. 9(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 23(4)(b)** (Sch. 22 para. 23 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F41 Words in s. 9(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 23(5)(a)(c)** (Sch. 22 para. 23 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F42 Words in s. 9(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 23(5)(b), **Sch. 24** (Sch. 22 para. 23 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C18 S. 9 modified (27.7.1999) by 1999 c. 24, **s. 4(6)(c)**

C19 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

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[F43 10 Appeals to Secretary of State from decisions with respect to licences.

(1) Where—

(a) an application for a disposal licence or a modification of a disposal licence is rejected; or

(b) a disposal licence which specifies conditions is issued; or

(c) the conditions specified in a disposal licence are modified; or

(d) a disposal licence is revoked,

the applicant for the licence or, as the case may be, the holder or last holder of it may, in accordance with regulations, appeal from the decision in question to the Secretary of State; and where on such an appeal the Secretary of State determines that the decision is to be altered it shall be the duty of **[**F44the appropriate Agency**]]** to give effect to the determination.

(2) While an appeal in pursuance of the preceding subsection is pending in a case falling within paragraph (c) or (d) of that subsection, the decision in question shall, subject to the following subsection, be ineffective; and if the appeal is dismissed or withdrawn the decision shall be effective again from the end of the day on which the appeal is dismissed or withdrawn.

(3) The preceding subsection shall not apply **[**F45if the decision in question is a decision**]** as respects which the notice relating to the decision which was served on the holder of the relevant licence in pursuance of section 7 or section 9(4)(b) of this Act includes a statement that **[**F45in the opinion of the body making the decision in question**]** it is necessary for the purpose of preventing pollution of water or danger to public health that the preceding subsection should not apply to the decision; but if on the application of the holder or former holder of the relevant licence the Secretary of State determines that **[**F45that body acted**]** unreasonably in including such a statement in the said notice, then—

(a) if the appeal in question is still pending at the end of the day on which the determination is made, the preceding subsection shall apply to the decision from the end of that day; and

(b) the holder or former holder of the licence shall be entitled to recover compensation from **[**F45the appropriate Agency**]** in respect of any loss suffered by him in consequence of the statement;

and any dispute as to a person's entitlement to compensation in pursuance of paragraph (b) of this subsection or as to the amount of the compensation shall be determined by arbitration.

Textual Amendments

F43 S. 10 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3, 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162, **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F44 Words in s. 10(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 24(2)** (Sch. 22 para. 24 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S. I. 1996/186, **art. 3**

F45 Words in s. 10(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 24(3)** (Sch. 22 para. 24*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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Modifications etc. (not altering text)

C20 Ss. 3-10: functions transferred (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

F46 11 . . . . . .

Textual Amendments

F46 S. 11(1)-(11) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 25, **Sch. 24** (Sch. 22 para. 25 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Collection and disposal of controlled waste

[F47 12 Collection of waste.

(1) It shall be the duty of each collection authority—

(a) subject to subsection (3) of this section, to arrange for the collection of all household waste in its area except waste—

(i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and

(ii) as to which the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste; and

(b) if requested by the occupier of premises in its area to collect any commercial waste from the premises, to arrange for the collection of the waste.

(2) Each **[**F48English county disposal authority**]]** and each collection authority may, if requested by the occupier of premises in its area to collect any industrial waste from the premises, arrange for the collection of the waste; but an English collection authority shall not be entitled to exercise the powers conferred on it by this subsection except with the consent of the relevant disposal authority.

(3) No charge shall be made for the collection of household waste in pursuance of the preceding provisions of this section except in prescribed cases; and in any of those cases—

(a) the duty to arrange for the collection of the waste in question which is imposed on the collection authority by subsection (1)(a) of this section shall not arise until a person who controls the waste requests the authority to collect it; and

(b) the authority may recover a reasonable charge for the collection of the waste from the person who made the request in respect of it in pursuance of the preceding paragraph.

(4) A person at whose request waste other than household waste is collected in pursuance of the preceding provisions of this section shall be liable to pay a reasonable charge for the collection and disposal of the waste to the authority which arranged for its collection; and it shall be the duty of that authority to recover the charge unless in the

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case of a charge in respect of commercial waste the authority considers it inappropriate to do so.

(5) It shall be the duty of each collection authority—

(a) to make such arrangements for the emptying of privies serving one or more private dwellings in its area as the authority considers appropriate and to make no charge for emptying done in pursuance of the arrangements;

(b) if requested by the person who controls a cesspool serving only one or more private dwellings in its area to empty the cesspool, to remove such of the contents of the cesspool as the authority considers appropriate on payment if the authority so requires of a reasonable charge;

and a collection authority may, if requested by the person who controls any other privy or cesspool in its area to empty the privy or cesspool, remove matter from it on payment as aforesaid.

In this subsection "privy" means a latrine which has a moveable receptacle for faecal matter and "cesspool" includes a settlement tank or other tank for the reception or disposal of foul matter from buildings.

(6) An **[**F49English county disposal authority**]** and any collection authority may—

(a) construct, lay and maintain, within or outside its area, pipes and associated works for the purpose of collecting waste in pursuance of this section;

(b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works connecting with pipes provided by the authority in pursuance of the preceding paragraph.

(7) Parts V and VI of Schedule 3 to the M1Water Act 1945 (which relate to the laying of mains and the breaking up of streets) shall apply in relation to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection as those Parts apply in relation to water mains and pipes but as if—

(a) sections 19(4) and 21 of that Schedule (which relate to the erection of street notices and the laying of service pipes) were omitted, and in section 22 of that Schedule the words "which they are authorised to lay" were omitted; and

(b) for any reference to undertakers or limits of supply there were substituted respectively a reference to the authority in question and the area of the authority; and

(c) for the reference to the special Act in section 25(4) of that Schedule there were substituted a reference to this subsection;

and the M2Pipe-lines Act 1962 shall not apply to pipes or associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection.

(8) A collection authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with household waste before it is collected under arrangements made by the authority in pursuance of subsection (1)(a) of this section; and an **[**F49English county disposal authority**]** and any collection authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with commercial or industrial waste before it is collected under arrangements made by the authority in pursuance of subsection (1)(b) or subsection (2) of this section.

(9) Subject to section 14(1) and (9) of this Act, anything collected under arrangements made by an authority in pursuance of this section shall belong to the authority and may be dealt with accordingly.

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(10) In the application of this section to Scotland—

(a) in subsection (5), paragraph (b) and the references to a cesspool occurring later in that subsection shall be omitted;

(b) for subsection (7) there shall be substituted the following subsection:—

(7) Sections 2, 3, 4 and 41 of the [M3]Sewerage (Scotland) Act 1968 (which relate to the maintenance etc. of public sewers and other works and the breaking open of streets etc.) shall apply in relation to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection as those sections apply in relation to public sewers but as if—

(a) the said section 2 conferred a power, and did not impose a duty, on a local authority to do the things mentioned in that section; and

(b) in the said section 4, the words from "but, before any person" to the end were omitted;

and the [M4]Pipe-lines Act 1962 shall not apply to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection.

(c) in subsection (9), for the reference to section 14(1) and (9) of this Act there shall be substituted a reference to section 15(4) of this Act.

(11) References to waste in the preceding provisions of this section include waste on premises occupied by the Crown but exclude waste as to which the Commissioners executing the [M5]Crown Estate Paving Act 1851 (which among other things relates to premises in the Regent's Park) make arrangements for its collection; but a disposal or collection authority shall not be entitled by virtue of this subsection to exercise, in relation to such premises or waste on such premises, any power conferred on the authority by virtue of sections 91 to 93 of this Act.

Textual Amendments

F47 S. 12 repealed (1.4.1992) (save in so far as it relates to industrial waste in England and Wales) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. II**; S.I. 1992/266, **art. 3**.

F48 Words substituted with effect from 1.4.1986 as provided by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, **Sch 6 para. 3(2)**

F49 Words substituted (1.4.1986) as provided by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, **Sch. 6 para. 3(2)**

Modifications etc. (not altering text)

C21 By S.I. 1985/1884, art. 5, **Sch. 2 para. 8**(*a*) (which was made under the power in s. 10(1)(3)(6)(7) of Local Government Act 1985 (c. 51, SIF 81:1) which power by virtue of s.10(7) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 12(2) shall be modified to have effect as if after "English county disposal authority" there were inserted ", each London waste disposal authority", for the words "an English collection authority" there were substituted the words "a collection authority in England whose area is included in the area of a disposal authority" and for the words "the relevant disposal authority"there were substituted "the disposal authority"

C22 By S.I. 1985/1884, art. 5, **Sch. 2 para. 8**(*b*) (which was made under the power in s. 10(1)(3)(6)(7) of Local Government Act 1985 (c. 51, SIF 81:1) which power by virtue of s. 10(3) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 12(6)(8) shall be modified to have effect as if after "English county disposal authority" there were inserted ", a London waste disposal authority"

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Marginal Citations

M1 1945 c. 42.
M2 1962 c. 58.
M3 1968 c. 47.
M4 1962 c. 58.
M5 1851 c. 95.

[F50 13 Dustbins etc. E+W

[Where a collection authority has a duty by virtue of subsection (1)(a) of the preceding F51(1) section to arrange for the collection of household waste from any premises, the authority may, by a notice served on the occupier of the premises, require him to place the waste for collection in receptacles which are of a kind and number reasonably specified in the notice.

(1A) A person who fails to comply with any of the requirements of such a notice shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding **[**F52level 3 on the standard scale**]]]**.

(2) A notice served by an authority in pursuance of the preceding subsection may provide for the receptacles in question to be provided by the authority free of charge or—

(a) if the recipient of the notice agrees, by the authority on payment by the recipient of the notice of such a single payment or such periodical payments as he agrees with the authority; or

(b) by the recipient of the notice if he does not enter into an agreement in pursuance of the preceding paragraph within a period specified in the notice or the notice does not propose such an agreement.

(3) Where by virtue of such a notice the recipient of it is required to provide any receptacles he may within the period of twenty-one days beginning with the last day of the period specified in the notice in pursuance of paragraph (b) of the preceding subsection or, where no period is so specified, beginning with the day on which the notice is served on him, appeal to a magistrates' court against the notice on the ground that **[**F53any requirement specified in**]** the notice is unreasonable or on the ground that the receptacles in which household waste in the premises in question is placed for collection are adequate; and where an appeal against a notice is brought in pursuance of this subsection—

(a) the notice shall be of no effect pending the determination of the appeal; and

(b) the court shall either quash or modify the notice or dismiss the appeal; and

(c) no question as to whether **[**F54any requirement**]** specified in the notice is unreasonable shall be entertained in any proceedings for an offence under this section in respect of the notice.

(4) An **[**F55English disposal authority**]** and any collection authority may at the request of any person supply him with receptacles for commercial waste or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied in pursuance of this subsection unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.

[F56(5) If it appears to a collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is

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not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality in which the premises are situated, the authority may, by a notice served on the occupier of the premises, require him to provide at the premises receptacles for the storage of such waste which are of a kind and number reasonably specified in the notice.

(5A) A person who fails to comply with any requirement specified in a notice shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding **[**[F52]level 3 on the standard scale**]]**.

(6) A person on whom a notice is served in pursuance of the preceding subsection may, within the period of twenty-one days beginning with the day on which the notice is served on him, appeal to a magistrates' court against the notice on the grounds that **[**[F57]any requirement**]** specified in the notice is unreasonable or that the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality in which the premises are situated; and where an appeal against a notice is brought in pursuance of this subsection, paragraph (a) to (c) of subsection (3) of this section shall apply in relation to the notice as they apply in relation to such a notice as is mentioned in that subsection.

[[F58](7) A notice under subsection (1) or (5) of this section may make provision with respect to—

(a) the size, construction and maintenance of receptacles for controlled waste;

(b) the placing of the receptacles on premises for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;

(c) the placing of the receptacles for that purpose on highways;

(d) the substances which may and may not be put into the receptacles and the precautions to be taken where particular substances are put into them; and

(e) the steps to be taken by occupiers of premises for the purposes of facilitating the collection of waste from receptacles for controlled waste which are provided in connection with the premises.

(7A) A notice under subsection (1) or (5) of this section shall not require receptacles to be placed on a highway unless—

(a) the relevant highway authority have given their consent to their being so placed; and

(b) arrangements have been made as to the liability for any damage arising out of their being so placed.**]**

(8) References to receptacles in the preceding provisions of this section include references to holders for receptacles.

Extent Information

E2 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

F50 S. 13 repealed (1.4.1992) (save in so far as it relates to industrial waste in England and Wales) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. II**; S.I. 1992/266, **art. 3**.

F51 S. 13(1)(1A) substituted for s. 13(1) by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(1)**

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F52 Words "level 3 on the standard scale" substituted (11.4.1983) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F53 Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(2)(a)**

F54 Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(2)(b)**

F55 Words substituted (1.4.1986) as provided by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, **Sch. 6 para. 3(2)**

F56 S. 13(5)(5A) substituted for s. 13(5) by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(3)**

F57 Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(4)**

F58 S. 13(7)(7A) substituted for s. 13(7) by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(5)**

Modifications etc. (not altering text)

C23 By S.I. 1985/1884, art. 5, **Sch. 2 para. 9** (which was made under the power in s. 10(1)(3)(6)(7) of Local Government Act 1985 (c. 51, SIF 81:1) which power by virtue of s. 10(3) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 13(4) shall be modified to have effect as if after "English county disposal authority" there were inserted ", a London waste disposal authority"

[F339 13 Dustbins etc. S

[Where a collection authority has a duty by virtue of subsection (1)(a) of the preceding F340(1) section to arrange for the collection of household waste from any premises, the authority may, by a notice served on the occupier of the premises, require him to place the waste for collection in receptacles which are of a kind and number reasonably specified in the notice.

(1A) A person who fails to comply with any of the requirements of such a notice shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding **[**F341level 3 on the standard scale**]]]**.

(2) A notice served by an authority in pursuance of the preceding subsection may provide for the receptacles in question to be provided by the authority free of charge or —

(a) if the recipient of the notice agrees, by the authority on payment by the recipient of the notice of such a single payment or such periodical payments as he agrees with the authority; or

(b) by the recipient of the notice if he does not enter into an agreement in pursuance of the preceding paragraph within a period specified in the notice or the notice does not propose such an agreement.

(3) Where by virtue of such a notice the recipient of it is required to provide any receptacles he may within the period of twenty-one days beginning with the last day of the period specified in the notice in pursuance of paragraph (b) of the preceding subsection or, where no period is so specified, beginning with the day on which the notice is served on him, appeal to a magistrates' court against the notice on the ground that **[**F342any requirement specified in**]** the notice is unreasonable or on the ground that the receptacles in which household waste in the premises in question is placed for collection are adequate; and where an appeal against a notice is brought in pursuance of this subsection—

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(a) the notice shall be of no effect pending the determination of the appeal; and

(b) the court shall either quash or modify the notice or dismiss the appeal; and

(c) no question as to whether **[**F343any requirement**]** specified in the notice is unreasonable shall be entertained in any proceedings for an offence under this section in respect of the notice.

(4) An **[**F344English disposal authority**]** and any collection authority may at the request of any person supply him with receptacles for commercial waste or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied in pursuance of this subsection unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.

[F345(5) If it appears to a collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality in which the premises are situated, the authority may, by a notice served on the occupier of the premises, require him to provide at the premises receptacles for the storage of such waste which are of a kind and number reasonably specified in the notice.

(5A) A person who fails to comply with any requirement specified in a notice shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding **[**F341level 3 on the standard scale**]]**.

(6) A person on whom a notice is served in pursuance of the preceding subsection may, within the period of twenty-one days beginning with the day on which the notice is served on him, appeal to a magistrates' court against the notice on the grounds that **[**F346any requirement**]** specified in the notice is unreasonable or that the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality in which the premises are situated; and where an appeal against a notice is brought in pursuance of this subsection, paragraph (a) to (c) of subsection (3) of this section shall apply in relation to the notice as they apply in relation to such a notice as is mentioned in that subsection.

[F347(7) A notice under subsection (1) or (5) of this section may make provision with respect to—

(a) the size, construction and maintenance of receptacles for controlled waste;

(b) the placing of the receptacles on premises for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;

(c) the placing of the receptacles for that purpose on **[**F348roads**]**;

(d) the substances which may and may not be put into the receptacles and the precautions to be taken where particular substances are put into them; and

(e) the steps to be taken by occupiers of premises for the purposes of facilitating the collection of waste from receptacles for controlled waste which are provided in connection with the premises.

(7A) A notice under subsection (1) or (5) of this section shall not require receptacles to be placed on a **[**F349road**]** unless—

(a) the **[**F350roads authority**]** have given their consent to their being so placed; and

(b) arrangements have been made as to the liability for any damage arising out of their being so placed.**]**

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(8) References to receptacles in the preceding provisions of this section include references to holders for receptacles.

Textual Amendments

F339 S. 13 repealed (1.4.1992) (save in so far as it relates to industrial waste in England and Wales) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. II**; S.I. 1992/266, **art. 3**.

F340 S. 13(1)(1A) substituted for s. 13(1) by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(1)**

F341 Words "level 3 on the standard scale" substituted (11.4.1983) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F342 Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(2)(a)**

F343 Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(2)(b)**

F344 Words substituted (1.4.1986) as provided by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, **Sch. 6 para. 3(2)**

F345 S. 13(5)(5A) substituted for s. 13(5) by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(3)**

F346 Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(4)**

F347 S. 13(7)(7A) substituted for s. 13(7) by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 10(5)**

F348 Words in s. 13(7)(c) substituted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(2)**(*a*)

F349 Words in s. 13(7A) substituted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(2)**(*a*)(i)

F350 Words in s. 13(7A)(a) substituted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(2)**(*b*)(ii)

Modifications etc. (not altering text)

C220 By S.I. 1985/1884, art. 5, **Sch. 2 para. 9** (which was made under the power in s. 10(1)(3)(6)(7) of Local Government Act 1985 (c. 51, SIF 81:1) which power by virtue of s. 10(3) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 13(4) shall be modified to have effect as if after "English county disposal authority" there were inserted ", a London waste disposal authority"

[F59 14 Disposal of waste in England and Wales.

(1) Subject to the following subsection, it shall be the duty of each English collection authority to deliver to the relevant disposal authority, at such places as the disposal authority directs, all waste which is collected by the collection authority in pursuance of section 12 of this Act except waste paper which the collection authority decides is not to be delivered to the disposal authority; and anything delivered to a disposal authority in pursuance of this subsection shall belong to that authority and may be dealt with accordingly.

(2) An English collection authority and the relevant disposal authority may agree that, subject to such conditions as to payment or otherwise as may be specified in the agreement, waste to which the agreement relates shall not be delivered to the disposal

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authority in pursuance of the preceding subsection but shall be dealt with under arrangements made by the collection authority for the purpose of enabling the waste to be used again or substances to be reclaimed from it.

(3) Without prejudice to the powers of collection authorities apart from this subsection, a collection authority shall have power to provide plant and equipment for the sorting and baling of waste paper retained by the authority in pursuance of subsection (1) of this section or for sorting or processing waste retained by the authority in pursuance of the preceding subsection.

(4) It shall be the duty of each disposal authority to arrange for the disposal of the waste collected by it in pursuance of section 12 of this Act or delivered to it in pursuance of subsection (1) of this section; and, without prejudice to the authority's powers apart from the following provisions of this subsection **[**[F60]but subject to subsection (6) of section 77 of the Environmental Protection Act 1990 as respects any time after the date applicable to the authority under paragraph (a) or (b) of that subsection**]**, the powers exercisable by the authority for the purpose of performing that duty shall include power—

(a) to provide, within or outside its area, places at which to deposit waste before the authority transfers it to a place or plant or equipment provided in pursuance of the following paragraph; and

(b) to provide, within or outside its area, places at which to dispose of the waste and plant or equipment for processing it or otherwise disposing of it.

(5) Subsections (6) and (7) of section 12 of this Act shall have effect in relation to a disposal authority as if the reference in paragraph (a) of the said subsection (6) to the collection of waste in pursuance of that section included the disposal of waste in pursuance of this section and the disposal of anything produced from waste belonging to the authority.

(6) A disposal authority or a collection authority may permit another person to use facilities provided by the authority in pursuance of the preceding provisions of this section and may provide for the use of another person any such facilities as the authority has power to provide in pursuance of those provisions; and—

(a) subject to the following paragraph, it shall be the duty of the authority to make a reasonable charge in respect of the use by another person of the facilities unless the authority considers it appropriate not to make a charge;

(b) no charge shall be made in pursuance of this subsection in respect of household waste; and

(c) anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.

(7) A collection authority and the relevant disposal authority may enter into an agreement for the making by either authority to the other of such payments as may be determined by or under the agreement in respect of waste collected by the collection authority in pursuance of section 12 of this Act including, without prejudice to the generality of the preceding provisions of this subsection, an agreement for the making of payments to the collection authority in respect of such arrangements as are mentioned in subsection (2) of this section.

(8) Except as otherwise agreed in pursuance of the preceding subsection, the relevant disposal authority shall—

(a) be entitled to receive from an English collection authority such sums as are needed to defray the reasonable cost to the disposal authority of disposing

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of commercial and industrial waste delivered to the disposal authority by the collection authority in pursuance of this section; and

(b) pay to an English collection authority a reasonable contribution towards expenditure reasonably incurred by the collection authority in delivering waste to the disposal authority in pursuance of subsection (1) of this section where the place of delivery is unreasonably far from the collection authority's area;

and any question arising in pursuance of paragraph (a) of this subsection as to what cost is reasonable or in pursuance of paragraph (b) of this subsection as to whether a contribution is reasonable or expenditure was reasonably incurred or as to whether a place is unreasonably far from a collection authority's area shall, in default of agreement between the two authorities in question, be determined by arbitration.

(9) References to waste in subsections (1), (2), (4), (7) and (8) of this section do not include matter removed from privies or cesspools in pursuance of section 12(5) of this Act, and it shall be the duty of a collection authority by which matter is so removed—

(a) to deliver the matter, in accordance with any directions of the **[**F61sewerage undertaker**]** of which the area includes that of the collection authority, at a place specified in the directions (which must be in or within a reasonable distance from the collection authority's area) to the **[**F61sewerage undertaker**]** or to another person so specified;

(b) to give to the **[**F61sewerage undertaker**]** from time to time a notice stating the quantity of the matter which the collection authority expects to deliver to or as directed by the **[**F61sewerage undertaker**]** in pursuance of the preceding paragraph during a period specified in the notice.

(10) Any question arising in pursuance of paragraph (a) of the preceding subsection as to whether a place is within a reasonable distance from a collection authority's area shall, in default of agreement between the collection authority and the **[**F62sewerage undertaker**]** in question, be determined by arbitration; and anything delivered to a **[**F62sewerage undertaker**]** in pursuance of that subsection shall belong to **[**F63the undertaker**]** and may be dealt with accordingly.

[F64(11) For the purposes of so much of the Water Act 1989 as relates to charging by sewerage undertakers the reception and disposal by a sewerage undertaker or other person of matter delivered to it or him by another sewerage undertaker in pursuance of subsection (9) of this section shall be treated as a service provided for that other undertaker by the sewerage undertaker in the course of carrying out its functions.**]**

(12) This section does not apply to Scotland.

Textual Amendments

F59 S. 14 repealed (1.4.1992 for specified purposes (save in so far as it relates to industrial waste in England and Wales), 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43), ss. 162(2), 164(3), **Sch. 16 Pt. II**; S.I. 1992/266, art. 3, S.S.I. 2015/72, art. 2(2)(a)

F60 Words in s. 14(4) inserted (31.5.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 77(8)**; S.I. 1991/1319, **art. 2**.

F61 Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(5)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F62 Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(5)(b)(i), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

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F63 Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(5)(b)(ii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F64 S. 14(11) substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(5)(c), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

Modifications etc. (not altering text)

C24 S. 14(1) is modified and has effect as if in subsection (1) after "English collection authority" there were inserted "and each collection authority in the area of a London waste disposal authority" by S.I. 1985/1884, **art. 5 Sch. 2 para. 10**(*a*)(i)

C25 S. 14 is modified and has effect as if in subsection (1) for "the relevant disposal authority" there were substituted "the disposal authority whose area includes that of the collection authority ("the relevant authority")" and for the words "disposal authority" in each place where they subsequently occur there were substituted "relevant disposal authority" by S.I. 1985/1884, art. 5, **Sch. 2 para. 10**(*a*)(ii)(iii)

C26 S. 14(2) is modified and has effect as if for "an English collection authority" there were substituted "a collection authority" by S.I. 1985/1884, art. 5, **Sch. 2 para. 10**(*b*)

C27 S. 14(8) is modified and has effect as if for "an English collection authority" there were substituted "a collection authority" by S.I. 1985/1884, art. 5, **Sch. 2 para. 10**(*b*)

F65 15 . . . . . .

Textual Amendments

F65 S. 15 repealed (1.4.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. II**; S.I. 1992/266, **art. 3**.

16 Removal of waste deposited in breach of licensing provisions.

(1) If any controlled waste is deposited on any land **[**F66in contravention of section 3(1) of this Act, any authority to which this section applies may**]** serve a notice on the occupier of the land requiring him—

(a) to remove the waste from the land within a period specified in the notice, which shall not be less than twenty-one days beginning with the date of service of the notice; or

(b) to take within such a period such steps as are so specified with a view to eliminating or reducing the consequences of the deposit of the waste,

or requiring him both to remove the waste as mentioned in paragraph (a) of this subsection and to take such steps as are mentioned in paragraph (b) of this subsection within such a period as aforesaid.

(2) A person served with a notice in pursuance of the preceding subsection may within the twenty-one days aforesaid appeal to a magistrates' court against the notice; and on any such appeal the court shall quash the notice if it is satisfied that—

(a) the appellant neither deposited nor caused nor knowingly permitted the deposit of the waste on the land; or

(b) service of the notice on the appellant was not authorised by the preceding subsection; or

(c) there is a material defect in the notice;

and in any other case shall either modify the notice or dismiss the appeal.

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(3) Where a person appeals against a notice in pursuance of this section, the notice shall be of no effect pending the determination of the appeal; and where the court modifies the notice or dismisses the appeal it may extend the period specified in the notice.

(4) If a person on whom a notice is served in pursuance of subsection (1) of this section fails to comply with the notice, then—

(a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**F67£400**][**F67level 5 on the standard scale**]** and a further fine not exceeding £50 for each day on which the failure continues after conviction for the offence and before the authority which served the notice has begun to exercise its powers in pursuance of the following paragraph; and

(b) the said authority may do what that person was required by the notice to do and may recover from him any expenses reasonably incurred by the authority in doing it.

(5) If it appears to such an authority as is mentioned in subsection (1) of this section that waste has been deposited as there mentioned and that—

(a) in order to remove or prevent pollution of water or danger to public health it is necessary forthwith to remove the waste or to take other steps with a view to eliminating or reducing the consequences of the deposit of it or necessary forthwith to remove the waste and to take such other steps; or

(b) there is no occupier of the land in question; or

(c) the occupier of the land neither made nor knowingly permitted the deposit of the waste,

the authority may remove the waste from the land or take such other steps as aforesaid or, as the case may require, may remove it and take such other steps.

(6) Where an authority exercises in respect of any land a power conferred on it by the preceding subsection it shall be entitled to recover the cost of doing so and of disposing of any waste removed in the exercise of the power—

(a) in a case falling within paragraph (a) of that subsection, from the occupier of the land unless he proves that he neither made nor caused nor knowingly permitted the deposit in question;

(b) in any case, from any person who deposited or caused or knowingly permitted the deposit of any of the waste in question on the land,

except such of the cost as the occupier or other person shows was incurred unnecessarily.

(7) Any waste removed by an authority in pursuance of this section shall belong to the authority and may be dealt with accordingly.

[F68(8) The authorities to which this section applies are—

(a) the appropriate Agency;

(b) any collection authority in whose area the land mentioned in subsection (1) above is situated.**]**

Textual Amendments

F66 Words in s. 16(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 26(2)** (Sch. 22 para. 26 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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F67 Wordsin s. 16(4)(a) substituted (11.4.1983) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F68 S. 16(8) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 26(3)** (Sch. 22 para. 26 is*prospectively* repealed by Sch. 24 of the same 1995 Act) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C28 S. 16: transfer of functions (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

17 Special provisions with respect to certain dangerous or intractable waste.

(1) If the Secretary of State considers that controlled waste of any kind is or may be so dangerous or difficult to dispose of that special provision in pursuance of this subsection is required for the disposal of waste of that kind by disposal authorities or other persons, it shall be his duty to make provision by regulations for the disposal of waste of that kind (hereafter in this section referred to as "special waste"); and, without prejudice to the generality of the Secretary of State's power to make regulations in pursuance of the preceding provisions of this subsection, any such regulations may include provision—

(a for the giving of directions by disposal authorities with respect to matters connected with the disposal of special waste;

(b) for securing that special waste is not, while awaiting disposal in pursuance of the regulations, kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;

(c) for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to a prescribed authority;

(d) for the keeping of records by persons who produce or dispose of special waste or transfer it to another person for disposal, for the inspection of the records and for the furnishing by such persons to prescribed authorities of copies of or information derived from the records;

(e) providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence (which shall not exceed, on summary conviction, a fine of £400 and, on conviction on indictment, imprisonment for a term of two years and a fine).

(2) Without prejudice to the generality of the power to make regulations conferred by the preceding subsection, regulations made in pursuance of that subsection may include provision—

(a) requiring special waste of particular kinds to be disposed of only by disposal authorities or, in the case of special waste of a kind which the Secretary of State considers involves or may involve such a risk of damage to persons or animals or vegetation that it should be disposed of only by him, to be disposed of only by the Secretary of State;

(b) for the supervision by disposal authorities (whether by the application with modifications of provisions of section 9 of this Act or otherwise) of activities authorised by virtue of the regulations;

(c) as to the recovery of expenses or other charges for disposals by disposal authorities or the Secretary of State in pursuance of the regulations;

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(d) as to appeals to the Secretary of State from decisions of disposal authorities in pursuance of the regulations.

(3) Provision may also be made by regulations—

(a) for the giving of a direction, in respect of any place in respect of which a disposal licence or a resolution in pursuance of section 11 of this Act is in force, requiring the holder of the licence or the authority which passed the resolution to accept and dispose of at the place, on such terms as are specified in the direction (including terms as to the making of payments to the recipient of the direction), such special waste as is so specified;

(b) as to the consents to be obtained and the other steps to be taken before a direction may be given in pursuance of the regulations and as to appeals to the Secretary of State against a direction so given;

(c) providing that a failure to comply with such a direction shall be an offence punishable on summary conviction by a fine not exceeding **[**F69£400**][**F69level 5 on the standard scale**]** or such less amount as is prescribed and that a person shall not be guilty of an offence under any prescribed enactment by reason only of anything necessarily done or omitted in order to comply with such a direction.

Textual Amendments

F69 Words "level 5 on the standard scale" substituted (11.4.1983) for words"£400" by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

Modifications etc. (not altering text)

C29 S. 17 extended by S.I. 1980/1709, **reg. 3(1)**

C30 S. 17(1)(a), (2)(b)-(d): transfer of functions (12.10.1995) by 1995 c. 25, **s. 21(1)(c)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

Waste other than controlled waste

[F70**18 Application of preceding provisions to other waste.**

(1) The Secretary of State may, after consultation with such bodies as he considers appropriate, make regulations providing that prescribed provisions of sections 1 to 11 and 14 to 17 of this Act shall have effect in a prescribed area—

(a) as if references in those provisions to controlled waste or controlled waste of a kind specified in the regulations included references to such waste as is mentioned in section 30(3)(c)(ii) of this Act which is of a kind so specified; and

(b) with such other modifications as are prescribed;

and regulations made in pursuance of this subsection may make such modifications of any enactment other than the sections aforesaid as the Secretary of State considers appropriate in connection with the regulations.

(2) A person who—

(a) deposits on any land any waste other than controlled waste; or

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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(b) causes or knowingly permits the deposit on any land of any waste other than controlled waste,

in a case where, if the waste were controlled waste and any disposal licence relating to the land were not in force, he would be guilty of an offence under section 3(3) of this Act shall be guilty of such an offence and punishable accordingly unless the act charged was done in pursuance of and in accordance with the terms of any consent, licence, approval or authority granted under any enactment (excluding any planning permission under the enactments relating to town and country planning); and in this subsection "land" includes such water as is mentioned in section 4(4) of this Act.

(3) Subsection (2) of section 12 and subsection (4) of section 13 of this Act shall apply to waste other than controlled waste as the subsections apply to controlled waste.**]**

Textual Amendments

F70 S. 18 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided in art. 3 of S.I. 1994/1096, 1.4.2015 for S. so far as not already in force) by Environmental Protection Act 1990 (c. 43), s. 162(2), **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

19 Powers of disposal authorities as respects other waste.

Each disposal authority shall have power to collect information about, and to make arrangements for the disposal of, waste which is situated or likely to be situated in its area and is not controlled waste; but nothing in sections 91 to 94 of this Act shall apply to functions conferred on an authority or information collected by an authority in pursuance of this section.

Reclamation etc. of waste

20 Reclamation of waste.

Without prejudice to the powers of disposal authorities apart from this section, any disposal authority may—

(a) do such things as the authority considers appropriate for the purpose of—

(i) enabling waste belonging to the authority, or belonging to another person who requests the authority to deal with it in pursuance of this section, to be used again, or

(ii) enabling substances to be reclaimed from such waste;

(b) buy or otherwise acquire waste with a view to its being used again or to the reclamation of substances from it; and

(c) use, sell or otherwise dispose of waste belonging to the authority or anything produced from such waste.

21 Production of heat and electricity from waste etc.

(1) A disposal authority may, subject to **[**F71subsection (2)**]** of this section,—

(a) use waste belonging to the authority for the purpose of producing from it heat or electricity or both;

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(b) establish and operate, within or outside its area, such generating stations and other installations as the authority thinks fit for the purpose aforesaid; and

(c) where the authority operates an installation in which waste is usually used as the main fuel for the purpose of producing heat or electricity, then—

(i) in the case of an installation for producing heat, use other fuel in addition to waste to produce the heat, and

(ii) in the case of an installation for producing electricity, use other fuel to assist in burning the waste to produce the electricity,

and, in an emergency, use other fuel instead of waste to produce the heat or electricity;

and a disposal authority may use, sell or otherwise dispose of any heat **[**F72or electricity**]** produced by the authority by virtue of this section.

[F73(2) Nothing in subsection (1) of this section shall be construed as exempting a disposal authority from the requirements of Part I of the Electricity Act 1989.**]**

(4) Subsection (6) of section 12 of this Act (except paragraph (b) of that subsection) and subsection (7) of that section (except so much of it as relates to the M6Pipe-lines Act 1962) shall have effect in relation to a disposal authority as if the reference in the said subsection (6) to the collection of waste in pursuance of that section included the conveying of heat produced by the authority by virtue of this section and of air, steam and water heated by such heat.

(5) It shall be the duty of a disposal authority by which an installation for producing heat is operated in pursuance of this section in any year to furnish to the Secretary of State, as soon as practicable after the end of that year, such particulars relating to the installation and heat produced at it as are prescribed.

(6) Nothing in this section F74. . . shall be construed as prejudicing any power exercisable by a disposal authority apart from this section.

Textual Amendments

F71 Words substituted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 18(2), Sch. 17 para. 33, **35(1)**

F72 Words inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 18(2), Sch. 17 para. 33, **35(1)**

F73 S. 21(2) substituted for subsections (2) and (3) by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 18(3), Sch. 17 para. 33, **35(1)**

F74 Words repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 18(4), Sch. 17 para. 33, 35(1), **Sch. 18**

Marginal Citations

M6 1962 c. 58.

Street cleaning and litter

[F75**22 Street cleaning etc.**

F76(1) . . . . . .

F76(2) . . . . . .

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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(3) A local authority may, with the consent of any person who has an interest in or is the occupier of any relevant land, arrange for the cleaning of the land and may enter into an agreement with such a person for the payment by him of charges in respect of the cleaning; and in this subsection "relevant land" means any land in the open air to which members of the public have access, either as of right or otherwise, and which is not the site of a highway.

(4) In the preceding provisions of this section and in the following section—

"highway" means highway maintainable at the public expense within the meaning of **[**F77the M7Highways Act 1980**]**;

"local authority" means the council of a district or London borough and the Common Council of the City of London **[**F78but, in relation to Wales, means the council of a county or county borough**]** ; and

"special road" and "trunk road" have the same meanings as in **[**F77the M8Highways Act 1980**]**.

(5) In the application of this section to Scotland the preceding subsection shall not have effect and in this section and in the following section—

"highway" and "highway authority" have respectively the same meanings as in the M9Roads (Scotland) Act 1970;

"local authority" means a collection authority;

"special road" has the same meaning as in the M10Special Roads Act 1949;

"trunk road" means a highway which by virtue of the M11Trunk Roads Acts 1936 M12 and 1946 or an order under section 1 of the Trunk Roads Act 1946, or by virtue of section 9(1) of the said Act of 1949, is a trunk road.

Textual Amendments

F75 S. 22 repealed (S.) (1.4.1983) by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I** and S.I. 1982/1397, **Sch. 2**

F76 S. 22(1)(2) repealed (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. IV**, S.I. 1991/1042, art.2

F77 Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 24(a)**

F78 Words in s. 22(4) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(1)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M7 1980 c. 66.

M8 1980 c. 66.

M9 1970 c. 20.

M10 1949 c. 32.

M11 1936 c. 5 (1 Edw. 8 & 1 Geo. 6)

M12 1946 c. 30.

[F79**23 Prohibition of parking to facilitate street cleaning.**

(1) Where in the case of any part of a highway (hereafter in this section referred to as "the relevant area") the highway authority for the relevant area or the local authority in whose area the relevant area is situated considers that, in order to facilitate the cleaning of the relevant area on a particular day (hereafter in this section referred to as "the relevant day"), it is appropriate to prohibit the parking of vehicles in the relevant area

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during certain hours of the relevant day, the authority may give notice in accordance with the following provisions of this section prohibiting such parking.

[Such a notice must specify the relevant area, the relevant day and the hours in question; [F80](2) and a copy of the notice must—

(a) be served on the occupier of any premises adjoining the relevant area; and

(b) be conspicuously displayed at places in the relevant area.

(2A) The effect of the giving of such a notice and of the service and display of copies of it as required by subsection (2) of this section shall be to suspend during the hours of the relevant day specified in the notice the operation of any provision which is contained in an order under the Road Traffic Regulation Act **[**[F81]1984**]]** or a local enactment and which authorises, designates or regulates the use of a street parking place in the relevant area.

(2B) The authority giving the notice shall cover up traffic signs and parking meters in the relevant area during the hours of the relevant day specified in the notice, but without prejudice to the effect of the notice.**]**

(3) . . . . . [F82]

(4) Regulations may . . . [F83] provide that **[**[F84]sections 99 to 102 of the Road Traffic Regulation Act 1984**]** (which among other things provide for the removal, storage and disposal of vehicles left on roads in contravention of a statutory prohibition) shall have effect, in relation to any vehicle which is or was standing on any part of a highway while parking on that part is or was prohibited by virtue of this section, with such modifications as are prescribed.

[[F85](5) If, either before or during the hours on the relevant day which are specified in a notice given by an authority as mentioned in subsection (1) of this section, the authority displays notices in the relevant area stating that the prohibition on parking is not to come into force or is to cease to be in force, the effect of the notices under this subsection shall be to prevent the prohibition coming into force or, as the case may be, to terminate it.**]**

(6) It shall be the duty of the highway authority for any part of a highway and of the local authority in whose area the part is situated to co-operate with each other in performing the functions conferred on them by virtue of this section; and where a highway authority or a local authority gives notice as mentioned in subsection (1) of this section in respect of any part of a highway for which it is the highway authority or, as the case may be, which is within its area, any other authority which is the highway authority for that part or which is the local authority within whose area that part is situated shall, with the approval of the authority which gave the notice, be entitled to act in pursuance of this section as if the other authority had given similar notice.

[[F86](6A) No authority shall issue a notice under this section whose effect would be to suspend the operation of provisions of an order not made by the highway authority without first consulting the authority who made the order.**]**

(7) Where any parking in the relevant area is, by virtue of a notice given as mentioned in subsection (1) of this section, prohibited during specified hours on the relevant day, no right of action shall accrue to any person by reason of the fact that all or some of the cleaning of the relevant area which the highway authority or, as the case may be, the local authority proposes to do or has done during those hours is not cleaning

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which that authority has or had power to do if the other of those authorities has or had power to do it.

(8) Any reference in the preceding provisions of this section to a part of a highway includes any such part on which the parking of vehicles is, apart from this section, authorised by virtue of any enactment whether on payment or free of charge; and where the parking of vehicles on such a part is prohibited by virtue of this section a person shall not be entitled to recover any sum paid by him in respect of the parking of a vehicle there.

[[F87](9) In this section "parking meter", "street parking place" and "traffic sign" have the meanings respectively assigned to them by **[**[F88]sections 46(2)(a), 142(1) and 64(1) of the Road Traffic Regulation Act 1984,**]]**

Textual Amendments

F79 S. 23 repealed (S.) (1.4.1983) by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I** and S.I. 1982/1397, **Sch. 2**

F80 S. 23(2)(2A)(2B) substituted for s. 23(2) by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 11(1)**

F81 "1984" substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, **Sch. 13 para. 30**(*a*)

F82 Ss. 2(7), 23(3) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

F83 Word repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

F84 Words substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, **Sch. 13 para. 30**(*b*)

F85 S. 23(5) substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 11(3)**

F86 S. 23(6A) inserted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 11(4)**

F87 S. 23(9) inserted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 11(5)**

F88 Words substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, **Sch. 13 para. 30**(*c*)

24 Litter.

(1) It shall be the duty of the council of each county in England and Wales and the local authorities of which the areas are included in the county and, where the county includes land in a National Park, the Park authority to consult from time to time together, and with such voluntary bodies as the council and the authorities consider appropriate and as agree to participate in the consultations, about the steps which the council and each of the authorities and bodies is to take for the purpose of abating litter in the county; and it shall be the duty of the county council—

(a) to prepare and from time to time revise a statement of the steps which the council and each of the authorities and bodies agrees to take for that purpose; and

(b) to take such steps as in its opinion will give adequate publicity in the county to the statement; and

(c) to keep a copy of the statement available at its principal office for inspection by the public free of charge at all reasonable hours.

(2) The preceding subsection shall apply to Greater London and the Greater London Council as it applies to a county and the council of a county, and in that subsection "local authority" means a collection authority, a parish council, a parish meeting and a

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community council and "Park authority" means the National Parks Committee or the joint or special planning board for the park in question,

(3) In Scotland, it shall be the duty of—

(a) the council of each region of and the district councils of which the districts are included in the region to consult from time to time together and with such voluntary bodies as the regional council and the district councils consider appropriate and as agree to participate in the consultations;

(b) the council of each islands area to consult with such voluntary bodies as the council considers appropriate and as agree to participate in the consultations,

about the steps which the regional or islands council and each of the bodies with which it consulted (including, in the case of a regional council, each district council) is to take for the purpose of abating litter in the region or, as the case may be, islands area; and it shall be the duty of the regional or islands council—

(i) to prepare and from time to time revise a statement of the steps which the regional or islands council and each of the bodies agrees to take for the purpose;

(ii) to take such steps as in its opinion will give adequate publicity in its area to the statement; and

(iii) to keep a copy of the statement available at its principal office for inspection by the public free of charge at all reasonable hours.

F89(4) . . . . . .

Textual Amendments

F89 S. 24(4) repealed by Litter Act 1983 (c. 35, SIF 100:3) s. 12(3), Sch. 2

Supplemental

F90 25 . . . . . .

Textual Amendments

F90 S. 25 repealed (31.10.1994) by 1994 c. 21, s. 67(8), **Sch. 11 Pt. II** (with s. 40); S.I. 1994/2553, **art. 2**

26 Outfall pipes for sewage disposal works.

. . . . . F91

Textual Amendments

F91 S. 26 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

[F92 27 Interference with refuse tips and dustbins etc.

(1) No person shall sort over or disturb—

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(a) anything deposited at a place provided by a disposal authority or a collection authority for the deposit of waste or in a receptacle for waste which is provided by such an authority or a **[**F93parish or community council**]][**F93roads authority**]** for public use; or

(b) the contents of any receptacle for waste which, in accordance with **[**F94a notice under section 13(1) or (5)**]** of this Act, is placed on any **[**F95highway**][**F95road**]** or in any other place with a view to its being emptied,

unless he is authorised to do so by the authority **[**F96or council**]** in the case of anything deposited as mentioned in paragraph (a) above or, in the case of such a receptacle as is mentioned in paragraph (b) above, unless he is a person entitled to the custody of the receptacle or is authorised to do so by such a person or is a person having the function of emptying the receptacle.

. . . . . F96

(2) A person who contravenes any of the provisions of the preceding subsection shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding **[**F97£100**][**F97level 3 on the standard scale**]**.

Textual Amendments

F92 S. 27 repealed (1.5.1994 save in respect of specified activities, as to which in force as provided by S.I. 1994/1096, art. 3; 1.4.2015 for S. in so far as not already in force) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. II**; S.I. 1994/1096, **arts. 2**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**), S.S.I. 2015/72, art. 2(2)(a)

F93 Words "roads authority" substituted (S.) for "parish or community council" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(3)**(*a*)

F94 Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 12**

F95 "road" substituted (S.) for "highway" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 3**(*b*)

F96 Words repealed (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 156(1)(3) Sch. 9 para. 74(3)**(*c*), Sch. 11

F97 Words "level 3 on the standard scale" substituted (11.4.1983) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

28 Supplementary provisions relating to pipes.

(1) Where an authority provides pipes in pursuance of section 12(6), 14(5), 15(2), **[**F9821(4) or 26**][**F98or 21(4)**]** of this Act, it shall be the duty of the authority—

(a) except where the authority is a collection authority and the pipes are situated in its area, to send to the collection authority in whose area the pipes are situated a map . . . F99 showing the location of the pipes; and

(b) where the authority is a collection authority and the pipes are situated in its area, to prepare such a map;

and it shall be the duty of an authority by which a map is received in pursuance of paragraph (a) of this subsection or is prepared in pursuance of paragraph (b) of this subsection to secure that a copy of the map is available at its principal offices for inspection by the public free of charge at all reasonable hours.

In the application of this subsection to Scotland, the words "the authority is a collection authority and" in paragraphs (a) and (b) shall be omitted.

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[F100(2) Section 25 of the M13Public Health Act 1936 (under which the erection of buildings over a sewer or drain may be prevented or controlled by a local authority or, on appeal, by a magistrates' court) shall have effect as if references to a drain included any pipe provided as mentioned in the preceding subsection and as if the reference to the map of sewers required by that Act to be kept deposited at the offices of an authority included any map required by the preceding subsection to be kept available at the offices of the authority.**]**

(3) Section 21 of the M14Sewerage (Scotland) Act 1968 (under which the erection of buldings over a sewer vested in a local authority may be prevented or controlled by the authority or, on appeal, by the sheriff) shall have effect as if the reference to a sewer vested in a local authority included any pipe provided as mentioned in subsection (1) of this section.

(4) References to pipes in the preceding provisions of this section include associated works.

Textual Amendments

F98 Words in s. 28(1) substituted (E.W.) for "21(4) or 26" by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 25 paras. 48(6), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F99 Words repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

F100 S. 28(2) repealed (E.W.) by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

Marginal Citations

M13 1936 c. 49.

M14 1968 c. 47.

29 Modification of Parts I and II to avoid duplication of control.

The Secretary of State may by regulations make such modifications of this Part of this Act and Part II of this Act as he considers appropriate with a view to securing that the provisions of one but not both of those Parts apply to prescribed acts and omissions.

30 Interpretation etc. of Part I.

(1) Subject to the following subsection, in this Part of this Act—

[F101"the appropriate Agency" means—

(a) in relation to England and Wales, the Environment Agency;

(b) in relation to Scotland, SEPA;**]**

"associated works", in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, inspection chamber and manhole and such other works as are prescribed;

"collection authority" means the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple and "English collection authority" means a collection authority **[**F102of which the area is in the area of an English county disposal authority**]**;

"controlled waste" means household, industrial and commercial waste or any such waste;

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[F103"disposal authority" means the council of a county or metripolitan district in England, the council of a London borough and the Common Council of the City of London, "English county disposal authority" means the council of a county in England and "relevant disposal authority", in relation to an English collection authority, means the English county disposal authority whose area includes that of the collection authority;**]**

"disposal licence" has the meaning assigned to it by section 3(1) of this Act, and "holder" in relation to such a licence shall be construed in accordance with section 8(3) of this Act;

"private dwelling" means—

(a) a hereditament or premises used wholly for the purposes of a private dwelling or private dwellings as determined in accordance with Schedule 13 to the M15General Rate Act 1967; and

(b) a caravan as defined in section 29(1) of the M16Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the M17Caravan Sites Act 1968) which usually and for the time being is situated on a caravan site within the meaning of that Act;

"relevant land" means—

(a) in relation to a proposal to issue a disposal licence, the land on which activities may be carried on in pursuance of the licence if it is issued in accordance with the proposal; and

(b) in relation to a disposal licence, the land on which activities may be carried on in pursuance of the licence,

and references to land in the preceding paragraphs include such water as is mentioned in section 4(4) of this Act;

[F104"waste" has the same meaning as it has in Part II of the Environmental Protection Act 1990 by virtue of section 75(2) of that Act;**]**

F105 . . . . . .

(2) In the application of this Part of this Act to Scotland—

"collection authority" means an islands or district council;

"disposal authority" means an islands or district council;

"private dwelling" means—

(a) lands and heritages used wholly or mainly for the purposes of a private dwelling or private dwellings; and

(b) a caravan as defined in section 29(1) of the M18Caravan Sites and Control of Development Act 1960 which usually and for the time being is situated on a caravan site within the meaning of that Act;

"Scottish collection authority" means a collection authority of which the area is in Scotland;

"Scottish disposal authority" means a disposal authority of which the area is in Scotland.

(3) Subject to the following subsection, for the purposes of this Part of this Act—

(a) household waste consists of waste from a private dwelling or residential home or from premises forming part of a university or school or other educational establishment or forming part of a hospital or nursing home;

(b) industrial waste consists of waste from any factory within the meaning of the M19Factories Act 1961 and any premises occupied by a body corporate

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established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or any undertaking, excluding waste from any mine or quarry; and

(c) commercial waste consists of waste from premises used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding—

(i) household and industrial waste, and

(ii) waste from any mine or quarry and waste from premises used for agriculture within the meaning of the [M20]Agriculture Act 1947 or, in Scotland, the [M21]Agriculture (Scotland) Act 1948, and

(iii) waste of any other description prescribed for the purposes of this sub-paragraph.

(4) Regulations may provide that waste of a prescribed description shall be treated for the purposes of prescribed provisions of this Part of this Act as being or not being household waste or industrial waste or commercial waste; but no regulations shall be made by virtue of the preceding provisions of this subsection in respect of such waste as is mentioned in paragraph (c)(ii) of the preceding subsection and references in those provisions and in the preceding subsection to waste do not include sewage except so far as regulations provide otherwise.

In this subsection "sewage" includes matter in or from a privy within the meaning of section 12(5) of this Act.

(5) Except as provided by regulations made by virtue of this subsection, nothing in this Part of this Act applies to radioactive waste within the meaning of **[**[F106]the [M22]Radioactive Substances Act 1960**][**[F106]Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2010**]**; but regulations may—

(a) provide for prescribed provisions of this Part of this Act to have effect with such modifications as the Secretary of State considers appropriate for the purposes of dealing with such radioactive waste;

(b) make such modifications of **[**[F107]the said Act of 1960 and any other Act**]**[F108]**[**[F107]... the Environmental Permitting (England and Wales) Regulations 2010 and any other enactment**]** as the Secretary of State considers appropriate in consequence of the passing of this Part of this Act or in connection with regulations made by virtue of the preceding paragraph.

Textual Amendments

F101 Words in s. 30(1) inserted (1.4.1996) by Environment Act 1995 (c. 25), **Sch. 22 para. 27(a)**; S.I. 1996/186, **art. 3**

F102 Words substituted (1.4.1986) as provided by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, **Sch. 6 para. 3(5)**

F103 Definition substituted (1.4.1986) as provided by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, **Sch. 6 para. 3(5)**

F104 Words in s. 30(1) substituted (1.1.2005 for S., 15.5.2006 for E.W.) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 27(b)** (with ss. 7(6), 115, 117); S.S.I. 2004/541, **art. 2(a)**; S.I. 2006/934, **art. 2(a)**

F105 Words in s. 30(1) repealed (1.1.2005 for S., 15.5.2006 for E.W.) by Environment Act 1995 (c. 25), s. 125(3), Sch. 22 para. 27(c), **Sch. 24** (with ss. 7(6), 115, 117); S.S.I. 2004/541, **art. 2(a)(b)(i)**; S.I. 2006/934, **art. 2(a)**

F106 Words in s. 30(5) substituted (E.W.) (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), **Sch. 26 para. 3(a)** (with reg. 1(2), Sch. 4)

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F107 Words in s. 30(5)(b) substituted (E.W.) (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), **Sch. 26 para. 3(b)** (with reg. 1(2), Sch. 4)

F108 Words in s. 30(5)(b) omitted (E.W.) (1.10.2011) by virtue of The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), reg. 1(b), **Sch. 2 para. 2**

Modifications etc. (not altering text)

C31 By S.I. 1985/1884, art. 5, **Sch. 2 para. 11** (which was made under the power in s. 10(1)(3)(6)(7) of Local Government Act 1985 (c. 51, SIF 81:1) which power by virtue of s. 10(3) thereof was exercisable at any time before 1.4.86) it was provided (E.W.) that (coming into operation on 29.12.1985) s. 30 has effect as if in subsection (1) the definitions of "disposal authority", "English county disposal authority" and "relevant disposal authority" were omitted and the following definitions were inserted at the appropriate places:
"area",in relation to the Greater Manchester Waste Disposal Authority, means—
(*a*)for the purposes of the waste disposal provisions of this Act, the metropolitan county of Greater Manchester excluding the metropolitan district of Wigan; and
(*b*)for the purposes of the waste regulation provisions of this Act,the whole county;
"disposal authority" has the meaning given by subsections (2A) to (2D) of this section;
"English county disposal authority" means the council of a county in England, the Greater Manchester Waste Disposal Authority or the Merseyside Waste Disposal Authority;
"London waste disposal authority" means an authority established by Part II, III, IV or V of Schedule 1 to the Waste Regulation and Disposal (Authorities) Order 1985;
"waste disposal provisions" means—
(*a*)sections 1 and 2 (waste disposal arrangements and plans);
(*b*)section 12 (collection of waste);
(*c*)section 13(4) (provision of receptacles for industrial or commercial waste);
(*d*)section 14 (disposal of waste);
(*e*)section 17(2)(*a*) and (*c*) (disposal of dangerous or intractable waste);
(*f*)sections 19 to 21 (powers in relation to disposal of waste which is not controlled waste, reclamation of waste and production of heat and electricity from waste); and
(*g*)section 27(1) (interference with refuse tips and dustbins etc.);
"waste regulation provisions" means—
(*a*)sections 3 to 11 (disposal licences);
b)section 16 (removal of waste deposited in breach of licensing provisions); and
(*c*)section 17(1)(*a*) and (2)(*b*) to (*d*) (directions as to disposal of dangerous or intractable waste, supervision of certain activities, recovery of expenses and charges and appeals to the Secretary of State);

C32 S. 30 shall be modified to have effect as if after subsection (1) there were inserted subsections by S.I. 1985/1884, art. 5, **Sch. 2 para. 11**(*b*) the following subsections:
(2A)In Greater London the disposal authority is—
(a)for the purposes of the waste disposal provisions of this Act—
(i)in the area of a London waste disposal authority, that authority;
(ii) in the City of London, the Common Council;
(iii)in any other London borough, the council of that borough; and
(b)for the purposes of the waste regulation provisions of this Act, the London Waste Regulation Authority.
(2B)In the metropolitan county of Greater Manchester the disposal authority is—
(a)for the purposes of the waste disposal provisions of this Act—
(i)in the metropolitan district of Wigan, the district council;
(ii)in all other areas in the county, the Greater Manchester Waste Disposal Authority; and
(b)for the purposes of the waste regulation provisions of this Act, the Greater Manchester Waste Disposal Authority.
(2C)In the metropolitan county of Merseyside the disposal authority is the Merseyside Waste Disposal Authority.

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(2D)In all other local authority areas in England the disposal authority is the council of the county or metropolitan district and in Wales it is the council of the district.

C33 S. 30 modified (temp.) (26.4.2005) by The Manufacture and Storage of Explosives Regulations 2005 (S.I. 2005/1082), reg. 1(1), **Sch. 5 para. 15** (with reg. 3)

C34 S. 30(4) extended (16.7.1991) by Control of Pollution (Amendment) Act 1989 (c. 14, SIF 46:4), **s. 9(2)**; S.I. 1991/1618, **art. 2(a)**

Marginal Citations

M15 1967 c. 9.
M16 1960 c. 62.
M17 1968 c. 52.
M18 1960 c. 62.
M19 1961 c. 34.
M20 1947 c. 48.
M21 1948 c. 45.
M22 1960 c. 34.

[F109PART IA

ABANDONED MINES

Textual Amendments

F109 Pt. IA (ss. 30Y, 30Z) inserted (12.10.1995 for specified purposes otherwise 1.1.1999) by 1995 c. 25, **s. 59** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2(i)**; S.I. 1998/3272, **art. 2**

Modifications etc. (not altering text)

C35 Pt. 1A modified (1.4.1996) by 1995 c. 25, **s. 33(5)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

30Y Introductory.

(1) For the purposes of this Part, "abandonment", in relation to a mine,—

(a) subject to paragraph (b) below, includes—

(i) the discontinuance of any or all of the operations for the removal of water from the mine;

(ii) the cessation of working of any relevant seam, vein or vein-system;

(iii) the cessation of use of any shaft or outlet of the mine;

(iv) in the case of a mine in which activities other than mining activities are carried on (whether or not mining activities are also carried on in the mine)—

(A) the discontinuance of some or all of those other activities in the mine; and

(B) any substantial change in the operations for the removal of water from the mine; but

(b) does not include—

(i) the abandonment of any rights, interests or liabilities by the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the M23Bankruptcy (Scotland) Act 1985); or

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(ii) any disclaimer under section 178 or 315 of the [M24]Insolvency Act 1986 (power of liquidator, or trustee of bankrupt's estate, to disclaim onerous property) by the official receiver acting in a compulsory capacity;

and cognate expressions shall be construed accordingly.

(2) In this Part, except where the context otherwise requires—

"acting in a compulsory capacity", in the case of the official receiver, means acting as—

(a) liquidator of a company;

(b) receiver or manager of a bankrupt's estate, pursuant to section 287 of the [M25]Insolvency Act 1986;

(c) trustee of a bankrupt's estate;

(d) liquidator of an insolvent partnership;

(e) trustee of an insolvent partnership;

(f) trustee, or receiver or manager, of the insolvent estate of a deceased person;

"the official receiver" has the same meaning as it has in the [M26]Insolvency Act 1986 by virtue of section 399(1) of that Act;

"relevant seam, vein or vein-system", in the case of any mine, means any seam, vein or vein-system for the purpose of, or in connection with, whose working any excavation constituting or comprised in the mine was made.

(3) This Part extends only to Scotland.**]**

Modifications etc. (not altering text)

C36 S. 30Y modified (1.4.1996) by 1995 c. 25, **s. 33(5)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M23 1985 c. 66.
M24 1986 c. 45.
M25 1986 c. 45.
M26 1986 c. 45.

[F110 30Z Mine operators to give SEPA six months' notice of any proposed abandonment.

(1) If, in the case of any mine, there is to be an abandonment at any time after the expiration of the initial period, it shall be the duty of the operator of the mine to give notice of the proposed abandonment to SEPA at least six months before the abandonment takes effect.

(2) A notice under subsection (1) above shall contain such information (if any) as is prescribed for the purpose, which may include information about the operator's opinion as to any consequences of the abandonment.

(3) A person who fails to give the notice required by subsection (1) above shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

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(4) A person shall not be guilty of an offence under subsection (3) above if—

(a) the abandonment happens in an emergency in order to avoid danger to life or health; and

(b) notice of the abandonment, containing such information as may be prescribed, is given as soon as reasonably practicable after the abandonment has happened.

(5) Where the operator of a mine is—

(a) the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the [M27]Bankruptcy (Scotland) Act 1985); or

(b) the official receiver acting in a compulsory capacity,

he shall not be guilty of an offence under subsection (3) above by reason of any failure to give the notice required by subsection (1) above if, as soon as is reasonably practicable (whether before or after the abandonment), he gives to SEPA notice of the abandonment or proposed abandonment, containing such information as may be prescribed.

(6) Where a person gives notice under subsection (1), (4)(b) or (5) above, he shall publish prescribed particulars of, or relating to, the notice in one or more local newspapers circulating in the locality where the mine is situated.

(7) Where SEPA—

(a) receives notice under this section or otherwise learns of an abandonment or proposed abandonment in the case of any mine, and

(b) considers that, in consequence of the abandonment or proposed abandonment taking effect, any land has or is likely to become contaminated land, within the meaning of Part IIA of the [M28]Environmental Protection Act 1990,

it shall be the duty of SEPA to inform the local authority in whose area that land is situated of the abandonment or proposed abandonment.

(8) In this section—

"the initial period" means the period of six months beginning with the day on which subsection (1) above comes into force;

"local authority" means a council constituted under section 2 of the [M29]Local Government etc. (Scotland) Act 1994.**]**

Textual Amendments

F110 Pt. IA (ss. 30Y, 30Z) inserted (12.10.1995 for specified purposes otherwise 1.1.1999) by 1995 c. 25, **s. 59** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2(i)**; S.I. 1998/3272, **art. 2**

Modifications etc. (not altering text)

C37 S. 30Z modified (1.4.1996) by 1995 c. 25, **s. 33(5)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M27 1985 c. 66.

M28 1990 c.43.

M29 1994 c. 39.

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PART II

POLLUTION OF WATER

Modifications etc. (not altering text)

C38 Pt. II modified (S.) (19.5.1993) by S.I. 1993/1156, regs. 3, 4, 5, **Sch. 1**
Pt. II (ss. 31-56) modified (1.4.1996) by 1995 c. 25, **s. 33(5)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

C39 Pt. II amended by S.I. 1984/1200, **reg. 2(1)**
Pt. II amended (1.5.1994) by S.I. 1994/1056, reg. 1(3), 19, **Sch. 4 Pt. I para. 11**

C40 Pt. II modified by S.I. 1984/1200, reg. 3, **Sch. 1** and 1985/5, regs. 3(1)(2), 4(1)(a)

C41 Pt. II modified by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, Sch. 2 para. 5(5), **Sch. 7 Pt. VI para. 2**

C42 Functions exercisable under Pt. II by (a) Minister of Agriculture, Fisheries and Food and (b) that Minister and Secretary of State jointly transferred (W.) by S.I. 1978/272, art. 2(1)(3), **Sch. 1**
Pt. II: transfer of functions (12.10.1995) by 1995 c. 25, **s. 21(1)(a)(ii)** (with ss. 7(6), 115, 117); S.I. 1995/2649, **art. 2**

General provisions

[F111 30A Waters to which Part II applies.

(1) This part applies to any waters (in this Part referred to as "controlled waters") of any of the following classes—

(a) relevant territorial waters, that is to say, subject to subsection (5) below, the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to Scotland is measured;

(b) coastal waters, that is to say, any waters which are within the area which extends landward from those baselines as far as the limit of the highest tide or, in the case of the waters of any relevant river or watercourse, as far as the fresh-water limit of the river or watercourse, together with the waters of any enclosed dock which adjoins waters within that area;

(c) inland waters, that is to say, the waters of any relevant loch or pond or of so much of any relevant river or watercourse as is above the fresh-water limit;

(d) ground waters, that is to say, any waters contained in underground strata, or in—

(i) a well, borehole or similar work sunk into underground strata, including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work; or

(ii) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata.

(2) The Secretary of State—

(a) shall deposit maps with **[**F112SEPA**]]** showing what appear to him to be the fresh-water limits of every relevant river or watercourse . . . F113; and

(b) may from time to time, if he considers it appropriate to do so by reason of any change of what appears to him to be the fresh-water limit of any

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river or watercourse, deposit a map showing a revised limit for that river or watercourse;

and in subsection (1) above "fresh-water limit", in relation to any river or watercourse, means the place for the time being shown as the fresh-water limit of that river or watercourse in the latest map deposited for that river or watercourse under this subsection.

(3) It shall be the duty of **[**F112SEPA**]** to keep any maps deposited with it under subsection (2) above available, at all reasonable times, for inspection by the public free of charge.

(4) In this section—

"miles" means international nautical miles of 1,852 metres;

"loch or pond" includes a reservoir of any description;

"relevant loch or pond" means (subject to subsection (5) below) any loch or pond which (whether it is natural or artificial or above or below ground) discharges into a relevant river or watercourse or into another loch or pond which is itself a relevant loch or pond;

"relevant river or watercourse" means any river or watercourse (including an underground river or watercourse and an artificial river or watercourse) which is neither a public sewer nor a sewer or drain which drains into a public sewer.

(5) The Secretary of State may by order provide—

(a) that any area of the territorial sea adjacent to Scotland is to be treated as if it were an area of relevant territorial waters for the purposes of this Part;

(b) that any loch or pond which does not discharge into a relevant river or watercourse or into a relevant loch or pond is to be treated for those purposes as a relevant loch or pond.

(6) The power of the Secretary of State to make an order under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and such an order may—

(a) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities.

Textual Amendments

F111 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F112 Words in s. 30A(2)(a) and (3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F113 Words in s. 30A(2)(a) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C43 S. 30A extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 30A amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

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C44 S. 30A(1)(c) modified (6.1.1997) by S.I. 1996/3047, **reg. 15(1)**

[F114 30B Classification of quality waters.

(1) The Secretary of State may, in relation to any description of controlled waters (being a description applying to some or all of the waters of a particular class or of two or more different classes), by regulations prescribe a system of classifying the quality of those waters according to criteria specified in the regulations.

(2) The criteria specified in regulations under this section in relation to any classification shall consist of one or more of the following, that is to say—

(a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;

(b) specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;

(c) specific requirements as to other characteristics of those waters;

and, for the purposes of any such classification, regulations under this section may provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed.**]**

Textual Amendments

F114 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

Modifications etc. (not altering text)

C45 S. 30B extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 30B amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

[F115 30C Water quality objectives.

(1) For the purpose of maintaining and improving the quality of controlled waters the Secretary of State may, by serving a notice on **[**F116SEPA**]]** specifying—

(a) one or more of the classifications for the time being prescribed under section 30B above; and

(b) in relation to each specified classification, a date,

establish the water quality objectives for any waters. . . F117which are, or are included in, waters of a description prescribed for the purposes of that section.

(2) The water quality objectives for any waters to which a notice under this section relates shall be the satisfaction by those waters, on and at all times after each date specified in the notice, of the requirements which at the time of the notice were the requirements for the classification in relation to which that date is so specified.

(3) Where the Secretary of State has established water quality objectives under this section for any waters he may review objectives for those waters if—

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(a) five years or more have elapsed since the service of the last notice under subsection (1) or (6) of this section to be served in respect of those waters; or

(b) **[**F118SEPA**]**, after consultation with such persons as it considers appropriate, requests a review;

and the Secretary of State shall not exercise his power to establish objectives for any waters by varying the existing objectives for those waters except in consequence of such a review.

(4) Where the Secretary of State proposes to exercise his power under this section to establish or vary the objectives for any waters. . . F119he shall—

(a) give notice to **[**F120SEPA**]** setting out his proposal and specifying the period (not being less than three months from the date of publication of the notice) within which representations with respect to the proposal may be made; and

(b) consider any representations which are duly made;

and if he decides, after considering any such representations, to exercise his power to establish or vary those objectives, he may do so either in accordance with the proposal contained in the notice or in accordance with that proposal as modified in such manner as he considers appropriate.

(5) A notice under subsection (4) above shall be given—

(a) by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by it; and

(b) by serving a copy of the notice on **[**F121SEPA**]**.

(6) If, on a review under this section or in consequence of any representations made following such a review for the purposes of subsection (4) above, the Secretary of State decides that the water quality objectives for any waters F122 . should remain unchanged, he shall serve notice of that decision on **[**F123SEPA**]**.

Textual Amendments

F115 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F116 Words in s. 30C(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(1)(2)** (with ss. 7(6),115, 117); S.I. 1996/186, **art. 3**

F117 Words in s. 30C(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(4)(a), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F118 Words substituted in s. 30C(3)(b) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(4)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F119 Words in s. 30C(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(4)(c)(i), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F120 Words in s. 30C(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(4)(c)(ii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F121 Words in s. 30C(5)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(4)(d)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F122 Words in s. 30C(6) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(4)(e)(i), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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F123 Words in s. 30C(6) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(4)(e)(ii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C46 S. 30C amended (9.8.1991) by S.I. 1991/1609, **reg. 3(a)**
S. 30C amended (1.4.1992) by S.I. 1992/574, **reg. 4(a)**

C47 S. 30C modified (9.8.1992) by S.I. 1991/1609, **reg. 3(b)**
S. 30C modified (1.4.1992) by S.I. 1992/574, **reg. 4(b)**
S. 30C modified (6.1.1997) by S.I. 1996/3047, **reg. 15(2)**
S. 30C modified (18.11.1997) by 1997/2470, reg. 6
S, 30C modified (18.11.1997) by S.I. 1997/2471, **reg. 6**
S. 30C modified (1.4.1998) by S.I. 1998/250, **reg. 5**
S. 30C modified (1.7.1998) by S.I. 1998/1344, **reg. 5**

C48 S. 30C(4)(5) excluded by S.I. 1990/126, **reg. 4**
S. 30C(4)(5) omitted (to the extent specified in S.I. 1992/574, **reg. 4(b)**) (1.4.1992) by virtue of S.I. 1992/574, **reg. 4(b)**.

[F124 30D General duties to achieve and maintain objectives etc.

(1) It shall be the duty of the Secretary of State and of **[**F125SEPA**]** to exercise the powers conferred on him or it by or under the following provisions of this Part or the provisions of the F126... **[**F127Environmental Protection Act 1990**]** in such manner as ensures, so far as it is practicable by the exercise of those powers to do so, that the water quality objectives specified for any waters in a notice under section 30C above, or in a notice under **[**F128section 83 of the Water Resources Act 1991**]**, are achieved at all times.

(2) It shall be the duty of **[**F125SEPA**]**, for the purposes of the carrying out of its functions under the following provisions of this Part F129... , to monitor the extent of pollution in controlled waters.**]**

Textual Amendments

F124 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F125 Words in s. 30D substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F126 Words in s. 30D(1) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. IV para. 3(2)(a)**

F127 Words inserted (14.1.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1), 164(3), **Sch. 15 para. 15(2)**; S.I. 1991/96, art.

F128 Words in s. 30D(1) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 2(1), 4(2), **Sch. 1 para. 27(1)**

F129 Words in s. 30D(2) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. IV para. 3(2)(b)**

Modifications etc. (not altering text)

C49 S. 30D extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 30D amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

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[F130 30E Consultation and collaboration.

In the performance of [F131 its] functions in relation to waters partly in Scotland and partly in England [F132 SEPA] shall, in matters of common interest, consult and collaborate with the [F132 Environment Agency].

Textual Amendments

F130 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F131 Word in s. 30E substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(5)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F132 Words in s. 30E substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(5)(b)(c)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F133 Control of entry of polluting matter and effluents into water]

Textual Amendments

F133 Crossheading inserted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 2** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F134 30F Pollution offences.

. . . . . .

Textual Amendments

F134 Ss. 30F-31A repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **sch. Pt. I** (with sch. Pt. III)

F134 30G Prohibition of certain discharges by notice or regulations.

. . . . . .

Textual Amendments

F134 Ss. 30F-31A repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **sch. Pt. I** (with sch. Pt. III)

F134 30H Discharges into and from sewers etc.

. . . . . .

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Textual Amendments

F134 Ss. 30F-31A repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **sch. Pt. I** (with sch. Pt. III)

F134 30I Defence to principal offences in respect of authorised discharges.

. . . . . .

Textual Amendments

F134 Ss. 30F-31A repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **sch. Pt. I** (with sch. Pt. III)

F134 30J Other defences to principal offences.

. . . . . .

Textual Amendments

F134 Ss. 30F-31A repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **sch. Pt. I** (with sch. Pt. III)

Control of entry of polluting matter and effluents into water

F134 31 Control of pollution of rivers and coastal waters etc.

. . . . . .

Textual Amendments

F134 Ss. 30F-31A repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **sch. Pt. I** (with sch. Pt. III)

F134 31A Requirements to take precautions against pollution.

. . . . . .

Textual Amendments

F134 Ss. 30F-31A repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **sch. Pt. I** (with sch. Pt. III)

[F135 31B Nitrate sensitive areas.

(1) Where the Secretary of State considers that it is appropriate to do so with a view to achieving the following purpose, that is to say, preventing or controlling the entry of

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nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes, he may by order designate that land, together with any other land to which he considers it appropriate to apply the designation, as a nitrate sensitive area.

(2) Where any area has been designated as a nitrate sensitive area by an order under this section and the Secretary of State considers that it is appropriate to do so with a view to achieving the purpose mentioned in subsection (1) above, he may, subject to such restrictions (if any) as may be set out in the order, enter into an agreement under which, in consideration of payments to be made by him—

(a) [F136the absolute owner (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 1949)] of any agricultural land in that area; or

(b) where any such owner has given his written consent to the agreement being entered into by any person having another interest in that land, that other person,

accepts such obligations with respect to the management of that land or otherwise as may be imposed by the agreement.

(3) Where it appears to the Secretary of State in relation to any area which is, or is to be, designated by an order under this section as a nitrate sensitive area that it is appropriate for provision for the imposition of requirements, prohibitions or restrictions to be contained in an order under this section (as well as for him to be able to enter into such agreements as are mentioned in subsection (2) above), he may, by a subsequent order under this section or, as the case may be, by the order designating that area—

(a) with a view to achieving the purpose mentioned in subsection (1) above, require, prohibit or restrict the carrying on on or in relation to any agricultural land in that area of such activities as may be specified or described in the order; and

(b) provide for such amounts (if any) as may be specified in or determined under the order to be paid by the Secretary of State, to such persons as may be so specified or determined, in respect of the obligations imposed in relation to that area on those persons by virtue of paragraph (a) above.

(4) Without prejudice to the generality of subsection (3) above, provision contained in anorder under this section by virtue of that subsection may—

(a) confer power upon the Secretary of State to determine for the purposes of the order the circumstances in which the carrying on of any activities is required, prohibited or restricted and to determine the activities to which any such requirement, prohibition or restriction applies;

(b) provide for any requirement to carry on any activity not to apply in cases where the Secretary of State has consented to a failure to carry on that activity and any conditions on which the consent has been given are complied with;

(c) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Secretary of State or in contravention of any conditions subject to which any such consent is given;

(d) provide that a contravention of a requirement, prohibition or restriction contained in the order or in a condition of a consent given in relation to or for the purposes of any such requirement, prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the maximum penalties specified in **[**F137subsection (6) of section 30F above**]**;

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(e) provide for amounts paid in pursuance of any provision contained in the order to be repaid at such times and in such circumstances and with such interest as may be specified in or determined under the order;

(f) provide (subject to any regulations under subsection (6) below) for anything falling to be determined under the order by any person to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order.

(5) The Secretary of State shall not make an order under this section except in accordance with any applicable provisions of Schedule 1A to this Act.

(6) The Secretary of State may, for the purposes of any orders under this section which require his consent to the carrying on of any activities or to any failure to carry on any activity, by regulations make provision with respect to—

(a) applications for any such consent;

(b) the conditions of any such consent;

(c) the revocation or variation of any such consent;

(d) the reference to arbitration of disputes about determinations on any such application;

(e) the imposition of charges where such an application has been made, such a consent has been given or there has been any act or omission in pursuance of any such consent; and

(f) the registration of any such application or consent.

Textual Amendments

F135 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F136 S. 31B: by Agricultural Holdings (Scotland) Act 1991 (c. 55), ss. 88(1), 89(2), **Sch. 11 para. 39** (with s. 45(3)), it is provided that in s. 31(B)(2)(a), for the words "an absolute owner (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 1949)" there shall be substituted (25.9.1991) "the owner of the dominium utile".

F137 Words in s. 31B(4)(d) substituted (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 5** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F138 31C Registering of agreement.

(1) An agreement under subsection (2) of section 31B above may—

(a) where the land is registered in the Land Register of Scotland, be registered in that register;

(b) in any other case, be recorded in the appropriate Division of the General Register of Sasines.

(2) An agreement registered or recorded under subsection (1) above shall be enforceable at the instance of the Secretary of State against persons deriving title to the land (including any person acquiring right to a tenancy by assignation or succession) from the person who entered into the agreement; provided that such an agreement shall not be enforceable against a third party who shall have in good faith and for value acquired

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right (whether completed by infeftment or not) to the land prior to the agreement being registered or recorded as aforesaid, or against any person deriving title from such third party.

(3) Notwithstanding the terms of any agreement registered orrecorded under subsection (1) above, the parties to the agreement or any persons deriving title from them may at any time agree to terminate it; and such an agreement to terminate it shall be registered or recorded in the same manner as was the original agreement.**]**

Textual Amendments

F138 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F139 31D . . . . . .

Textual Amendments

F139 S. 31D repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(7), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F140 32 . . . . . .

Textual Amendments

F140 S. 32 repealed (1.4.1996) by 1995 c. 25, ss. 106, 120(3), Sch. 16 para. 3, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F141 33 Control of sanitary appliances on vessels.

. . . . . .

Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

Consents for discharges

F141 34 Consents for discharges of trade and sewage effluent etc.

. . . . . .

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Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F141 35 Reference to Secretary of State of certain applications for consent.

. . . . . .

Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F141 36 Provisions supplementary to ss. 34 and 35.

. . . . . .

Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F141 37 Revocation of consents and alteration and imposition of conditions.

. . . . . .

Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F141 38 Restriction on variation and revocation of consent and of previous variation.

. . . . . .

Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F141 38A General review of consents.

. . . . . .

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Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F141 39 Appeals to the Secretary of State.

. . . . . .

Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F141 40 Transitional provisions relating to consent.

. . . . . .

Textual Amendments

F141 Ss. 33-40 repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

Ancillary provisions relating to control of discharges

[F142 41 Registers.

(1) It shall be the duty of **[**F143SEPA**]**to maintain in accordance with regulations, registers containing prescribed particulars of **[**F144or relating to**]**—

(a) any notices of water quality objectives or other notices served under section 30C above;

F145(b) . . . . . .

F145(c) . . . . . .

(d) samples—

F146(i) . . . . . .

F147(ii) . . . . . .

(iii) of water taken by **[**F148SEPA**]**;

and information produced by analyses of the samples and the steps taken in consequence of the information;

F149(e) . . . . . .

F150[. . . . . .

F151(f)

(g) directions given by the Secretary of State in relation to SEPA's functions under this Part of this Act;

F152(h) . . . . . .

F152(j) . . . . . .

F152(k) . . . . . .

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F152(l) . . . . . .
F152(m) . . . . . .
(n) such other matters relating to the quality of water as may be prescribed.**]**

(2) It shall be the duty of **[**F143SEPA**]**—

(a) to secure that registers maintained by **[**F148SEPA**]** in pursuance of the preceding subsection are, after such date as is prescribed with respect to the registers, open to inspection by the public free of charge at all reasonable hours; and

(b) to afford members of the public reasonable facilities for obtaining from **[**F148SEPA**]**, on payment of reasonable charges, copies of entries in the register.**[**F153 and, for the purposes of this subsection, places may be prescribed at which any such registers or facilities as are mentioned in paragraph (a) or (b) above are to be available or afforded to the public in pursuance of the paragraph in question.**]**

F154(3) **[** The Secretary of State may give SEPA directions requiring the removal from any register maintained by it under this section of any specified information which is not prescribed for inclusion under subsection (1) of this section or which, by virtue of section 42A or 42B of this Act, ought to have been excluded from the registers.**]]**

Textual Amendments

F142 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

F143 Words in s. 41(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F144 Words in s. 41(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(17)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F145 S. 41(1)(b)(c) repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F146 S. 41(1)(d)(i) repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F147 S. 41(1)(d)(ii) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(17)(b)(ii), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F148 Words in s. 41(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(10)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F149 S. 41(1)(e) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(17)(b)(iii), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F150 S. 41(1)(f) repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F151 S. 41(1)(f)-(n) added (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(17)(c)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F152 S. 41(1)(h)-(m) repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

F153 Words in s. 41(2) added (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(18)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F154 S. 41(3) added (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(19)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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Modifications etc. (not altering text)

C50 S. 41 extended by S.I. 1985/708, reg. 4(1), **Sch. 1**

C51 S. 41 modified by S.I. 1985/813, **reg. 3(2)**

C52 S. 41 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 41 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

[F155 42A Exclusion from registers of information affecting national security.

(1) No information shall be included in a register kept or maintained by SEPA under section 41 of this Act if and so long as, in the opinion of the Secretary of State, the inclusion in such a register of that information, or information of that description, would be contrary to the interests of national security.

(2) The Secretary of State may, for the purposes of securing the exclusion from registers of information to which subsection (1) of this section applies, give SEPA directions—

(a) specifying information, or descriptions of information, to be excluded from their registers; or

(b) specifying descriptions of information to be referred to the Secretary of State for his determination;

and no information to be referred to the Secretary of State in pursuance of paragraph (b) of this subsection shall be included in any such register until the Secretary of State determines that it should be so included.

(3) SEPA shall notify the Secretary of State of any information it excludes from a register in pursuance of directions under subsection (2) of this section.

(4) A person may, as respects any information which appears to him to be information to which subsection (1) of this section may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

(a) he shall notify SEPA that he has done so; and

(b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.**]**

Textual Amendments

F155 Ss. 42A and 42B substituted (1.4.1996) for s. 42 by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(20)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C53 s. 42A applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**

C54 S. 42A: certain functions made exercisable by the Scottish Ministers concurrently with the Minister (1.7.1999) by S.I. 1999/1750, arts. 1(1), 3, **Sch. 2** (with art. 7)

[F156 42B Exclusion from registers of certain confidential information.

(1) No information relating to the affairs of any individual or business shall, without the consent of that individual or the person for the time being carrying on that business, be included in a register kept or maintained by SEPA under section 41 of this Act, if and so long as the information—

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(a) is, in relation to him, commercially confidential; and

(b) is not required to be included in the register in pursuance of directions under subsection (7) of this section;

but information is not commercially confidential for the purposes of this section unless it is determined under this section to be so by SEPA, or, on appeal, by the Secretary of State.

(2) Where information is furnished to SEPA for the purpose of—

F157(a) . . . . . .

F157(b) . . . . . .

(c) complying with a notice under section 93 of this Act,

then, if the person furnishing it applies to SEPA to have the information excluded from any register kept or maintained by SEPA under section 41 of this Act, on the ground that it is commercially confidential (as regards himself or another person), SEPA shall determine whether the information is or is not commercially confidential.

(3) A determination under subsection (2) of this section must be made within the period of fourteen days beginning with the date of the application and if SEPA fails to make a determination within that period it shall be treated as having determined that the information is commercially confidential.

(4) Where it appears to SEPA that any information (other than information furnished in circumstances within subsection (2) of this section) which has been obtained by SEPA under or by virtue of any provision of any enactment might be commercially confidential, SEPA shall—

(a) give to the person to whom or whose business it relates notice that that information is required to be included in a register kept or maintained by SEPA under section 41 of this Act, unless excluded under this section; and

(b) give him a reasonable opportunity—

(i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and

(ii) of making representations to SEPA for the purpose of justifying any such objection;

and, if any representations are made, SEPA shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

(5) Where, under subsection (2) or (4) of this section, SEPA determines that information is not commercially confidential—

(a) the information shall not be entered on the register until the end of the period of twenty-one days beginning with the date on which the determination is notified to the person concerned; and

(b) that person may appeal to the Secretary of State against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered on the register pending the final determination or withdrawal of the appeal.

(6) Subsections (2), (4) and (7) of section 49B of this Act shall apply in relation to appeals under subsection (5) of this section; but

(a) subsection (4) of that section shall have effect for the purposes of this subsection with the substitution for the words from ("which may" onwards of the words "(which must be held in private)"; and

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(b) subsection (5) of this section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).

(7) The Secretary of State may give SEPA directions as to specified information, or descriptions of information, which the public interest requires to be included in registers kept or maintained by SEPA under section 41 of this Act notwithstanding that the information may be commercially confidential.

(8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this section at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply to SEPA for the information to remain excluded from the register on the ground that it is still commercially confidential and SEPA shall determine whether or not that is the case.

(9) Subsections (5) and (6) of this section shall apply in relation to a determination under subsection (8) of this section as they apply in relation to a determination under subsection (2) or (4) of this section.

(10) The Secretary of State may prescribe the substitution (whether in all cases or in such classes or descriptions of case as may be prescribed) for the period for the time being specified in subsection (3) above of such other period as he considers appropriate.

(11) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any individual or person, if its being contained in register would prejudice to an unreasonable degree the commercial interests of that individual or person.**]**

Textual Amendments

F156 Ss. 42A, 42B substituted (1.4.1996) for s. 42 by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(20)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F157 S. 42B(2)(a)(b) repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with sch. Pt. III)

Modifications etc. (not altering text)

C55 s. 42B applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**

C56 S. 42B(5): power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(1)(2)(a)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F158[F159[42] Power of Secretary of State to exempt applications, consents and conditions etc. from publicity.

(1) If a person who proposes to make or has made an application to a river purification authority for any consent in pursuance of section 34 of this Act (hereafter in this subsection referred to as "the relevant application")—

(a) applies to the Secretary of State within a prescribed period for a certificate providing that section 36(1) of this Act and paragraphs (b) to (d) of subsection (1) of the preceding section shall not apply to the relevant application or to any consent given or conditions imposed in consequence of the relevant application or to any sample of effluent taken from a discharge for which consent is given in consequence of the relevant application or to information produced by analysis of such a sample; and

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(b) satisfies the Secretary of State that it would—

(i) prejudice to an unreasonable degree some private interest by disclosing information about a trade secret, or

(ii) be contrary to the public interest,

if a certificate were not issued in pursuance of his application to the Secretary of State,

the Secretary of State may issue a certificate to that person providing that section 36(1) of this Act and those paragraphs shall not apply to such of the things mentioned in paragraph (a) of this subsection as are specified in the certificate.

(2) If a person who is making or proposes to make a discharge which is the subject of a consent given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts [M30]1951 and [M31]1965—

(a) applies to the Secretary of State for a certificate providing that subsection (1)(c) or (d) of the preceding section shall not apply to the consent or any conditions to which the consent is subject or any sample of effluent taken from a discharge to which the consent relates or any information produced by analysis of such a sample; and

(b) satisfies the Secretary of State as mentioned in paragraph (b) of the preceding subsection,

the Secretary of State may issue a certificate to that person providing that the said subsection (1)(c) or (d) shall not apply to such of the things mentioned in paragraph (a) of this subsection as are specified in the certificate.**]**

Textual Amendments

F158 S. 42 replaced (1.4.1996) by ss. 42A, 42B (q.v.)

F159 Ss. 31, 32 and 34-42 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and for ss. 31-32 and ss. 34-42 there is substituted (S.) ss. 30A-32 and 34-42 by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), 194(4), Sch. 23 para. 4, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

Modifications etc. (not altering text)

C57 S. 42 extended by S.I. 1984/863, reg. 3, **Sch. 1**

C58 S. 42 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 42 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

Marginal Citations

M30 1951 c.66**(46:4)**.

M31 1965 c.13**(46:4)**.

Control of discharges of trade effluent into public sewers

[F160]43 . . . . . .

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F160 S. 43 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

F161 44 . . . . . .

Textual Amendments

F161 S. 44(1)(3)(5)(6) repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)
S. 44(2)(4) repealed by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F162 45 . . . . . .

Textual Amendments

F162 S. 45 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

Miscellaneous

F163 46 Operations by river purification authorities to remedy or forestall pollution of water.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

F163 46A Notices requiring persons to carry out anti-pollution operations.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

F163 46B Grant of, and compensation for, rights of entry etc.

. . . . . .

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Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

F163 46C Appeals against works notices.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

F163 46D Consequences of not complying with a works notice.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

F164F163F165 47 Duty of water authorities to deal with waste from vessels etc.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

F164 S. 47 repealed (E.W.) (1.9.1989) by 1989 c. 15, s. 190(3), **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F165 S. 47(3) repealed (S.) (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), **Sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

F163 48 Power of water authorities to exclude unregistered vessels from rivers etc.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

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[F163]49 Deposits and vegetation in rivers etc.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

[F163]49A Enforcement notices as respects discharge consents.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

[F163]49B Appeals against enforcement notices.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

[F163]50 Investigation of water pollution problems arising from closure of mines.

. . . . . .

Textual Amendments

F163 Ss. 46-50 repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

[[F166]51 Codes of good agricultural practice.

(1) The Secretary of State may by order made by statutory instrument approve any code of practice issued (whether by him or by another person) for the purpose of—

(a) giving practical guidance to persons engaged in agriculture with respect to activities that may affect controlled waters; and

(b) promoting what appear to him to be desirable practices by such persons for avoiding or minimising the pollution of any such waters,

and may at any time by such an order approve a modification of such a code or withdraw his approval of such a code or modification.

(2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, but [[F167]a river purification

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authority**]]** shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise any powers conferred on it by regulations under section 31A of this Act.

(3) The Secretary of State shall not make an order under this section unless he has first consulted the river purification authorities.

Textual Amendments

F166 S. 51 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and substituted (S.) by Water Act 1989 (c. 15, SIF 130), **ss. 58(7)**, 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)-?(10), 190, 193(1), 194(4), Sch. 23 para. 5, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58

F167 Words in s. 51(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C59 S. 51 extended by S.I. 1985/708, art. 3, **Sch. 1**

[F168 52 Charges in respect of certain discharges in England and Wales.

(1) The Secretary of State may, by an order made after consultation with the National Water Council, provide that sections 30 and 31 of the M32 Water Act 1973 (which among other things relate to charges for facilities provided by water authorities and to schemes for the payment of the charges) shall apply to discharges of trade or sewage effluent which are made or authorised to be made by virtue of a consent given in pursuance of this Act or the M33 Public Health (Drainage of Trade Premises) Act 1937 as those sections apply to facilities provided by water authorities; and any such order may—

(a) provide that, in the said section 30 as applied by the order, subsection (4) (under which regard is to be had to the cost of providing facilities in fixing charges for the facilities) and references to that subsection shall be omitted; and

(b) repeal sections 59(1)(e) and 61(4) of the M34 Public Health Act 1961 (which provide for conditions relating to charges to be attached to consents for discharges which are given in pursuance of the said Act of 1937).

(2) An order made in pursuance of the preceding subsection—

(a) shall include provision for appeals to the Secretary of State in respect of charges payable to a water authority by virtue of that subsection; and

(b) may include provision for the giving by the Secretary of State in consequence of an appeal of directions in respect of the charges to the authority or any other party to the appeal (including directions as to the charges which are to be payable in respect of any period before the determination of the appeal);

and the Secretary of State may by order vary or revoke any provisions which by virtue of this subsection or section 104(1)(a) of this Act are contained in an order made in pursuance of this section.

(3) This section does not apply to Scotland.**]**

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Textual Amendments

F168 S. 52 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

Marginal Citations

M32 1973 c. 37.
M33 1937 c. 40.
M34 1961 c. 64.

F169 53 . . . . . .

Textual Amendments

F169 S. 53 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(28), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F170 54 . . . . . .

Textual Amendments

F170 S. 54 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(28), **Sch. 24** (with ss. 115, 117); S.I. 1996/186, **art. 3**

Supplemental

F171 55 . . . . . .

Textual Amendments

F171 S. 55 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(28), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F172 55A Regulations under this Part.

Regulations made under this Part of this Act may provide that any provision of this Part, except this section and sections 43 to 45, shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom—

(a) to give effect to any **[**F173 EU**]** obligation or exercise any related right; or

(b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party,

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and "related right", in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.**]**

Textual Amendments

F172 S. 55A inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28), s. 27(1), **Sch. 10 para. 7(3)**; S.I. 1991/2187, art. 3, **Sch.**

F173 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 6 (with art. 3(2)(3)4(2)6(4)(5))

[F174 56 Interpretation etc. of Part II.

(1) Except where the context otherwise requires, in this Part of this Act—

"agriculture" and "agricultural" have the same meanings as in the Agriculture (Scotland) Act M35 1948;

"coastal waters", "controlled waters", "ground waters", "inland waters" and "relevant territorial waters" have the meanings given by section 30A(1) above;

[F175"drain" has the same meaning as in the M36Sewerage (Scotland) Act 1968;**]**

"effluent" means any liquid, including particles of matter and other substances in suspension in the liquid;

"micro-organism" includes any microscopic biological entity which is capable of replication;

[F176"operations" includes works;**]**

[F177"sewage effluent" includes any effluent from sewage disposal, or sewerage, works vested in a sewerage authority;**]**

[F175"sewer" has the same meaning as in the Sewerage (Scotland) Act 1968;**]**

F178 . . . . . .

"substance" includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

"trade effluent" includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage;

"underground strata" means strata subjacent to the surface of any land;

F178 . . . . . .

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers, and passages through which water flows except mains and other pipes which belong to **[**F179Scottish Water**]** or are used by **[**F180Scottish Water**]** or any other person for the purposes only of providing a supply of water to any premises.

(2) In this Part of this Act—

(a) any reference to the waters of any loch or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any loch, pond, river or, as the case may be, watercourse which is for the time being dry; and

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(b) any reference to water contained in underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.

(3) For the purposes of the definition of "trade effluent" in subsection (1) above any premises (whether on land or not) wholly or mainly used (whether for profit or not) for agricultural purposes or for the purposes of fish farming or for scientific research or experiment shall be deemed to be (and in the case of fish farms, always to have been) premises used for carrying on a trade.

F181(4) . . . . . .

(5) For the purposes of this Part of this Act a notice imposing conditions with respect to discharges which was given by a river purification authority in pursuance of—

(a) section 28(4) of the Rivers (Prevention of Pollution) (Scotland) Act 1951; or

(b) section 1(5) of the Rivers (Prevention of Pollution) (Scotland) Act 1965,

shall be treated as having given the authority's consent in pursuance of the Act in question for those discharges subject to those conditions.

(6) Section 30(5) of this Act shall have effect in relation to this Part of this Act as if for any reference to Part I of this Act there were substituted a reference to this Part of this Act.**]**

Textual Amendments

F174 S. 56 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I** and substituted (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 168, 189(4)-(10), 190, 193(1), Sch. 23 para. 6, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58, **Sch. 27 Pt. I**

F175 Definitions in s. 56(1) inserted (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 8** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F176 Definition in s. 56(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(29)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F177 Definitions in s. 56 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 95(5)(a)**; S.I. 1996/323, **art. 4(c)**

F178 Words in s. 56(1) repealed (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **Sch. para. 4(4)(a)**

F179 Words in s. 56(1) substituted (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **Sch. para. 4(4)(b)(i)**

F180 Words in s. 56(1) substituted (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **Sch. para. 4(4)(b)(ii)**

F181 S. 56(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(28), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C60 S. 56(1)-(4) extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
S. 56(1)-(4) amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

Marginal Citations

M35 1948 c.45**(2:1).**

M36 1968 c. 47.

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PART III

NOISE

Modifications etc. (not altering text)

C61 Pt. III modified in part (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)

C62 Pt. III modified in part (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**

C63 Pt. III modified in part (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

C64 Pt. III modified in part (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**

C65 Pt. III modified in part (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**

C66 Pt. III applied (with modifications) (E.) (24.3.2011) by The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939), arts. 1(1), 9, **Sch. 2**

C67 Pt. III (ss. 57-74) extended (E.W.) by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(xxvii), Sch. 17 paras. 33, **35(1)**

C68 Pt. III (except ss. 70(2)(3)(5), 71(1)): certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
Pt. III (except ss. 70(2)(3)(5), 71(1)) modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**

C69 Pt. III (except ss. 70(2)(3)(5), 71(1)): certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
Pt. III (except ss. 70(2)(3)(5), 71(1)) modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

Periodical inspections by local authorities

57 Periodical inspections by local authorities.

It shall be the duty of every local authority to cause its area to be inspected from time to time—

[F182(a) . . . . . .]

(b) to decide how to exercise its powers concerning noise abatement zones.

Textual Amendments

F182 S. 57(a) repealed (E.W.)(N.I.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(2), **Sch. 16 Pt. III**; s. 57(a) repealed by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Summary proceedings to deal with noise

F183**58** . . . . . .

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Textual Amendments

F183 S. 58 repealed (E.W) (N.I.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. III**; S. 58 wholly repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F184 58A . . . . . .

Textual Amendments

F184 S. 58A repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F185 58B . . . . . .

Textual Amendments

F185 S. 58B repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F186 59 . . . . . .

Textual Amendments

F186 S. 59 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F187 59A . . . . . .

Textual Amendments

F187 S. 59A repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Construction sites

Modifications etc. (not altering text)

C70 S. 60 modified (9.11.2001) by S.I. 2001/3682, **art. 32**

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60 Control of noise on construction sites.

(1) This section applies to works of the following description, that is to say—

(a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;

(b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;

(c) demolition or dredging work; and

(d) (whether or not also comprised in paragraph (a), (b) or (c) above) any work of engineering construction.

(2) Where it appears to a local authority that works to which this section applies are being, or are going to be, carried out on any premises, the local authority may serve a notice imposing requirements as to the way in which the works are to be carried out and may if it thinks fit publish notice of the requirements in such way as appears to the local authority to be appropriate.

(3) The notice may in particular—

(a) specify the plant or machinery which is, or is not, to be used;

(b) specify the hours during which the works may be carried out;

(c) specify the level of noise which may be emitted from the premises in question or at any specified point on those premises or which may be so emitted during specified hours; and

(d) provide for any change of circumstances.

(4) In acting under this section the local authority shall have regard—

(a) to the relevant provisions of any code of practice issued under this Part of this Act;

(b) to the need for ensuring that the best practicable means are employed to minimise noise;

(c) before specifying any particular methods or plant or machinery, to the desirability in the interests of any recipients of the notice in question of specifying other methods or plant or machinery which would be substantially as effective in minimising noise and more acceptable to them;

(d) to the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.

(5) A notice under this section shall be served on the person who appears to the local authority to be carrying out, or going to carry out, the works, and on such other persons appearing to the local authority to be responsible for, or to have control over, the carrying out of the works as the local authority thinks fit.

(6) A notice under this section may specify the time within which the notice is to be complied with, and may require the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice, or as may be specified in the notice.

(7) A person served with a notice under this section may appeal against the notice to a magistrates' court within twenty one days from the service of the notice.

(8) If a person on whom a notice is served under this section without reasonable excuse contravenes any requirement of the notice he shall be guilty of an offence against this Part of this Act.

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Modifications etc. (not altering text)

C71 S. 60 modified (18.7.2001) by S.I. 2001/2870, **art. 21**

C72 S. 60 applied (with modifications) (20.8.1999) by S.I. 1999/2336, **art. 22**

C73 S. 60 modified (18.12.1996) by 1996 c. 61, **s. 29**

C74 S. 60 modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 20**

C75 S. 60 applied (with modifications) (18.3.2011) by Forth Crossing Act 2011 (asp 2), **ss. 70(1)**, 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.

61 Prior consent for work on construction sites.

(1) A person who intends to carry out works to which the preceding section applies may apply to the local authority for a consent under this section.

(2) Where approval under building regulations **[**F188under Part II of the M37Public Health Act 1936**]**, or in Scotland a **[**F189building warrant**]** under **[**F190section 9**]** of the Building (Scotland) Act **[**F1912003 (asp 8)**]**, is required for the carrying out of the works, the application under this section must be made at the same time as, or later than, the request for the approval under building regulations or, as the case may be, the application for a **[**F189building warrant**]** under the said Act of **[**F1922003**]**.

(3) An application under this section shall contain particulars of—

(a) the works, and the method by which they are to be carried out; and

(b) the steps proposed to be taken to minimise noise resulting from the works.

(4) If the local authority considers that the application contains sufficient information for the purpose and that, if the works are carried out in accordance with the application, it would not serve a notice under the preceding section in respect of those works, the local authority shall give its consent to the application.

(5) In acting under this section a local authority shall have regard to the considerations set out in subsection (4) of the preceding section and shall have power to—

(a) Attach any conditions to a consent; and

(b) limit or qualify a consent to allow for any change in circumstances; and

(c) limit the duration of a consent,

and any person who knowingly carries out the works, or permits the works to be carried out, in contravention of any conditions attached to a consent under this section shall be guilty of an offence against this Part of this Act.

(6) The local authority shall inform the applicant of its decision on the application within twenty-eight days from receipt of the application; and if the local authority gives its consent to the application it may if it thinks fit publish notice of the consent, and of the works to which it relates, in such way as appears to the local authority to be appropriate.

(7) If—

(a) the local authority does not give a consent within the said period of twenty-eight days; or

(b) the local authority gives its consent within the said period of twenty-eight days but attaches any condition to the consent or limits or qualifies the consent in any way,

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the applicant may appeal to a magistrates' court within twenty-one days from the end of that period.

(8) In any proceedings for an offence under section 60(8) of this Act it shall be a defence to prove that the alleged contravention amounted to the carrying out of the works in accordance with a consent given under this section.

(9) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under . . . F193[F194section 82 of the Environmental Protection Act 1990].

(10) Where a consent has been given under this section and the works are carried out by a person other than the applicant for the consent, it shall be the duty of the applicant to take all reasonable steps to bring the consent to the notice of that other person; and if he fails to comply with this subsection he shall be guilty of an offence against this Part of this Act.

Textual Amendments

F188 Words repealed (E.W.) by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

F189 Words in s. 61(2) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 10(a)** (with s. 53); S.S.I. 2004/404, art. 2(1)

F190 Words in s. 61(2) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 10(b)** (with s. 53); S.S.I. 2004/404, art. 2(1)

F191 Words in s. 61(2) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 10(c)(i)** (with s. 53); S.S.I. 2004/404, art. 2(1)

F192 Word in s. 61(2) substituted (S.) (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 10(c)(ii)** (with s. 53); S.S.I. 2004/404, art. 2(1)

F193 Words in s. 61(9) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F194 Words inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 15(3)**

Modifications etc. (not altering text)

C76 S. 61 modified (9.11.2001) by S.I. 2001/3682, **art. 32**

C77 S. 61 modified (18.7.2001) by S.I. 2001/2870, **art. 21**

C78 S. 61 modified (18.12.1996) by 1996 c. 61, **s. 29**

C79 S. 61 modified (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 20**
S. 61 applied (24.9.2014) by The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384), art. 1, **Sch. 19 Pt. 1 para. 13(3)**
S. 61(7) excluded (24.9.2014) by The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384), art. 1, **Sch. 19 Pt. 1 para. 13(2)**

C80 S. 61(9) excluded (9.11.2001) by S.I. 2001/3682, **art. 31(2)(a)**

C81 S. 61(9) restricted (18.7.2001) by S.I. 2001/2870, **art. 22(2)(a)**

C82 S. 61(9) applied (with modifications) (20.8.1999) by S.I. 1999/2336, **art. 22**

C83 S. 61(9) restricted (18.12.1996) by 1996 c. 61, **s. 30(2)**

C84 S. 61(9) excluded (20.8.1999) by S.I. 1999/2336, **art. 23(2)**

C85 S. 61(9) excluded (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), **art. 43(2)(a)**

C86 S. 61(9) excluded (28.4.2003) by Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), arts. 1, **35(2)(a)** (with art. 40)

C87 S. 61(9) excluded (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), arts. 1, **33(2)(a)** (with art. 38)

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C88 S. 61(9) excluded (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 1, **50(2)(a)** (with art. 50(3))
C89 S. 61(9) excluded (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 1, **73(2)** (with arts. 65, 66)
C90 S. 61(9) excluded (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), arts. 1, **20(2)(a)**
C91 S. 61(9) excluded (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 1, **48(2)(a)** (with arts. 3(5), 15(3))
C92 S. 61(9) excluded (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 1, **46(2)(a)** (with arts. 43, 46(3))
C93 S. 61(9) excluded (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), arts. 1, **36(2)(a)** (with arts. 34, 35(2))
C94 S. 61(9) excluded (30.5.2007) by The Mersey Docks and Harbour Company (Seaforth River Terminal) Harbour Revision Order 2007 (S.I. 2007/1440), arts. 1(1), **17(2)(a)** (with arts. 19, 20)
C95 S. 61(9) excluded (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), arts. 1, **41(2)(a)** (with arts. 3(6), 12(3), 41(3))
C96 S. 61(9) excluded (28.9.2007) by The London Gateway Logistics and Commercial Centre Order 2007 (S.I. 2007/2657), arts. 1, **26(2)(a)** (with arts. 19, 28, Sch. 3 para. 13(2))
C97 S. 61(9) excluded (13.11.2007) by The Felixstowe Dock and Railway Harbour Revision Order 2007 (S.I. 2007/3219), arts. 1, **21(2)(a)** (with arts. 24, 25)
C98 S. 61(9) excluded (8.5.2008) by The Teesport Harbour Revision Order 2008 (S.I. 2008/1160), arts. 1(1), **16(2)(a)** (with arts. 19, 20)
C99 S. 61(9) excluded (16.5.2008) by The London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261), arts. 1, **27(2)** (with arts. 41(1), 45, 54(2), 55, 56, 57, 58(6))
C100 S. 61(9) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 21(3)(a)**
C101 S. 61(9) excluded (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), arts. 1, **40(2)(a)** (with art. 36(3))
C102 S. 61(9) excluded (9.6.2009) by The Nottingham Express Transit System Order 2009 (S.I. 2009/1300), arts. 1, **78(2)(a)** (with Sch. 13 para. 14(2), Sch. 14 para. 19, Sch. 16)
C103 S. 61(9) excluded (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), arts. 1, **38(2)(a)**
C104 S. 61(9) excluded (17.3.2010) by The Harwich Parkeston Quay Harbour Revision Order 2010 (S.I. 2010/626), arts. 1, **16** (with art. 20)
C105 S. 61(9) excluded (13.4.2010) by The Port of Bristol (Deep Sea Container Terminal) Harbour Revision Order 2010 (S.I. 2010/2020), arts. 1(2), **26(2)(a)** (with arts. 18, 19)
C106 S. 61(9) excluded (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), arts. 1, **26(2)(a)**
C107 S. 61(9) excluded (27.8.2010) by The Llangollen and Corwen Railway Order 2010 (S.I. 2010/2136), arts. 1(1), **10(2)(a)** (with art. 10(3))
C108 S. 61(9) excluded (1.2.2011) by The River Mersey (Mersey Gateway Bridge) Order 2011 (S.I. 2011/41), arts. 1, **50(2)(a)** (with art. 51, Sch. 10 paras. 68, 85)
C109 S. 61(9) excluded (18.3.2011) by Forth Crossing Act 2011 (asp 2), **ss. 70(2)**, 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, Sch.
C110 S. 61(9) excluded (21.4.2011) by The Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011/1072), arts. 1, **41(2)(a)**
C111 S. 61(9) excluded (16.3.2012) by The Dover Harbour Revision Order 2012 (S.I. 2012/416), arts. 1(1), **16(2)(a)** (with arts. 18, 19, Sch. para. 7)
C112 S. 61(9) excluded (7.8.2012) by The Ipswich Barrier Order 2012 (S.I. 2012/1867), arts. 1, **52(2)(a)** (with arts. 46-48, Sch. 8 para. 18)

Marginal Citations

M37 1936 c. 49.

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Noise in streets

62 Noise in streets. E+W

(1) Subject to the provisions of this section, a loudspeaker in a street shall not be operated—

(a) between the hours of nine in the evening and eight in the following morning, for any purpose;

(b) At any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

[F195In this section**]**"street" means a highway and any other road, footway, square or court which is for the time being open to the public.

F196**[**(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a street at any time between the hours of nine in the evening and eight in the following morning.**]**

(2) **[**F197Subsection (1) of this section**]** shall not apply to the operation of a loudspeaker—

(a) for police, **[**F198fire and rescue authority**]** or ambulance purposes, by **[**F199the **[**F200Environment Agency**]**, a water undertaker or a sewerage undertaker**]** in the exercise of any of its functions, or by a local authority within its area;

(b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;

(c) if the loudspeaker forms part of a public telephone system;

(d) if the loudspeaker—

(i) is in or fixed to a vehicle, and

(ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

(iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

(e) otherwise than on a highway , by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;

(f) by a travelling showman on land which is being used for the purposes of a pleasure fair;

(g) in case of emergency.

(3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—

(a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and

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(b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and

(c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

F201[(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.]

(4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the M38Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

Extent Information

E3 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

F195 Words in s. 62(1) substituted (E.W.) (1.5.1994) by 1993 c. 40, **ss. 7**, 12(1).

F196 S.62(1A)(1B) inserted (E.W.) (5.1.1994) by 1993 c. 40, **ss. 7(3)(6)**, 12(1).

F197 Words in s. 62(2) substituted (5.1.1994) by 1993 c. 40, **ss. 7(4)**, 12(1).

F198 Words in s. 62(2)(a) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 1 para. 45**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

F199 Words in s. 62(2)(a) substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(7), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F200 Words in s. 62(2)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 28** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F201 S. 62(3A) inserted (5.1.1994) by 1993 c. 40, **ss. 7(5)**, 12(1).

Modifications etc. (not altering text)

C113 S. 69(1) power to exclude conferred (5.1.1994) by 1993 c. 40, ss. 8, 12(1), **Sch. 2 para. 1(1)**

Marginal Citations

M38 1954 c. 48.

62 Noise in streets. S

(1) Subject to the provisions of this section, a loudspeaker in a **[**F351road**]** shall not be operated—

(a) between the hours of nine in the evening and eight in the following morning, for any purpose;

(b) At any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this subsection shall be guilty of an offence against this Part of this Act.

F352 . . . . . .

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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F353[(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a road at any time between the hours of nine in the evening and eight in the following morning.]

(2) [F354Subsection (1) of this section] shall not apply to the operation of a loudspeaker—

(a) for police F355... or ambulance purposes, [F356for or in connection with the exercise of any function of a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5)),] by [F357Scottish Water] in the exercise of any of its [F358core functions (within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002) (asp 3)], or by a local authority within its area;

(b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;

(c) if the loudspeaker forms part of a public telephone system;

(d) if the loudspeaker—

(i) is in or fixed to a vehicle, and

(ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

(iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

(e) otherwise than on a [F359public road (within the meaning of the Roads (Scotland) Act 1984)], by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;

(f) by a travelling showman on land which is being used for the purposes of a pleasure fair;

(g) in case of emergency.

(3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—

(a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and

(b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and

(c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

F360[(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.]

(4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the M80Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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Extent Information

E6 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

Textual Amendments

F351 Word in s. 62(1) substituted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 156(1) Sch. 9 para. 74(5)**(*a*)(i)

F352 Words repealed (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(5)**(*a*)(ii), Sch. 11

F353 S. 62(1A)(1B) inserted (S.) (5.1.1994) by 1993 c. 40, **ss. 7(3)(6)**, 12(1).

F354 Words in s. 62(2) substituted (5.1.1994) by 1993 c. 40, **ss. 7(4)**, 12(1).

F355 Words in s. 62(2)(a) repealed (S.) (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), s. 90, **Sch. 3 para. 6(a)** (with s. 77); S.S.I. 2005/392, art. 2(k)

F356 Words in s. 62(2)(a) inserted (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), s. 90, **Sch. 3 para. 6(b)** (with s. 77); S.S.I. 2005/392, art. 2(k)

F357 Words in s. 62(2)(a) substituted (S.) (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **Sch. para. 4(5)(a)**

F358 Words in s. 62(2)(a) substituted (S.) (25.6.2003) by The Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003 (S.S.I. 2003/331), art. 1, **Sch. para. 4(5)(b)**

F359 Words in s. 62(2)(e) subtituted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(5)**(*b*)

F360 S. 62(3A) inserted (5.1.1994) by 1993 c. 40, **ss. 7(5)**, 12(1).

Modifications etc. (not altering text)

C221 S. 62(1): power to exclude conferred (5.1.1994) by 1993 c. 40, ss. 8, 12(1), **Sch. 2 para. 1(1)**

Marginal Citations

M80 1954 c. 48.

Noise abatement zones

63 Designation of zones.

(1) A local authority may by order . . . [F202] designate all or any part of its area a noise abatement zone.

(2) An order under this section shall specify the classes of premises to which it applies (that is to say, the classes of premises subject to control under the following provisions of this Part of this Act).

(3) An order made . . . [F202] under this section may be revoked or varied by a subsequent order so made . . . [F202]

(4) The provisions of Schedule 1 to this Act shall apply to the . . . [F202] coming into operation of an order under this section.

(5) In this Part of this Act a "noise abatement order" means an order made under this section.

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Textual Amendments

F202 Words repealed by Local Government, Planning and Land Act 1980 (c. 65), s. 1(2), Sch. 2 para. 14, **Sch. 34 Pt. II** except in their application to orders made but not confirmed before 13.11.1980

Modifications etc. (not altering text)

C114 Ss. 63-67 excluded (18.3.2011) by Forth Crossing Act 2011 (asp 2), **ss. 70(3)**, 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.

64 Register of noise levels.

(1) Every local authority which has designated its area or any part of its area a noise abatement zone shall measure the level of noise emanating from premises within the zone which are of any class to which the relevant noise abatement order relates.

(2) The local authority shall record all measurements taken in pursuance of the preceding subsection in a register (in this Part of this Act referred to as a "noise level register") to be kept by the local authority for the purpose in accordance with regulations.

(3) The local authority on recording any measurement in the noise level register shall serve a copy of that record on the owner and occupier of the premises in respect of which the measurement was taken; and any person on whom a copy of such a record is served may, within twenty-eight days of the date of service, appeal to the Secretary of State against the record.

(4) On an appeal to the Secretary of State in pursuance of the preceding subsection the Secretary of State may give to the local authority in question such directions as he thinks fit as to the record of the measurement of noise which is the subject of the appeal, and it shall be the duty of the authority to comply with the directions.

(5) Except as provided by the preceding provisions of this section the validity or accuracy of any entry in a noise level register shall not be questioned in any proceedings under this Part of this Act.

(6) The premises as to which a local authority is to make measurements under this section shall include those which come within a class to which the relevant noise abatement order relates after the making of the order; and it shall be for the local authority to determine, both for those premises and all other premises of any class to which the relevant noise abatement order relates, when the measurements under this section are to be made.

(7) A noise level register shall be open to public inspection at the principal office of the local authority free of charge at all reasonable hours, and the local authority shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

(8) Provision may be made by regulations—

(a) for determining, or for authorising the Secretary of State to determine, the methods by which noise levels are to be measured for the purposes of any provision of this section and the three following sections; and

(b) for enabling noise levels calculated in accordance with the regulations, or in accordance with the directions of the Secretary of State, to be treated for those

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purposes as measured by a method determined in pursuance of the preceding paragraph.

Modifications etc. (not altering text)

C114 Ss. 63-67 excluded (18.3.2011) by Forth Crossing Act 2011 (asp 2), **ss. 70(3)**, 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.

65 Noise exceeding registered level.

(1) The level of noise recorded in the noise level register in respect of any premises shall not be exceeded except with the consent in writing of the local authority.

(2) The local authority's consent may be made subject to such conditions, whether as to the amount by which the level of noise may be increased, or as to the period for which, or the periods during which, the level of noise may be increased, as may be specified in the consent; and the authority shall record particulars of the consent in the noise level register.

(3) If within the period of two months beginning with the date on which a local authority receives an application for its consent under this section, or within such longer period as the authority and the applicant agree in writing, the authority has not notified the applicant of its decision on the application, the authority shall be deemed to have refused consent in pursuance of the application.

(4) An applicant for consent under this section may appeal to the Secretary of State against the local authority's decision on the application within the period of three months beginning with the date on which the authority notifies him of the decision or, in a case falling within the preceding subsection, beginning with the expiration of the period or longer period there mentioned; and it shall be the duty of the local authority to act in accordance with the decision of the Secretary of State on the appeal.

(5) If noise emitted from any premises constitutes a contravention of subsection (1) of this section or of a condition attached to a consent under this section, the person responsible shall be guilty of an offence against this Part of this Act.

(6) The magistrates' court convicting a person of an offence under the preceding subsection may, if satisfied that the offence is likely to continue or recur, make an order requiring the execution of any works necessary to prevent it continuing or recurring, and if that person without reasonable excuse contravenes any requirement of the order he shall be guilty of an offence against this Part of this Act.

(7) The magistrates' court may, after giving the local authority in whose area the premises are situated an opportunity of being heard, direct the local authority to do anything which the court has power under the preceding subsection to require the person convicted to do, either instead of, or in addition to, imposing any requirement on that person.

(8) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under [F203] . . . **[**[F204]section 82 of the Environmental Protection Act 1990 [F203] .**]** .

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Textual Amendments

F203 Words in s. 65(8) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F204 Words inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 15(4)**

Modifications etc. (not altering text)

C114 Ss. 63-67 excluded (18.3.2011) by Forth Crossing Act 2011 (asp 2), **ss. 70(3)**, 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.

C115 S. 65(8) excluded (9.11.2001) by S.I. 2001/3682, **art. 31(2)(b)**

C116 S. 65(8) restricted (18.7.2001) by S.I. 2001/2870, **art. 22(2)(b)**

C117 S. 65(8) excluded (20.8.1999) by S.I. 1999/2336, **art. 23(2)**

C118 S. 65(8) excluded (18.12.1996) by 1996 c. 61, **s. 30(2)**

C119 S. 65(8) excluded (30.4.2002) by The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (S.I. 2002/1066), **art. 43(2)(b)**

C120 S. 65(8) excluded (28.4.2003) by Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), arts. 1, **35(2)(b)** (with art. 40)

C121 S. 65(8) excluded (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), arts. 1, **33(2)(b)** (with art. 38)

C122 S. 65(8) excluded (2.4.2004) by The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 1, **50(2)(b)** (with art. 50(3))

C123 S. 65(8) excluded (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 1, **73(2)** (with arts. 65, 66)

C124 S. 65(8) excluded (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), arts. 1, **20(2)(b)**

C125 S. 65(8) excluded (25.11.2005) by The Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 1, **48(2)(b)** (with arts. 3(5), 15(3))

C126 S. 65(8) excluded (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 1, **46(2)(b)** (with arts. 43, 46(3))

C127 S. 65(8) excluded (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), arts. 1, **36(2)(b)** (with arts. 34, 35(2))

C128 S. 65(8) excluded (30.5.2007) by The Mersey Docks and Harbour Company (Seaforth River Terminal) Harbour Revision Order 2007 (S.I. 2007/1440), arts. 1(1), **17(2)(b)** (with arts. 19, 20)

C129 S. 65(8) excluded (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), arts. 1, **41(2)(b)** (with arts. 3(6), 12(3), 41(3))

C130 S. 65(8) excluded (28.9.2007) by The London Gateway Logistics and Commercial Centre Order 2007 (S.I. 2007/2657), arts. 1, **26(2)(b)** (with arts. 19, 28, Sch. 3 para. 13(2))

C131 S. 65(8) excluded (13.11.2007) by The Felixstowe Dock and Railway Harbour Revision Order 2007 (S.I. 2007/3219), arts. 1, **21(2)(b)** (with arts. 24, 25)

C132 S. 65(8) excluded (8.5.2008) by The Teesport Harbour Revision Order 2008 (S.I. 2008/1160), arts. 1(1), **16(2)(b)** (with arts. 19, 20)

C133 S. 65(8) excluded (16.5.2008) by The London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261), arts. 1, **27(2)** (with arts. 41(1), 45, 54(2), 55, 56, 57, 58(6))

C134 S. 65(8) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **s. 21(3)(b)**

C135 S. 65(8) excluded (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), arts. 1, **40(2)(b)** (with art. 36(3))

C136 S. 65(8) excluded (9.6.2009) by The Nottingham Express Transit System Order 2009 (S.I. 2009/1300), arts. 1, **78(2)(b)** (with Sch. 13 para. 14(2), Sch. 14 para. 19, Sch. 16)

C137 S. 65(8) excluded (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), arts. 1, **38(2)(b)**

C138 S. 65(8) excluded (17.3.2010) by The Harwich Parkeston Quay Harbour Revision Order 2010 (S.I. 2010/626), arts. 1, **16** (with art. 20)

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C139 S. 65(8) excluded (13.4.2010) by The Port of Bristol (Deep Sea Container Terminal) Harbour Revision Order 2010 (S.I. 2010/2020), arts. 1(2), **26(2)(b)** (with arts. 18, 19)

C140 S. 65(8) excluded (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), arts. 1, **26(2)(b)**

C141 S. 65(8) excluded (27.8.2010) by The Llangollen and Corwen Railway Order 2010 (S.I. 2010/2136), arts. 1(1), **10(2)(b)** (with art. 10(3))

C142 S. 65(8) excluded (1.2.2011) by The River Mersey (Mersey Gateway Bridge) Order 2011 (S.I. 2011/41), arts. 1, **50(2)(b)** (with art. 51, Sch. 10 paras. 68, 85)

C143 S. 65(8) excluded (21.4.2011) by The Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011/1072), arts. 1, **41(2)(b)** (with art. 41(3))

C144 S. 65(8) excluded (16.3.2012) by The Dover Harbour Revision Order 2012 (S.I. 2012/416), arts. 1(1), **16(2)(b)** (with arts. 18, 19, Sch. para. 7)

C145 S. 65(8) excluded (7.8.2012) by The Ipswich Barrier Order 2012 (S.I. 2012/1867), arts. 1, **52(2)(b)** (with arts. 46-48, Sch. 8 para. 18)

66 Reduction of noise levels.

(1) If it appears to the local authority—

(a) that the level of noise emanating from any premises to which a noise abatement order applies is not acceptable having regard to the purposes for which the order was made; and

(b) that a reduction in that level is practicable at reasonable cost and would afford a public benefit,

the local authority may serve a notice on the person responsible.

(2) The notice shall require that person—

(a) to reduce the level of noise emanating from the premises to such level as may be specified in the notice;

(b) to prevent any subsequent increase in the level of noise emanating from those premises without the consent of the local authority; and

(c) to take such steps as may be specified in the notice to achieve those purposes.

(3) A notice under this section (in this Part of this Act referred to as a "noise reduction notice") shall specify a time, not being less than six months from the date of service of the notice, within which the noise level is to be reduced to the specified level and, where the notice specifies any steps necessary to achieve that purpose, within which those steps shall be taken.

(4) A noise reduction notice may specify particular times, or particular days, during which the noise level is to be reduced, and may require the noise level to be reduced to different levels for different times or days.

(5) A notice under this section shall take effect whether or not a consent under the preceding section authorises a level of noise higher than that specified in the notice.

(6) The local authority shall record particulars of a noise reduction notice in the noise level register.

(7) A person who is served with a noise reduction notice may, within three months of the date of service, appeal to a magistrates' court against the notice.

(8) A person who without reasonable excuse contravenes a noise reduction notice shall be guilty of an offence against this Part of this Act.

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(9) In proceedings for an offence under the preceding subsection in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means had been used for preventing, or for counteracting the effect of, the noise.

Modifications etc. (not altering text)

C114 Ss. 63-67 excluded (18.3.2011) by Forth Crossing Act 2011 (asp 2), **ss. 70(3)**, 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.

67 New buildings etc.

(1) Where it appears to the local authority—

(a) that a building is going to be constructed and that a noise abatement order will apply to it when it is erected; or

(b) that any premises will, as the result of any works, become premises to which a noise abatement order applies,

the local authority may, on the application of the owner or occupier of the premises or a person who satisfies the authority that he is negotiating to acquire an interest in the premises or on its own initiative, determine the level of noise which will be acceptable as that emanating from the premises.

(2) The local authority shall record in the noise level register the level of noise determined under this section for any premises.

(3) The local authority shall givenotice of its intention to the applicant or, in the case of a decision made on its own initiative, to the owner or the occupier of the premises, and the recipient of the notice may appeal to the Secretary of State against that decision within three months of the date on which the local authority notifies him of that decision; and it shall be the duty of the local authority to act in accordance with the decision of the Secretary of State on the appeal.

(4) If within the period of two months beginning with the date when the local authority receives an application in pursuance of subsection (1) of this section, the authority has not given notice to the applicant of its decision on the application, the authority shall be deemed to have given him notice on the expiration of that period that it has decided not to make a determination in pursuance of the application; and the applicant may accordingly appeal against the decision to the Secretary of State in pursuance of the preceding subsection.

(5) Where at any time after the coming into force of a noise abatement order any premises become premises to which the order applies as a result of the construction of a building or as a result of any works carried out on the premises but no level of noise has been determined under this section as respects the premises, section 66 of this Act shall apply as if—

(a) paragraph (b) of subsection (1) were omitted; and

(b) three months were substituted for six months in subsection (3); and

(c) subsection (9) were omitted.

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Modifications etc. (not altering text)

C114 Ss. 63-67 excluded (18.3.2011) by Forth Crossing Act 2011 (asp 2), **ss. 70(3)**, 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.

Noise from plant or machinery

68 Noise from plant or machinery.

(1) Provision may be made by regulations—

(a) for requiring the use on or in connection with plant or machinery of devices or arrangements for reducing the noise caused by the plant or machinery;

(b) for limiting the level of noise which may be caused by any plant or machinery when used for works to which section 60 of this Act applies or which may be caused outside a factory within the meaning of the [M39]Factories Act 1961 by the use of plant or machinery in the factory;

and regulations under this section may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations.

(2) It shall be the duty of the Secretary of State, before he makes regulations under this section, to consult persons appearing to him to represent producers and users of plants and machinery with a view to ensuring that the regulations do not contain requirements which in his opinion would be impracticable or involve unreasonable expense.

(3) Any person who contravenes or causes or permits another person to contravene regulations under this section shall be guilty of an offence against this Part of this Act; but in any proceedings for a contravention or regulations made in pursuance of paragraph (a) of subsection (1) of this section it shall be a defence to prove that means were used for the purpose of reducing the noise in question which were not less effective for that purpose than the means required by the regulations.

(4) Without prejudice to the generality of section 104(1)(a) of this Act, different regulations may be made under this section for different localities, and it shall be the duty of each local authority to enforce the provisions of regulations under this section within its area; but nothing in this section shall be taken to authorise a local authority in Scotland to institute proceedings for any offence.

(5) Nothing in this section or in regulations under this section shall be construed as derogating from any other provision of this Part of this Act.

Marginal Citations

M39 1961 c. 64.

Supplemental

69 Execution of works by local authority.

(1) This section applies—

[F205](a) . . . . . .

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 28 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)*

(b) to a noise reduction notice; and

(c) to an order of a magistrates' court under . . . F206 section 65(6) of this Act,

being a notice or order which requires any person to execute any works.

(2) If that person fails to execute all or any of the works in accordance with the notice or order, the local authority may execute those works.

(3) Where a local authority execute works in pursuance of—

(a) . . . F207 section 65(7) of this Act; or

(b) this section,

the local authority may recover from the person in default the expenditure incurred by the local authority in executing the works, except such of the expenditure as that person shows was unnecessary in the circumstances.

In this and the following subsection "the person in default" means—

F208 (i) . . . . . .

(ii) in a case under section 65(7), the person convicted of an offence under subsection (5) of that section, and

(iii) in any other case, the person to whom the notice or order applies.

(4) In proceedings to recover any amount due to a local authority under the preceding subsection in respect of works executed by the local authority in pursuance of this section, it shall not be open to the person in default to raise any question which he could have raised on an appeal against the notice or order.

Textual Amendments

F205 S. 69(1)(a) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F206 Words in s. 69(1)(c) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F207 Words in s. 69(3) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F208 S. 69(3): Para. (i) in the definition of "the person in default" repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

70 Appeals to Secretary of State and magistrates' court.

(1) Where any provision in this Part of this Act provides for an appeal to a magistrates' court, the procedure shall be by way of complaint for an order and **[**F209 the M40 Magistrates' Courts Act 1980**]** shall apply to the proceedings.

(2) The Secretary of State may make regulations as to appeals under this Part of this Act to the Secretary of State or, subject to the preceding subsection, to magistrates' courts; and the regulations may in particular—

(a) include provisions comparable to those in section 290 of the M41 Public Health Act 1936 (appeals against notices requiring the execution of works);

(b) prescribe the cases in which a notice under this Part of this Act is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;

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(c) prescribe the cases in which the decision on appeal may in some respects be less favourable to the appellant than the decision from which he is appealing;

(d) prescribe the cases in which the appellant may claim that a notice should have been served on some other person and prescribe the procedure to be followed in those cases.

(3) Regulations under this section may prescribe the procedure and practice as respect appeals to the Secretary of State under this Part of this Act, and in particular may make provision as respects—

(a) the particulars to be included in the notice of appeal;

(b) the persons on whom notice of appeal is to be served and the particulars, if any, to accompany the notice; and

(c) the abandonment of an appeal.

(4) In entertaining any appeal under this Part of this Act the Secretary of State, or as the case may be the magistrates' court, shall have regard to any duty imposed by law on the appellant which concerns the activities in the course of which the noise is emitted.

(5) In the application of this section to Scotland, subsection (1) and the reference to that subsection in subsection (2) shall not have effect.

Textual Amendments

F209 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 17(2)(a)**

Marginal Citations

M40 1980 c. 43.

M41 1936 c. 49.

71 Codes of practice for minimising noise.

(1) For the purpose of giving guidance on appropriate methods (including the use of specified types of plant or machinery) for minimising noise, the Secretary of State may—

(a) prepare and approve and issue such codes of practice as in his opinion are suitable for the purpose; and

(b) Approve such codes of practice issued or proposed to be issued otherwise than by the Secretary of State as in the opinion of the Secretary of State are suitable for the purpose.

(2) The Secretary of State shall under paragraph (a) or paragraph (b) of the preceding subsection approve a code of practice for the carrying out of works to which section 60 of this Act applies.

(3) The powers conferred by this section on the Secretary of State shall be exercisable by order, and shall include power to vary or revoke a previous order under this section.

72 "Best practicable means".

(1) This section shall apply for the construction of references in this Part of this Act to best practicable means.

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(2) In that expression "practicable" means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications.

(3) The means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and acoustic structures.

(4) The test of best practicable means is to apply only so far as compatible with any duty imposed by law, and in particular is to apply to statutory undertakers only so far as compatible with the duties imposed on them in their capacity of statutory undertakers.

(5) The said test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforseeable circumstances.

(6) Subject to the preceding provisions of this section, regard shall be had, in construing references to "best practicable means", to any relevant provision of a code of practice approved under the preceding section.

73 Interpretation and other supplementary provisions. E+W

(1) Except where the context otherwise requires, in this Part of this Act—

"contravention" includes a failure to comply with the provision in question, and "contravene" shall be construed accordingly;

"local authority" means—

(a) in England . . . F210, the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;

[F211(aa) in Wales, the council of a county or a county borough;**]**

and

(b) in Scotland, an islands or district council;

"noise" includes vibration;

"noise abatement order" and "noise abatement zone" have the meanings given by section 63 of this Act;

"noise level register" has the meaning given by section 64(2) of this Act;

"noise reduction notice" has the meaning given by section 66(3) of this Act;

"person responsible", in relation to the emission of noise, means the person to whose act, default or sufferance the noise is attributable;

"statutory undertakers" means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . F212, . . . F213, **[**F214or hydraulic power**]**, and includes **[**F215the Port Office**]**;

"work of engineering construction" means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.

(2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except sections 62 to 67, the territorial sea lying seawards from that part of the shore; and—

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F216(a) . . . . . .

(b) this Part of this Act (except sections 62 to 67 and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

(i) As if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and

(ii) with such other modifications, if any, as are prescribed.

(3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act.

(4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

Extent Information

E4 This version of this provision extends to England and Wales only; a separate version has been created for Scotland.

Textual Amendments

F210 S. 73(1): words in the definition of "local authority" repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(3), **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Schs. 1, **2**

F211 S. 73(1): para. (aa) in the definition of "local authority" inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(3)** (with ss. 54(4)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F212 Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 paras. 33, 35(1), **Sch. 18**

F213 "gas," repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**

F214 Words in s. 73(1) substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F215 S. 73(1): By S.I. 2001/1149, art. 3(1), **Sch. 1 para. 38** it is provided (26.3.2001) that in the definition of "statutory undertakers" the words "a universal service provider (within the meaning of the Postal Services Act 2000) in his capacity as a person who provides a universal postal service (within the meaning of that Act)" shall be substituted for the words "the Post Office"

F216 S. 73(2)(a) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

Modifications etc. (not altering text)

C146 S. 73 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxix), **Sch. 8 para. 33**
s. 73 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxii)**; S.I. 1996/218, **art. 2**

73 Interpretation and other supplementary provisions. S

(1) Except where the context otherwise requires, in this Part of this Act—

"contravention" includes a failure to comply with the provision in question, and "contravene" shall be construed accordingly;

F361 . . .

"local authority" means—

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(a) in England . . . [F210], the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;

(aa) **[**[F211]in Wales, the council of a county or a county borough;**]** and

(b) in Scotland, an islands or district council;

"noise" includes vibration;

"noise abatement order" and "noise abatement zone" have the meanings given by section 63 of this Act;

"noise level register" has the meaning given by section 64(2) of this Act;

"noise reduction notice" has the meaning given by section 66(3) of this Act;

"person responsible", in relation to

[F362](a) the emission of noise, means the person to whose act, default or surrerance the noise is attributable;

[F363](b) . . . . . .

[F363](c) . . . . . .

[F364].

"statutory undertakers" means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . [F212], . . . [F213], **[**[F214]or hydraulic power**]**, and includes **[**[F215]a universal service provider (within the meaning of **[**[F365]Part 3 of the Postal Services Act 2011**]**) in his capacity as a person who provides a universal postal service (within the meaning of **[**[F366]that Part**])]**;

"work of engineering construction" means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gasholder.

(2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except sections 62 to 67, the territorial sea lying seawards from that part of the shore; and—

[F367](a) . . . . . .

(b) this Part of this Act (except sections 62 to 67 and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

(i) As if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and

(ii) with such other modifications, if any, as are prescribed.

(3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act . . . [F368]

(4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

Extent Information

E7 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

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Textual Amendments

F210 S. 73(1): words in the definition of "local authority" repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(3), **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Schs. 1, **2**

F211 S. 73(1): para. (aa) in the definition of "local authority" inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(3)** (with ss. 54(4)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F212 Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 paras. 33, 35(1), **Sch. 18**

F213 "gas," repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**

F214 Words in s. 73(1) substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F215 S. 73(1): By S.I. 2001/1149, art. 3(1), **Sch. 1 para. 38** it is provided (26.3.2001) that in the definition of "statutory undertakers" the words "a universal service provider (within the meaning of the Postal Services Act 2000) in his capacity as a person who provides a universal postal service (within the meaning of that Act)" shall be substituted for the words "the Post Office"

F361 S. 73(1): definition of "equipment" repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F362 Words in definition in s. 73(1) renumbered as para. (a) and paras. (b)(c) added (S.) (5.1.1994) by 1993 c. 40, ss. 6, 12(1), **Sch. 1 para. 7(a)(ii)**.

F363 S. 73(1): paras. (b) and (c) in the definition of "person responsible" repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F364 S. 73(1): definition of "road noise" repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F365 Words in s. 73(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 97(a)**; S.I. 2011/2329, art. 3

F366 Words in s. 73(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 97(b)**; S.I. 2011/2329, art. 3

F367 S. 73(2)(a) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. II**

F368 Words in s. 73(3) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C222 S. 73 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxix), **Sch. 8 para. 33**

C223 S. 73 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxii)**; S.I. 1996/218, **art. 2**

74 Penalties.

(1) . . . [F217], a person guilty of an offence against this Part of this Act shall be liable on summary conviction—

(a) in the case of a first offence against this Part of this Act, to a fine not exceeding **[**[F218]level 5 on the standard scale**]**; and

(b) in the case of a second or subsequent offence against this Part of this Act, to a fine not exceeding **[**[F219]level 5 on the standard scale**]**,

together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after the conviction.

(2) In determining whether an offence is a second or subsequent offence against this Part of this Act, account shall be taken of any offence—

(a) under section 24 of the [M42]Public Health (Scotland) Act 1897 by way of contravening a decree or interdict relating to noise; or

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(b) under section 95 of the [M43]Public Health Act 1936 by way of contravening a nuisance order relating to noise, **[**[F220]; or

(c) under section 80(4) of the Environmental Protection Act 1990,**]**

as if it were an offence against this Part of this Act.

Textual Amendments

F217 Words in s. 74 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F218 Words in s. 74(1)(a) substituted (S.) (11.4.1983) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289E**—289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F219 Words in s. 74(1)(b) substituted (S.) (11.4.1983) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 389F**, 389G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F220 S. 74(2)(c) and word "; or" immediately preceding it inserted (E.W.S.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 15(5)**

Marginal Citations

M42 1897 c. 38.

M43 1936 c. 49.

[F221]PART IV

Textual Amendments

F221 Ss. 75-84 (Pt. IV) repealed (27.8.1993) by 1993 c.11, ss. 67(3), 68(2), **Sch. 6**

Prevention of atmospheric pollution

Information about atmospheric pollution

Interpretation

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PART V

SUPPLEMENTARY PROVISIONS

Modifications etc. (not altering text)

C168 Pt. V applied (with modifications) (E.) (24.3.2011) by The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939), arts. 1(1), 9, **Sch. 2**

Legal proceedings

85 Appeals to Crown Court or Court of Session against decisions of magistrates' court or sheriff.

(1) An appeal against any decision of a magistrates' court in pursuance of this Act (other than a decision made in criminal proceedings) shall lie to the Crown Court at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Crown Court by virtue of any other enactment.

(2) In Scotland an appeal against any decision of the sheriff in pursuance of this Act (other than a decision made in criminal proceedings) shall lie to the Court of Session at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Court of Session by virtue of any other enactment.

(3) Where a person appeals to the Crown Court or the Court of Session against a decision of a magistrates' court or the sheriff dismissing an appeal against a notice served in pursuance of this Act which was suspended pending determination of that appeal, the notice shall again be suspended pending the determination of the appeal to the Crown Court or Court of Session.

86 . . . . . F238

Textual Amendments

F238 S. 86 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

87 Miscellaneous provisions relating to legal proceedings.

(1) When an offence under this Act 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 who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members the preceding provisions of this subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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(2) Where the commission by any person of an offence under this Act is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings for the offence are taken against any other person.

(3) F239 .Notwithstanding anything in **[**F240section 331 of the Criminal Procedure (Scotland) Act 1975**]**,summary proceedings in Scotland for any **[**F240offence under section 30F of this Act or regulations or byelaws made in pursuance of section 31 of this Act**]** such offence may be commenced at any time within one year from the time when the offence was committed, and **[**F240subsection (3) of section 331 of the said Act of 1975**]** shall apply for the purposes of this subsection, F239 . as that subsection applies for the purposes of that section.

(4) Where an appeal against a decision of a relevant authority lies to a magistrates' court by virtue of any provision of this Act, it shall be the duty of the authority to include in any document by which it notifies the decision to the person concerned a statement indicating that such an appeal lies as aforesaid and specifying the time within which it must be brought.

(5) Where on an appeal to any court against or arising out of a decision of a relevant authority in pursuance of this Act the court varies or reverses the decision it shall be the duty of the authority to act in accordance with the court's decision.

(6) A judge of any court and a justice of the peace shall not be disqualified from acting in cases arising under this Act by reason of his being, as one of several ratepayers or as one of any other class of persons, liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses of a relevant authority are to be defrayed.

Textual Amendments

F239 Words in s. 87(3) repealed (1.4.1996) by 1995 c. 25, ss. 106, 120(3), **Sch. 16 para. 9(a)(e)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F240 Words in s. 87(3) substituted (S.) (1.4.1996) by 1995 c. 25, s. 106, **Sch. 16 para. 9(b)(c)(d)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

88 Civil liability for contravention of s. 3(3).

(1) Where any damage is caused by poisonous, noxious or polluting waste which has been deposited on land, any person who deposited it or caused or knowingly permitted it to be deposited, in either case so as to commit an offence under section 3(3) or by virtue of section 18(2) of this Act, is liable for the damage except where the damage—

(a) was due wholly to the fault of the person who suffered it; or

(b) was suffered by a person who voluntarily accepted the risk thereof.

(2) The matters which under paragraphs (a) to (c) of subsection (4) of section 3 of this Act may be proved by way of defence to a charge of committing an offence under subsection (3) of that section may be proved also by way of defence to an action brought by virtue of the preceding subsection (the reference in the said paragraph (a) to the charge being construed as a reference to the act alleged to give rise to the liability).

(3) In this section—

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"damage" includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition);

"fault" has the same meaning as in the [M49]Law Reform (Contributory Negligence) Act 1945; and

"land" includes such water as is mentioned in section 4(4) of this Act.

(4) For the purposes of the following enactments, namely—

(a) the Fatal Accidents Acts 1846 to 1959;

(b) the [M50]Law Reform (Contributory Negligence) Act 1945; and

[[F241](c) the [M51]Limitation Act 1980**]**

and for the purposes of any action of damages in Scotland arising out of the death of, or personal injury to, any person, any damage for which a person is liable under subsection (1) of this section shall be treated as due to his fault.

(5) Subsection (1) of this section is without prejudice to any liability which arises apart from the provisions of this section.

Textual Amendments

F241 S. 88(4)(c) substituted by Limitation Act 1980 (c. 58), **Sch. 3 para. 12**

Modifications etc. (not altering text)

C169 S. 88(4)(a) extended by Fatal Accidents Act 1976 (c. 30), **Sch. 1 para. 2**

Marginal Citations

M49 1945 c. 28.
M50 1945 c. 28.
M51 1980 c. 58.

Financial provisions

89 Expenses and receipts of Secretary of State etc.

(1) There shall be paid out of money provided by Parliament—

(a) Any expenses incurred by the Secretary of State for the purposes of this Act; and

(b) Any increase attributable to the provisions of this Act in the sums payable under any other Act out of money so provided.

(2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

90 Establishment charges and interest in respect of certain expenses of authorities.

[[F242](1) Where a sum is payable to a water authority by any person by virtue of this Act in respect of the expenses incurred by the authority, the authority shall be entitled to recover from that person such a further sum in respect of its establishment charges as appears to the authority to be reasonable.**]**

(2) **[**[F243]Where such a sum or further sum as is mentioned in the preceding subsection is payable to a water authority by any person or a sum is payable to any other**][**[F243]Where

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a sum is payable to a**]** relevant authority by any person by virtue of this Act in respect of the expenses incurred by the authority or by virtue of section 36 of the [M52]Local Government Act 1974 in respect of establishment charges related to such expenses or by virtue of section 193 of the [M53]Local Government (Scotland) Act 1947 in respect of general expenses related to such expenses, then—

(a) the authority and that person may agree that the sum **[**[F244]or further sum**]** shall be paid in instalments; and

(b) the authority shall be entitled to receive from that person interest on the sum **[**[F244]or further sum**]**, or on such portion of it as is for the time being unpaid, at **[**[F245]such reasonable rate or rates as the authority may determine**]**

(3) In the application of this section to Scotland, for the references to a water authority there shall be substituted references to **[**[F246]SEPA**]**.

Textual Amendments

F242 S. 90(1) repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F243 Words commencing "Where a sum" substituted (E.W.) for words commencing "Where such a sum" by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F244 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F245 Words substituted by Local Government Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 17**

F246 Words in s. 90(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(30)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M52 1974 c. 7.

M53 1947 c. 43.

Miscellaneous

91 Rights of entry and inspection etc.

(1) Any person authorised in writing in that behalf by a relevant authority may at any reasonable time—

(a) enter upon any land or vessel for the purpose of—

(i) performing any function conferred on the authority or that person by virtue of this Act, or

(ii) determining whether, and if so in what manner, such a function should be performed, or

(iii) determining whether any provision of this Act or of an instrument made by virtue of this Act is being complied with;

(b) carry out such inspections, measurements and tests on the land or vessel or of any articles on it and take away such samples of the land or articles as he considers appropriate for such a purpose.

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

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(a) that admission to any land or vessel which a person is entitled to enter in pursuance of the preceding subsection has been refused to that person or that refusal is apprehended or that the land or vessel is unoccupied or that the occupier is temporarily absent or that the case is one of emergency or that an application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry upon the land or vessel for the purpose for which entry is required,

then, subject to the following subsection, the justice may by warrant under his hand authorise that person to enter the land or vessel, if need be by force.

(3) A justice of the peace shall not issue a warrant in pursuance of the preceding subsection in respect of any land or vessel unless he is satisfied—

(a) that admission to the land or vessel in pursuance of subsection (1) of this section was sought after not less than seven days notice of the intended entry had been served on the occupier; or

(b) that admission to the land or vessel in pursuance of that subsection was sought in an emergency and was refused by or on behalf of the occupier; or

(c) that the land or vessel is unoccupied; or

(d) that an application for admission to the land or vessel would defeat the object of the entry.

(4) A warrant issued in pursuance of this section shall continue in force until the purpose for which the entry is required has been satisfied.

(5) In the application of this section to Scotland—

F247(a) . . . . . .

(b) Any reference to a justice of the peace shall include a reference to the sheriff.

Textual Amendments

F247 S. 91(5)(a) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(31), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C170 Ss. 91-94 extended (with modifications) (14.10.1991) by Control of Pollution (Amendment) Act 1989 (c. 14, SIF 46:4), **s. 7(1)**; S.I. 1991/1618, **art. 3**

C171 S. 91 extended (20.9.2000) by 2000 c. vii, **ss. 1(1)**, 18(a)

C172 S. 91: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
S. 91: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
S. 91 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
S. 91 modified (10.1.1992 by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

C173 S. 91 modified (E.) (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**

C174 S. 91 modified (E.) (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)

C175 S. 91 modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

C176 S. 91 modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**

C177 S. 91 modified (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**

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92 Provisions supplementary to s. 91.

(1) A person authorised to enter upon any land or vessel in pursuance of the preceding section shall, if so required, produce evidence of his authority before he enters upon the land or vessel.

(2) A person so authorised may take with him on to the land or vessel in question such other persons and such equipment as may be necessary.

(3) Admission to any land or vessel used for residential purposes and admission with heavy equipment to any other land or vessel shall not, except in an emergency or in a case where the land or vessel is unoccupied, be demanded as of right in pursuance of subsection (1) of the preceding section unless a notice of the intended entry has been served on the occupier not less than seven days before the demand.

(4) A person who, in the exercise of powers conferred on him by virtue of the preceding section or this section, enters upon any land or vessel which is unoccupied or of which the occupier is temporarily absent shall leave the land or vessel as effectually secured against trespassers as he found it.

(5) It shall be the duty of a relevant authority to make full compensation to any person who has sustained damage by reason of—

(a) the exercise by a person authorised by the authority of any powers conferred on the person so authorised by virtue of the preceding section or this section; or

(b) the failure of a person so authorised to perform the duty imposed on him by the preceding subsection,

except where the damage is attributable to the default of the person who sustained it; and any dispute as to a person's entitlement to compensation in pursuance of this subsection or as to the amount of the compensation shall be determined by arbitration.

(6) A person who wilfully obstructs another person acting in the exercise of any powers conferred on the other person by virtue of the preceding section or this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F248]£100**][**[F248]level 3 on the standard scale**]**.

(7) In the preceding section and this section any reference to an emergency is a reference to a case where a person requiring entry to any land or vessel has reasonable cause to believe that circumstances exist which are likely to endanger life or health and that immediate entry to the land or vessel is necessary to verify the existence of those circumstances or to ascertain their cause or to effect a remedy.

Textual Amendments

F248 Words "level 3 on the standard scale"substituted (11.4.1983) for words "£100" by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

Modifications etc. (not altering text)

C178 Ss. 91-94 extended (with modifications) (14.10.1991) by Control of Pollution (Amendment) Act 1989 (c. 14, SIF 46:4), **ss. 7(1)**; S.I. 1991/1618, **art. 3**

C179 S. 92 extended (20.9.2000) by 2000 c. vii, **ss. 1(1)**, 18

C180 S. 92: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
S. 92: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**

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S. 92 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
S. 92 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

C181 S. 92 modified (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**

C182 S. 92 modified (E.) (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)

C183 S. 92 modified (E.) (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**

C184 S. 92 modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

C185 S. 92 modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**

93 Power of authorities to obtain information.

(1) Subject to the following subsection, a relevant authority may serve on any person a notice requiring him to furnish to the authority, within a period or at times specified in the notice and in a form so specified, any information so specified which the authority reasonably considers that it needs for the purposes of any function conferred on the authority by this Act.

(2) Provision may be made by regulations for restricting the information which may be required in pursuance of the preceding subsection and for determining the form in which the information is to be so required.

F249**[**(3) A person who—

(a) fails without reasonable excuse to comply with the requirements of a notice served on him in pursuance of this section; or

(b) in furnishing any information in compliance with such a notice, makes any statement which he knows to be false or misleading in a material particular or recklessly makes any statement which is false or misleading in a material particular,

shall be guilty of an offence.

(3A) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.**]**

F250(4) . . . . . .

Textual Amendments

F249 S. 93(3)(3A) substituted (1.4.1996) for s. 93(3) by 1995 c. 25, s. 112, **Sch. 19 para. 1(3)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F250 S. 93(4) repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

Modifications etc. (not altering text)

C186 Ss. 91-94 extended (with modifications) (14.10.1991) by Control of Pollution (Amendment) Act 1989 (c. 14, SIF 46:4), **s. 7(1)**; S.I. 1991/1618, **art. 3**

C187 S. 93: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**

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S. 93 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
S. 93: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**
S. 93 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

C188 S. 93 modified (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**

C189 S. 93 modified (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)

C190 S. 93 modified (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

C191 S. 93 modified (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**

C192 S. 93 modified (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**

94 Prohibition of disclosure of information.

(1) If a person discloses information relating to any trade secret used in carrying on a particular undertaking and the information has been given to him or obtained by him by virtue of this Act he shall, subject to the following subsection, be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F251]level 5 on the standard scale**]**.

(2) A person shall not be guilty of an offence under the preceding subsection by virtue of the disclosure of any information if—

(a) the disclosure is made—

(i) in the performance of his duty, or

(ii) in pursuance of section 79(1)(b) of this Act, or

(iii) with the consent in writing of a person having a right to disclose the information; or

(b) the information is of a kind prescribed for the purposes of this paragraph and, if regulations made for those purposes provide that information of that kind may only be disclosed in pursuance of the regulations to prescribed persons, the disclosure is to a prescribed person.

[F252](3) . . . . . .

Textual Amendments

F251 Words "level 5 on the standard scale" substituted (11.4.1983) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F252 S. 94(3) repealed (S.) (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. I** (with Sch. Pt. III)

Modifications etc. (not altering text)

C193 Ss. 91-94 extended (with modifications) (14.10.1991) by Control of Pollution (Amendment) Act 1989 (c. 14, SIF 46:4), **s. 7(1)**; S.I. 1991/1618, **art. 3**

C194 S. 94 excluded (14.10.1991) by Control of Pollution (Amendment) Act 1989 (c. 14, SIF 46:4), **s. 7(2)**; S.I. 1991/1618, **art. 3**

C195 S. 94: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
S. 94 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
S. 94: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**

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S. 94 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

C196 S. 94 modified (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**

C197 S. 94 modified (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**

C198 S. 94 modified (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)

C199 S. 94 modified (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

C200 S. 94 modified (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**

[F253 95 Service of documents on and by certain undertakers.

Section 187 of the Water Act 1989 (service of documents) shall apply for the purposes of the service of any document required or authorised by virtue of this Act to be served on or by a water undertaker or sewerage undertaker as it applies for the purposes of the service of any document required or authorised by virtue of that Act to be served on or by any person.]

Textual Amendments

F253 S. 95 substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 48(10), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

96 Local inquiries.

(1) The Secretary of State may cause a local inquiry to be held in any case in which he considers it appropriate for such an inquiry to be held either in connection with a provision of this Act or with a view to preventing or dealing with pollution [F254 other than air pollution] or noise at any place.

(2) Subsections (2) to (5) of section 250 of the M54 Local Government Act 1972 (which contain supplementary provisions with respect to local inquiries held in pursuance of that section) shall, without prejudice to the generality of subsection (1) of that section, apply to inquiries in England and Wales in pursuance of the preceding subsection as they apply to inquiries in pursuance of that section [F255 but as if the reference to a local authority in subsection (4) included a reference to a water authority.]

(3) Subsections (2) to (8) of section 210 of the M55 Local Government (Scotland) Act 1973 (local inquiries) shall, without prejudice to the generality of subsection (1) of that section, apply to inquiries in Scotland in pursuance of subsection (1) of this section as they apply to inquiries held in pursuance of that section. . . F256

Textual Amendments

F254 Words in s. 96(1) inserted (27.8.1993) by 1993 c. 11, ss. 67(1), 68(2), **Sch. 4 para. 2**

F255 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F256 Words in s. 96(3) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(32), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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Marginal Citations

M54 1972 c. 70.

M55 1973 c. 65.

97 Default powers.

(1) If the Secretary of State is satisfied that any other relevant authority has failed to perform any functions which it ought to have performed, he may make an order declaring the authority to be in default.

(2) An order made by virtue of the preceding subsection which declares an authority to be in default may, for the purpose of remedying the default, direct the authority (hereafter in this section referred to as "the defaulting authority") to perform such of its functions as are specified in the order and may specify the manner in which and the time or times within which those functions are to be performed by the authority.

(3) If the defaulting authority fails to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to himself such of the functions of the authority as he thinks fit.

(4) Where any functions of the defaulting authority are transferred in pursuance of the preceding subsection, the amount of any expenses which the Secretary of State certifies were incurred by him in performing those functions shall on demand be paid to him by the defaulting authority.

(5) Any expenses which in pursuance of the preceding subsection are required to be paid by the defaulting authority in respect of any functions transferred in pursuance of this section shall be defrayed by the authority in the like manner, and shall be debited to the like account, as if the functions had not been transferred and the expenses had been incurred by the authority in performing them; and the authority shall have the like powers for the purpose of raising any money required in pursuance of this subsection as the authority would have had for the purpose of raising money required for defraying expenses incurred for the purposes of the functions in question.

(6) An order transferring any functions of the defaulting authority in pursuance of subsection (3) of this section may provide for the transfer to the Secretary of State of such of the property, rights, liabilities and obligations of the authority as he considers appropriate; and where such an order is revoked the Secretary of State may, by the revoking order or a subsequent order, make such provision as he considers appropriate with respect to any property, rights, liabilities and obligations held by him for the purposes of the transferred functions.

(7) The Secretary of State may by order vary or revoke any order previously made by him in pursuance of this section.

(8) In this section "functions", in relation to an authority, means functions conferred on the authority by virtue of this Act.

(9) This section shall not apply to Scotland.

Modifications etc. (not altering text)

C201 S. 97 extended (14.10.1991) by Control of Pollution (Amendment) Act 1989 (c. 14, SIF 46:4), **s. 7(8)**; S.I. 1991/1618, **art. 3**

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C202 S. 97: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
S. 97: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
S. 97 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
S. 97 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**
C203 S. 97 modified (E.) (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**
C204 S. 97 modified (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**
C205 S. 97 modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**
C206 S. 97 modified (E.) (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)
C207 S. 97 modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**

98 Interpretation of Part V.

In this Part of this Act—

"functions" includes powers and duties; and

"relevant authority" means—

(a) in England [F257] ., the Secretary of State, **[**[F258]a water authority**]**, a county council, . . . [F259], a district council, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple **[**[F260]and, for the purposes of sections 91 to 93 of this Act, a sewerage undertaker**]**; and

(aa) **[**[F261]in Wales, the Secretary of State, a county council or a county borough council and, for the purposes of sections 91 to 93 of this Act, a sewerage undertaker; and**]**

(b) **[**[F262]in Scotland—

(i) as respects sections 91 and 92, a council constituted under section 2 of the [M56]Local Government etc. (Scotland) Act 1994; and

(ii) as respects this Part other than those sections, the Secretary of State, SEPA or a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.**]**

Textual Amendments

F257 S. 98: words in para. (a) of the definition of "relevant authority" repealed (1.4.1996) by 1994 c. 19, ss. 22(3), 66(8), Sch. 9 para. 10(4), **Sch. 18**; S.I. 1996/396, arts. 3, 4, Schs. 1, **2**
F258 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
F259 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
F260 Words inserted (E.W.) (1.9.1989) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 48(11), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
F261 S. 98: para. (aa) in the definition of "relevant authority" inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(4)**; S.I. 1996/396, art. 3, **Sch. 1**
F262 S. 98: para. (b) in the definition of "relevant authority" substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(33)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 28 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)*

Modifications etc. (not altering text)

C208 S. 98 shall have effect as if in paragraph (*a*) of the definition of "relevant authority" after the words "Middle Temple" there were inserted (E.W.) (27.12.1985) by S.I. 1985/1884, art. 5, **Sch. 2 para. 12** ", any authority established by the Waste Regulation and Disposal (Authorities) Order 1985"

C209 S. 98: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
S. 98: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
S. 98 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**
S. 98 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

C210 S. 98 modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

Marginal Citations

M56 1994 c. 39.

PART VI

MISCELLANEOUS AND GENERAL

Modifications etc. (not altering text)

C211 Pt. VI modified (E.) (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)

C212 Pt. VI modified (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**

C213 Pt. VI modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

C214 Pt. VI modified (E.) (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**

C215 Pt. VI modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**

C216 Pt. VI (ss. 99-109): certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
Pt. VI (ss. 99-109) modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**

C217 Pt. VI (ss. 99-109): certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**
Pt. VI (ss. 99-109) modified 10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**

Miscellaneous

99 Alteration of penalties. [X1]

The enactments mentioned in Schedule 2 to this Act shall have effect subject to the provisions of that Schedule (which alter the penalties for the offences to which those enactments relate).

Editorial Information

X1 The text of ss. 99, 108(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
***Changes to legislation:** Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 28 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)*

100 . . . . . F263

Textual Amendments

F263 S. 100 repealed by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. IX**

101 Disposal of waste etc by Atomic Energy Authority.

Without prejudice to the powers of the United Kingdom Atomic Energy Authority apart from this section, the Authority shall have power—

(a) to engage in the United Kingdom and elsewhere in such activities relating to the treatment or disposal of waste and other matter as the Secretary of State may from time to time specify by notice given to the Authority; and

(b) to do anything which appears to the Authority to be appropriate for the purpose of exercising the powers conferred on the Authority by the preceding paragraph.

102 Power to give effect to international agreements.

(1) Regulations may provide that any provision of this Act, except this section, shall have effect with such modifications as are prescribed with a view to enabling the Government of the United Kingdom to give effect to any provision made by or under any international agreement to which the Government is for the time being a party.

(2) The Secretary of State may make, to the Commission established by the Convention for the Prevention of Marine Pollution from Land-based Sources which was signed at Paris on behalf of the Government of the United Kingdom on 4 June 1974, such payments towards the expenses of the Commission as he may with the approval of the Treasury determine.

F264103 . . . . . .

Textual Amendments

F264 S. 103 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch. 6**

General

104 Orders and regulations.

(1) Any power conferred by this Act (except sections . . . F265, 63 and 65(6)) to make an order or regulations—

(a) includes power to make different provision by the order or regulations for different circumstances and to include in the order or regulations such incidental, supplemental and transitional provisions as the person making the order or regulations considers appropriate in connection with the order or regulations; and

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(b) shall be exercisable by statutory instrument except in the case of the powers conferred by section 97 of this Act;

and any statutory instrument made by virtue of this subsection, except an instrument containing only regulations made by virtue of section 18 of this Act or an order made by virtue of **[**F266section 33(4), 44(5), 52, 53 or 109(2)**][**F266section 44(5) or 109(2)**]** of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) No regulations shall be made by virtue of section 18 of this Act and no order shall be made by virtue of section 52 **[**F267or 53**]** of this Act unless a draft of the regulations or order has been approved by a resolution of each House of Parliament.

[F268(3) It shall be the duty of the Secretary of State, before he makes any regulations in pursuance of section 31(5) of this Act—

(a) to publish in the London Gazette and in at least one newspaper circulating in the area in question a copy of the proposed regulations and a notice specifying—

(i) A period of not less than twenty-eight days, beginning with the date on which the notice is first published, within which objections to the proposed regulations may be made, and

(ii) the person to whom such objections may be made; and

(b) to consider any objections to the proposed regulations which are made within that period and, if such an objection is so made by a prescribed person and is not withdrawn, to cause a local inquiry to be held in pursuance of section 96 of this Act with respect to the proposed regulations;

and the Secretary of State may, after considering any such objections as are mentioned in paragraph (b) of this subsection and the report of any person appointed to hold a local inquiry with respect to the proposed regulations, make the regulations either in the form in which a copy of them was published in pursuance of this subsection or in that form with such modifications as he considers appropriate.**]**

Textual Amendments

F265 Words in s. 104(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(34), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F266 Words in s. 104(1) substituted (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)–(10), 190, 193(1), Sch. 23 para. 7, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F267 Words repealed (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F268 S. 104(3) repealed (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

105 Interpretation etc—general. E+W

(1) In this Act—

[F269 "the Alkali Act" means the M57Alkali, &c. Works Regulation Act 1906;**]**

"county" **[**F270 county borough**]** and "district", except in relation to Scotland, have the same meanings as in the M58Local Government Act 1972;

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"mine" and "quarry" have the same meanings as in the [M59]Mines and Quarries Act 1954;

"modifications" includes additions, omissions and amendments and "modify" and cognate expressions shall be construed accordingly;

"notice" means notice in writing;

"owner", except in relation to Scotland, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent;

"premises" includes land;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State;

[[F271]"road" (except where the context otherwise requires) has the same meaning as in the **[**[F272]Part IV of the New Roads and Street Works Act 1991**]**:

"roads authority" has the same meaning as in the Roads (Scotland) Act 1984;**][**[F273] "SEPA" means the Scottish Environment Protection Agency;**]**

"trade effluent" includes any liquid (either with or without particles of matter in suspension in it) which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage, and for the purposes of this definition on any premises wholly or mainly used (whether for profit or not) for agricultural or horticultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade; and

"vessel" includes a hovercraft within the meaning of the [M60]Hovercraft Act 1968.

(2) Except so far as this Act expressly provides otherwise and subject to the provisions of **[**[F274]section 18 of the [M61]Interpretation Act 1978**]** (which relates to offences under two or more laws), nothing in this Act—

(a) confers a right of action in any civil proceedings (other than the proceedings for the recovery of a fine) in respect of any contravention of this Act or an instrument made in pursuance of this Act;

(b) Affects any restriction imposed by or under any other enactment, whether public, local or private; or

(c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

(3) In so far as any interest in Crown land is not an interest belonging to Her Majesty or a Crown interest or a Duchy interest, this Act shall apply to the land as if it were not Crown land; and expressions used in this subsection and **[**[F275]subsection (1) of section 293 of the Town and Country Planning Act 1990**]** or, in relation to Scotland, **[**[F276]subsections (1) to (3) of section 242 of the Town and Country Planning (Scotland) Act 1997**]** have the same meanings in this subsection as in that subsection.

(4) References in this Act to any enactment are references to it as amended by or under any other enactment.

Extent Information

E5 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F269 Definition repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. I**

F270 Words in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(5)** (with Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, **art. 3**

F271 Definitions inserted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(6)**

F272 Words in s. 105(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22), s. 168(1), **Sch. 8 Pt. IV para. 105**; S.I. 1992/2990, art. 2(2), **Sch. 2** .

F273 S. 105(1): definition of "SEPA" inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(35)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F274 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**

F275 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 31(2)**

F276 Words in s. 105(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2**, para. 23(2)

Modifications etc. (not altering text)

C218 S. 105(3) amended (E.W.) (25.9.1991) by Atomic Weapons Establishment Act 1991 (c. 46), ss. 3, 6(2), **Sch. para. 8(2)**

Marginal Citations

M57 1906 c. 14.

M58 1972 c. 70.

M59 1954 c. 70.

M60 1968 c. 59.

M61 1978 c. 30.

105 Interpretation etc—general. S

(1) In this Act—

[F369 "the Alkali Act" means the M81Alkali, &c. Works Regulation Act 1906;**]**

"county" **[**F370 county borough**]** and "district", except in relation to Scotland, have the same meanings as in the M82Local Government Act 1972;

"mine" and "quarry" have the same meanings as in the M83Mines and Quarries Act 1954;

"modifications" includes additions, omissions and amendments and "modify" and cognate expressions shall be construed accordingly;

"notice" means notice in writing;

"owner", except in relation to Scotland, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent;

"premises" includes land;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State;

[F371"road" (except where the context otherwise requires) has the same meaning as in the **[**F372Part IV of the New Roads and Street Works Act 1991**]**:

"roads authority" has the same meaning as in the Roads (Scotland) Act 1984;**][**F373 "SEPA" means the Scottish Environment Protection Agency;**]**

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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"trade effluent" includes any liquid (either with or without particles of matter in suspension in it) which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage, and for the purposes of this definition on any premises wholly or mainly used (whether for profit or not) for agricultural or horticultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade; and

"vessel" includes a hovercraft within the meaning of the [M84]Hovercraft Act 1968.

(2) Except so far as this Act expressly provides otherwise and subject to the provisions of **[**[F374]section 18 of the [M85]Interpretation Act 1978**]** (which relates to offences under two or more laws), nothing in this Act—

(a) confers a right of action in any civil proceedings (other than the proceedings for the recovery of a fine) in respect of any contravention of this Act or an instrument made in pursuance of this Act;

(b) Affects any restriction imposed by or under any other enactment, whether public, local or private; or

(c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

[[F375](3) Subject to subsections (3A) to (3D) below, this Act shall bind the Crown.

(3A) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the Court of Session may, on the application of—

(a) the Scottish Environment Protection Agency; or

(b) any other public or local authority charged with enforcing that provision,

declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3B) Notwithstanding anything in subsection (3A) above, any provision made by or under this Act shall apply to persons in the public service of the Crown as it applies to other persons.

(3C) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises; and in this subsection "Crown premises" means premises held or used by or on behalf of the Crown.

(3D) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity.**]**

(4) References in this Act to any enactment are references to it as amended by or under any other enactment.

Extent Information

E8 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F369 Definition repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. I**

F370 Words in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 10(5)** (with Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, **art. 3**

F371 Definitions inserted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 74(6)**

F372 Words in s. 105(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22), s. 168(1), **Sch. 8 Pt. IV para. 105**; S.I. 1992/2990, art. 2(2), **Sch. 2** .

F373 S. 105(1): definition of "SEPA" inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(35)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F374 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**

F375 S. 105(3)(3A)(3B)(3C)(3D) substituted (S.) (8.4.1998) for s. 105(3) by 1995 c. 25, s. 116, **Sch. 21 Pt. II para. 4** (with ss. 7(6), 115, 117); S.I. 1998/781, **art. 2** (subject to transitional provisions in art. 3)

Modifications etc. (not altering text)

C224 S. 105(3C): certain functions made exercisable by the Scottish Ministers concurrently with the Minister (1.7.1999) by S.I. 1999/1750, arts. 1(1), 3, **Sch. 2** (with art. 7)

Marginal Citations

M81 1906 c. 14.

M82 1972 c. 70.

M83 1954 c. 70.

M84 1968 c. 59.

M85 1978 c. 30.

106 General application to Scotland.

(1) The provisions of this section shall, in addition to any express provision for the application to Scotland of any provision of this Act, have effect for the general application of this Act to Scotland.

F277(2) . . . . . .

[F278(3) In this Act "region", "district", "regional council", "islands council" and "district council" have respectively the same meanings as in the M62Local Government (Scotland) Act 1973.**]**

[F279(4) Any reference in this Act to a highway shall, unless the contrary intention appears, include a reference to any public right of way.**]**

(5) Any question which is required by any provision of this Act to be determined by arbitration shall be determined by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties.

(6) For any reference in this Act to a magistrates' court there shall be substituted a reference to the sheriff.

F280(7) . . . . . .

(8) For any reference in this Act to the London Gazette there shall be substituted a reference to the Edinburgh Gazette.

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(9) In this Act "owner" means the person for the time being entitled to receive or who would, if the same were let, be entitled to receive, the rents of the premises in connection with which the word is used and includes a trustee, factor, tutor or curator, and, in the case of public or municipal property, includes the persons to whom the management thereof is entrusted.

Textual Amendments

F277 S. 106(2) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F278 S. 106(3) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F279 S. 106(4) repealed (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 74(7), **Sch. 11**

F280 S. 106(7) repealed (S.) (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), **Sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

Marginal Citations

M62 1973 c. 65.

107 Application to Isles of Scilly.

This Act shall have effect in its application to the Isles of Scilly with such modifications as the Secretary of State may by order specify, and the Secretary of State may by order vary or revoke any order previously made in pursuance of this section.

Modifications etc. (not altering text)

C219 S. 107 extended (16.7.1991) by Control of Pollution (Amendment) Act 1989 (c. 14, SIF 46:4), **s. 11(3)**; S.I. 1991/1618, **art. 2(a)**

108 Minor and consequential amendments of enactments, and repeals.

[X2](1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments there specified (which are minor amendments and amendments consequential on provisions of this Act).

[X2](2) The enactments mentioned in the first and second columns of Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The Secretary of State may by order repeal or amend any provision of any local Act passed before this Act (including an Act confirming a provisional order) or of any order or other instrument made under an Act so passed if it appears to him that the provision is inconsistent with, or has become unnecessary or requires alteration in consequence of, any provision of this Act or corresponds to any provision repealed by this Act or relates to trade effluent.

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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Editorial Information

X2 The text of ss. 99, 108(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

109 Short title, commencement and extent.

(1) This Act may be cited as the Control of Pollution Act 1974.

(2) This Act shall come into force on such day as the Secretary of State may by order appoint; and—

(a) without prejudice to the generality of section 104(1)(a) of this Act, different days may be appointed in pursuance of this subsection for different provisions of this Act and for such different purposes of the same provision as may be specified in the order;

(b) Any provision appointing a day in pursuance of this subsection may be revoked or varied by an order made by the Secretary of State which comes into force before that day.

(3) This Act, except sections [F281]... [F282]... 101 and this section, does not extend to Northern Ireland.

Subordinate Legislation Made

P1 Power of appointment conferred by s. 109(2) partly exercised by S.I. 1974/2039, 2169, 1975/230, 2118, 1976/731, 956, 1080, 1977/336, 476, 1587, 2164, 1978/816, 954, 1981/196, 1982/624, 1983/1175, 1984/853, 1985/70, 1988/818
S. 109(2) power partly exercised: 31. 5. 1991 appointed for s. 108(2) and Sch. 4 (so far as it concerns the repeal of ss. 25(1)(c)(4) and 26(2)(4)(7)(8)(9) of the Rivers (Prevention of Pollution) (Scotland) Act 1951) by S.I. 1991/1173

Textual Amendments

F281 Words in s.109(3) repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch. 6**

F282 Words in s. 109(3) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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SCHEDULES

[F283SCHEDULE 1

NOISE ABATEMENT ZONES

Textual Amendments

F283 Sch. 1 substituted by Local Government Planning and Land Act 1980 (c. 65), s. 1(2), **Sch. 2 para. 18**

1 Before making a noise abatement order the local authority—

(a) shall serve on every owner, lessee and occupier (other than tenants for a month or any period less than a month) of any of the premises within the area and of a class to which the order will relate; and

(b) shall publish in the London Gazette and once at least in each of two successive weeks in some newspaper circulating in the area to which the order will relate,

a notice complying with the requirements set out in the following paragraph.

2 The requirements referred to in the preceding paragraph are that the notice—

(a) shall state that the local authority propose to make the order, and its general effect;

(b) shall specify a place in the area of the local authority where a copy of the order and of any map or plan referred to in it may be inspected by any person free of charge at all reasonable times during a period of not less than six weeks from the date of the last publication of the notice; and

(c) shall state that within the said period any person who will be affected by the order may by notice in writing to the local authority object to the making of the order.

3 (1) If an objection is duly made to the local authority within the said period, and is not withdrawn, the local authority shall not make the order without first considering the objection.

(2) The local authority may make the order without complying with sub-paragraph (1) of this paragraph if they are satisfied that compliance is unnecessary having regard—

(a) to the nature of the premises to which the order will relate when it comes into force; or

(b) to the nature of the interests of the persons who have made objections which have not been withdrawn.

(3) Where the order varies or revokes a previous order, the local authority may, in acting under this paragraph disregard any objection to the order which in their opinion amounts in substance to an objection which was made to the previous order.

4 (1) Subject to paragraph 5 below, an order shall come into operation on such date after it is made as may be specified in it.

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Control of Pollution Act 1974 is up to date with all changes known to be in force on or before 28 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)*

(2) Except in the case of an order revoking an existing order or varying an existing order by excluding from it any specified class of premises, the date specified under sub-paragraph (1) above shall not be a date earlier than one month from the date on which the order is made.

5 If, before the date on which the order is to come into operation, the local authority—

(a) passes a resolution postponing the coming into operation of the order; and

(b) publishes a notice stating the effect of the resolution in the London Gazette and once at least in each of two successive weeks in a newspaper circulating in the area to which the order relates,

the order shall, unless there is a further postponement under paragraph (a) above, come into operation on the date specified in the resolution.**]**

[F284SCHEDULE 1A

ORDERS DESIGNATING NITRATE SENSITIVE AREAS: SCOTLAND

Textual Amendments

F284 Sch. 1A inserted (S.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)-(10), 190, 193(1), Sch. 23 para. 8, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

PART I

APPLICATIONS BY **[**F285SEPA**]]** FOR DESIGNATION ORDERS

Textual Amendments

F285 Words in Pt. I heading substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Orders made only on application

1 (1) Subject to sub-paragraph (2) below, the Secretary of State shall not make an order under section 31B of this Act by virtue of which any land is designated as a nitrate sensitive area, except with the consent of the Treasury and on an application which—

(a) has been made by **[**F286SEPA**]** in accordance with paragraph 2 below; and

(b) by virtue of sub-paragraph (2)(a) of that paragraph identifies the controlled waters with respect to which that land is so comprised by the order.

(2) This paragraph shall not apply to an order which reproduces or amends an existing order without adding any land appearing to the Secretary of State to constitute a significant area to the land already comprised in the areas for the time being designated as nitrate sensitive areas.

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Textual Amendments

F286 Words in Sch. 1A para. 1(1)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Procedure for applications

2 (1) **[**F287SEPA**]** shall not, for the purposes of paragraph 1 above, apply for the making of any order under section 31B of this Act, by which any land would be comprised in the areas for the time being designated as nitrate sensitive areas unless it appears to **[**F288SEPA**]**—

(a) that pollution is or is likely to be caused by the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of particular land for agricultural purposes; and

(b) that the provisions for the time being in force in relation to those waters and that land are not sufficient, in the opinion of **[**F289SEPA**]**, for preventing or controlling such an entry of nitrate into those waters.

(2) An application under this paragraph shall identify—

(a) the controlled waters appearing to **[**F290SEPA**]** to be the waters which the nitrate is entering or is likely to enter; and

(b) the land appearing to **[**F291SEPA**]** to be the land the use of which for agricultural purposes, or the doing of anything in connection with whose use for agricultural purposes, is resulting or is likely to result in the entry of nitrate into those waters.

(3) An application under this paragraph shall be made by serving a notice containing the application on the Secretary of State.

Textual Amendments

F287 Words in Sch. 1A para. 2(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F288 Words in Sch. 1A para. 2(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(10)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F289 Words in Sch. 1A para. 2(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(10)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F290 Words in Sch. 1A para. 2(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(10)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F291 Words in Sch. 1A para. 2(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(10)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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PART II

ORDERS CONTAINING MANDATORY PROVISIONS ETC.

Publication of proposal for order containing mandatory provisions

3 (1) This paragraph applies where the Secretary of State proposes to make an order under section 31B of this Act which—

(a) makes or modifies any such provision as is authorised by subsection (3)(a) of that section; and

(b) in doing so, contains provision which is not of one of the following descriptions, that is to say—

(i) provision reproducing existing provisions without modification and in relation to substantially the same area; and

(ii) provision modifying any existing provisions so as to make them less onerous.

(2) The Secretary of State shall, before making any such order as is mentioned in sub-paragraph (1) above—

(a) publish a notice with respect to the proposed order at least once in each of two successive weeks, in one or more newspapers circulating in the locality in relation to which the proposed order will have effect;

(b) not later than the date on which that notice is first published, serve a copy of the notice on—

(i) **[**F292SEPA**]**;

(ii) every local authority whose area includes the whole or any part of that locality; and

[F293(iia) the National Park authority for any National Park which includes the whole or any part of that locality;**]**

(iii) in the case of an order containing any such provision as is authorised by section 31B(3)(b) of this Act, such owners and occupiers of agricultural land in that locality as appear to the Secretary of State to be likely to be affected by the obligations in respect of which payments are to be made under that provision;

and

(c) publish a notice in the Edinburgh Gazette which—

(i) names every local authority **[**F294and National Park authority**]**on whom a notice is required to be served under this paragraph;

(ii) specifies a place where a copy of the proposed order and of any relevant map or plan may be inspected; and

(iii) gives the name of every newspaper in which the notice required by virtue of paragraph (a) above was published and the date of an issue containing the notice.

(3) The notice required by virtue of sub-paragraph (2)(a) above to be published with respect to any proposed order shall—

(a) state the general effect of the proposed order;

(b) specify a place where a copy of the proposed order and of any relevant map or plan may be inspected by any person free of charge at all reasonable

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times during the period of forty-two days beginning with the date of the first publication of the notice; and

(c) state that any person may, within that period, by notice to the Secretary of State object to the making of the order.

Textual Amendments

F292 Words in Sch. 1A para. 3(2)(b)(i) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F293 Sch. 1A para. 3(2)(b)(ii) inserted (S.) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 4(a)** (with s. 32); S.S.I. 2000/312, **art. 2**

F294 Words in Sch. 1A para. 3(2)(c)(i) inserted (S.) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 4(b)** (with s. 32); S.S.I. 2000/312, **art. 2**

Supply of copies of proposed orders

4 The Secretary of State shall, at the request of any person and on payment by that person of such charge (if any) as the Secretary of State may reasonably require, furnish that person with a copy of any proposed order of which notice has been published under paragraph 3 above.

Modifications of proposals

5 (1) Where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above and the period of forty-two days mentioned in sub-paragraph (3)(b) of that paragraph has expired, the Secretary of State may make the order either in the proposed terms or, subject to sub-paragraph (2) below (but without any further compliance with paragraph 3 above), in those terms as modified in such manner as he thinks fit, or may decide not to make any order.

(2) The Secretary of State shall not make such a modification of a proposed order of which notice has been so published and served as he considers is likely adversely to affect any persons unless he has given such notices as he considers appropriate for enabling those persons to object to the modification.

(3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the Secretary of State include any modification of the area designated by the proposed order as a nitrate sensitive area.

Consideration of objections etc.

6 Without prejudice to section 96 of this Act, where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above, the Secretary of State may, if he considers it appropriate to do so, hold a local inquiry before deciding whether or not to make the proposed order or to make it with modifications.

Consent of Treasury for payment provisions

7 The consent of the Treasury shall be required for the making of any order under section 31B of this Act the making of which does not require the consent of the

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Treasury by virtue of paragraph 1 above but which contains any such provision as is authorised by subsection (3)(b) of that section.

8 In this Part, "local authority" means a **[**[F295]council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.**]**

Textual Amendments

F295 Words in Sch. 1A para. 8 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 95(10)**; S.I. 1996/323, **art. 4(1)(c)**

SCHEDULE 2

Section 99.

ALTERATION OF PENALTIES

The Public Health (Scotland) Act 1897

[F296]1 . . . . . .

Textual Amendments

F296 Sch. 2 para. 1 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F297]2 . . . . . .

Textual Amendments

F297 Sch. 2 para. 2 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F298]3 . . . . . .

Textual Amendments

F298 Sch. 2 para. 3 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

The Alkali, &c. Works Regulation Act 1906

[F299]4 . . . . . .

Textual Amendments

F299 Sch. 2 para. 4 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

[F300]5 . . . . . .

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Textual Amendments

F300 Sch. 2 para. 5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

The [M63]Public Health Act 1936

Marginal Citations

M63 1936 c. 49.

[[F301]6 In section 19(3) of the Public Health Act 1936 (under which a person is liable on summary conviction to a fine not exceeding £50 if he constructs a drain or sewer in a manner other than that in which he is required to construct it by a local authority in pursuance of that section) for the words 'fifty pounds' there shall be substituted the word '£200'.**]**

Textual Amendments

F301 Sch 2 para. 6 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

[[F302]7 In section 27 of that Act (which provides that certain matters are not to be passed into public sewers), in subsection (2) (under which a contravention of that section is punishable on summary conviction by a fine not exceeding £10 and a further £5 for each day on which the offence continues after conviction) for the, words from "to a fine" onwards there shall be substituted the words—

"(a) on summary conviction, to a fine not exceeding £400 and to a further fine not exceeding £50 for each day on which the offence continues after conviction therefor;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both".**]**

Textual Amendments

F302 Sch. 2 para. 7 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

[[F303]8 In section 34(5) of that Act (under which a person who causes a drain or sewer to connect with a public sewer in contravention of that section is liable on summary conviction to a fine not exceeding £20) for the words "twenty pounds" there shall be substituted the word "£200".**]**

Textual Amendments

F303 Sch. 2 para. 8 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

[[F304]9 In section 36(1) of that Act (under which a person who causes a drain or sewer to communicate with a public sewer after the local authority have given notice that

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they intend themselves to make the connection is liable on summary conviction to a fine not exceeding £50) for the words "fifty pounds" there shall be substituted the word "£200".**]**

Textual Amendments

F304 Sch. 2 para. 9 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

[F305 10 In section 41(3) of that Act (under which a person is liable upon summary conviction to a fine not exceeding £5 if he does certain work in connection with an underground drain which communicates with a sewer without giving 24 hours notice to the relevant local authority of his intention to do so or if he does not permit an authorised officer of the local authority free access to the work) for the words "five pounds" there shall be substituted the word "£200".**]**

Textual Amendments

F305 Sch. 2 para. 10 repealed (E.W.) by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

[F306 11 In section 94(2) of that Act (under which a person who fails to abate a nuisance or to take adequate steps to prevent a recurrence of a nuisance is liable on summary conviction to a fine not exceeding £20) for the word" £20" there shall be substituted the word "£200"**]**

Textual Amendments

F306 Sch. 2 para. 11 repealed (E.W.)(N.I.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. III**

[F307 12 In section 95(1) of that Act (under which a person who contravenes or fails to comply with a nuisance order is liable on summary conviction to a fine not exceeding £50 and a further £5 for each day on which the offence continues after conviction) for the words" £50" and" £5" there shall be substituted the words "£400" and "£50" respectively**]**

Textual Amendments

F307 Sch. 2 para. 12 repealed (E.W.)(N.I.) by Environmental Protection Act

The M64 *Public Health (Drainage of Trade Premises Act 1937*

Marginal Citations

M64 1937 c. 40.

[F308 13 In section 2 of the Public Health (Drainage of Trade Premises) Act 1937 (under which restrictions are imposed on the discharge of trade effluent), in subsection (5) (under which an occupier of premises is guilty of an offence if trade effluent is discharged in contravention of the section or without any consent necessary for the

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purposes of the Act or if any direction or condition given or imposed under that section is contravened) after the words "guilty of an offence" there shall be inserted the words "and liable on summary conviction to a fine not exceeding £200 and to a further fine not exceeding £50 for every day on which the offence continues after conviction therefor."**]**

Textual Amendments

F308 Sch. 2 para. 13 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

[F309 14 In section 9 of that Act (under which a person who fails to give specified information to a water authority is liable on summary conviction to a fine not exceeding £5 and a further £2 for each day on which the offence continues after conviction) for the words "five pounds" and "forty shillings" there shall be substituted the words "£50" and "£5" respectively.**]**

Textual Amendments

F309 Sch. 2 para. 14 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

The M65 Water Act 1945

Marginal Citations

M65 1945 c. 42 (8 & 9 Geo. 6).

15 In section 19(3) of the Water Act 1945 (under which byelaws made under section 17 of that Act or section 22(6) of the Countryside Act 1968 may contain provision making any person who contravenes the byelaws liable to a fine not exceeding £20 and a further £5 for each day during which the offence continues after conviction) for the words "twenty pounds" and "five pounds" there shall be substituted the words "£400" and "£50" respectively.

[F310 16 In section 21 of that Act (under which a person is guilty of an offence if he is guilty of any act or neglect whereby any spring, well, borehole or adit the water from which is used or Iikely to be used for human consumption or domestic purposes or for manufacturing food or drink for human consumption is polluted or likely to be polluted) after subsection (2) there shall be inserted the following subsection—

"(3) Any person guilty of an offence by virtue of this section shall be liable in respect of each offence—

(a) on summary conviction to a fine not exceeding £400 and in the case of a continuing offence to a further fine not exceeding £50 for every day during which the offence is continued after conviction ;

(b) on conviction on indictment. to a fine or to imprisonment for a term not exceeding two years or to both a fine and such imprisonment."**]**

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Textual Amendments

F310 Sch. 2 para. 16 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

17, 18. . . . . F311

Textual Amendments

F311 Sch. 2 paras 17, 18 repealed by Water (Scotland) Act 1980 (c. 45), **Sch. 11**

The Clean Air Act 1956

F312 19 . . . . . .

Textual Amendments

F312 Sch. 2 para. 19 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch. 6**

The Radioactive Substances Act 1960

F313 20 . . . . . .

Textual Amendments

F313 Sch. 2 para. 20 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

The M66 Sewerage (Scotland) Act 1968

Marginal Citations

M66 1968 c. 47.

21 In section 12(8) of the Sewerage (Scotland) Act 1968 (under which a person is liable on summary conviction to a fine not exceeding £25 if he connects a drain or sewer otherwise than in accordance with that section) for the word "£25" there shall be substituted the word "£200".

22 In section 14(6) of that Act (under which a person is liable on summary conviction to a fine not exceeding £25 if he constructs a drain, sewer or sewage treatment works otherwise than in accordance with a direction under that section by a local authority) for the word "£25" there shall be substituted the word "£200".

23 In section 24(2) of that Act (under which an occupier of trade premises who discharges trade effluent into sewers etc. without the consent of, or contrary to a direction given by or condition imposed by, the local authority is liable on summary conviction to a fine not exceeding £50 and a further fine not exceeding £20 for each day on which the offence continues after conviction) for the words "£50" and "£20" there shall be substituted the words "£200" and "£50" respectively.

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24 In section 45(2) of that Act (under which a person who fails to give specified information to a local authority is liable on summary conviction to a fine not exceeding £20) for the word "£20" there shall be substituted the word "£50".

25 In section 46 of that Act (which provides that certain matters are not to be passed into public sewers), in subsection (2) (under which a contravention of that section is punishable on summary conviction by a fine not exceeding £20 and a further fine not exceeding £10 for each day on which the offence continues after conviction)—

(a) for the words "£20" and "£10" there shall be substituted the words "£400" and "£50" respectively and

(b) there shall be added at the end the words "and on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both a fine and such imprisonment".

The Clean Air Act 1968

F314 26 . . . . . .

Textual Amendments

F314 Sch. 2 para. 26 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch. 6**

F315 27 . . . . . .

Textual Amendments

F315 Sch. 2 para. 27 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch. 6**

SCHEDULE 3

Section 108.

MINOR AND CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

The Alkali, &c. Works Regulation Act 1906

F316 1 . . . . . .

Textual Amendments

F316 Sch. 3 paras. 1-4 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

F316 2 . . . . . .

Textual Amendments

F316 Sch. 3 paras. 1-4 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

F316 3 . . . . . .

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Textual Amendments

F316 Sch. 3 paras. 1-4 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

F316 4 . . . . . .

Textual Amendments

F316 Sch. 3 paras. 1-4 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

F317 5 . . . . . .

Textual Amendments

F317 Sch. 3 para. 5 repealed by Salmon and Freshwater Fisheries Act 1975 (c. 51), s. 42(1), **Sch. 5**

The M67 Public Health Act 1936

Marginal Citations

M67 1936 c. 49.

X3 [F318 6 In section 3(1)(b) of the Public Health Act 1936 (under which an order constituting a port health authority may, among other things, assign to the authority any functions conferred on a local authority by that Act) after the words "this Act" there shall be inserted the words "or the Control of Pollution Act 1974".]

Editorial Information

X3 The text of Sch. 3 paras 6, 19–21, 28, 30 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F318 Sch. 3 para. 6 repealed (E.W.) by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), s. 78, **Sch. 3**

PROSPECTIVE

X4 7 Sections 79 and 80 of that Act (which relate to the removal of noxious matter, manure and refuse from premises) shall cease to have effect.

Editorial Information

X4 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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The [M68]Public Health (Drainage of Trade Premises) Act 1937

Marginal Citations

M68 1937 c. 40.

[X5][F319]8 Sections 2(4) and 3(2) of the Public Health (Drainage of Trade Premises) Act 1937 and the proviso in section 7(1) of that Act (which relate to the protection of interested bodies within the meaning of that Act) shall cease to have effect.]

Editorial Information

X5 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F319 Sch. 3 para. 8 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

[X6][F320]9 In section 4(5) of that Act (under which disputes arising under that Act as to the discharges of trade effluent which were made during such a period as is mentioned in subsections (1) or (2) of that section are to be determined by the Secretary of State) for the words "this Act" there shall be substituted the words "section 43 of the Control of Pollution Act 1974" and for the words "is mentioned" there shall be substituted the words "before the repeal of those subsections by that Act was mentioned".]

Editorial Information

X6 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F320 Sch. 3 para. 9 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

[X7][F321]10 In section 10(1) of that Act (which authorises the taking of samples of trade effluent which is passing from premises into a public sewer) after the word "passing" there shall be inserted the words ", either directly or through a private drain or sewer,".]

Editorial Information

X7 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F321 Sch. 3 para. 10 repealed (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

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The [M69]Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951

Marginal Citations

M69 1951 c. 26.

[F322][F323]11 . . . . . .

Textual Amendments

F322 Sch. 3 para. 11 repealed (15.11.2006) by The Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2), **Sch. 4 Pt. 2**

F323 Sch. 3 para. 11 repealed (S.) (1.4.2005) by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), s. 71(2), **Sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2

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

[F324]12 . . . . . .

Textual Amendments

F324 Sch. 3 para. 12 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F325]13 . . . . . .

Textual Amendments

F325 Sch. 3 para. 13 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[X8]14 In section 18 of that Act (which relates to the provision and obtaining of information by river purification authorities), at the end there shall be inserted the following subsection—

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

Editorial Information

X8 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[X9]15 In section 19 of that Act (which empowers river purification authorities to take samples of effluents), in subsection (3), after the word "authority" there shall be inserted the words "and any underground waters within the area of such an authority".

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Editorial Information

X9 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The [M70]Clean Air Act 1956

Marginal Citations

M70 1956 c. 52.

[F326]16 . . . . . .

Textual Amendments

F326 Sch. 3 para. 16 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch. 6**

The [M71]Rivers (Prevention of Pollution) Act 1961

Marginal Citations

M71 1961 c. 50

17 In section 10(1) of the Rivers (Prevention of Pollution) Act 1961 (which among other things relates to inspection chambers provided in compliance with conditions imposed under that Act) and in section 12(1)(ii) of that Act (which authorises the disclosure in connection with the execution of that Act of information of which the disclosure is restricted by that section) the reference to that Act shall include a reference to this Act.

The [M72]Public Health Act 1961

Marginal Citations

M72 1961 c. 64

[F327]18 . . . . . .

Textual Amendments

F327 Sch. 3 para. 18 repealed (E.W.) (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 1(1)(b), **Sch. 23** (with reg. 72, Sch. 4)

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The [M73]London Government Act 1963

Marginal Citations

M73 1963 c. 33.

[X10][F328]19 In section 41(1)(b) of the London Government Act 1963 (which enables the functions, rights and liabilities of a local authority under any of the provisions there mentioned to be assigned to the port health authority for the Port of London) after the words "section 87 of this Act" there shall be inserted the words "and under any provision of the Control of Pollution Act 1974".**]**

Editorial Information

X10 The text of Sch. 3 paras 6, 19–21, 28, 30 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F328 Sch. 3 para. 19 repealed (E.W.) by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), s. 78, **Sch. 3**

The [M74]Water Resources Act 1963

Marginal Citations

M74 1963 c. 38.

[X11][F329]20 In section 77(2) of the Water Resources Act 1963 (which refers to sewage effluent within the meaning of the Rivers (Prevention of Pollution) Act 1951) for the words "the Rivers (Prevention of Pollution) Act 1951" there shall be substituted the words "Part II of the Control of Pollution Act 1974".**]**

Editorial Information

X11 The text of Sch. 3 paras 6, 19–21, 28, 30 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F329 Sch. 3 paras. 20, 21 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

[X12][F330]21 In section 113(1) of that Act (which authorises water authorities to take samples of certain effluents) for the words "Clean Rivers (Estuaries and Tidal Waters) Act 1960" in paragraph (c) there shall be substituted the words "Part II of the Control Pollution Act 1974".**]**

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Editorial Information

X12 The text of Sch. 3 paras 6, 19–21, 28, 30 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F330 Sch. 3 paras. 20, 21 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

22 . . . . . F331

Textual Amendments

F331 Sch. 3 para. 22 repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 24 Pt. II**

The M75Spray Irrigation (Scotland) Act 1964

Marginal Citations

M75 1964 c. 56.

X13 23 In section 9(2) of the Spray Irrigation (Scotland) Act 1964 (which among other things attracts for the purposes of that Act certain powers of entry contained in the M76Rivers (Prevention of Pollution) (Scotland) Act 1951), for the words "20(1)(b) of the said Act of 1951 to an authorisation granted under" there shall be substituted the words "91(1)(a)(iii) of the Control of Pollution Act 1974 to any provision of".

Editorial Information

X13 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M76 1951 c. 66.

The M77Rivers (Prevention of Pollution) (Scotland) Act 1965

Marginal Citations

M77 1965 c. 13.

X14 24 In section 10(1) of the Rivers (Prevention of Pollution) (Scotland) Act 1965 (which contains provisions with respect to samples of effluent taken at an inspection chamber provided in compliance with a condition imposed under that Act of section 28 of the Rivers (Prevention of Pollution) (Scotland) Act 1951) for the

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words "this Act or section 28 of the principal Act" there shall be substituted the words "sections 34 to 40 of the Control of Pollution Act 1974".

Editorial Information

X14 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

25 . . . . . F332

Textual Amendments

F332 Sch. 3 para. 25 repealed by Refuse Disposal (Amenity) Act 1978 (c. 3), **Sch. 2**

The M78 Hovercraft Act 1968

Marginal Citations

M78 1968 c. 59.

X15 26 In section 1(1)(g) of the Hovercraft Act 1968 for the words "no proceedings in pursuance of the Noise Abatement Act 1960" there shall be substituted the words "no proceedings in pursuance of Part III of the Control of Pollution Act 1974".

Editorial Information

X15 The text of Sch. 3 paras 1, 2, 3(1), 4(1), 7—16, 18, 23, 24, 26, 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The Water Act 1973

[F333 27 For the purposes of section 14 of the Water Act 1973 (under which, among other things, functions of local authorities with respect to sewerage and sewage disposal, including certain functions under Part XII of the Public Health Act 1936, were transferred to water authorities), section 306 of the said Act of 1936 (which related to the compulsory purchase of land was contained in the said Part XII) shall have effect from 31st March 1974 as if that section had not been repealed by the Local Government Act 1972.**]**

Textual Amendments

F333 Sch. 3 paras. 27-30 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

X16 **[**F334 28 In subsection (12) of section 24 of that Act (which relates to reports of surveys prepared by water authorities under that section) after paragraph (a) there shall be inserted the following paragraph—

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"(aa) shall secure that a copy of each such report and of all such amendments is available at the principal office of the authority for inspection by the public free of charge at all reasonable hours."**]**

Editorial Information

X16 The text of Sch. 3 paras 6, 19–21, 28, 30 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F334 Sch. 3 paras. 27-30 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

[F335 29 In section 36(3) of that Act (which among other things provides that Part II of Schedule 7 to that Act shall have effect with respect to the making of byelaws by water authorities under any enactment shall be construed as including a reference to any enactment passed after that Act.**]**

Textual Amendments

F335 Sch. 3 paras. 27-30 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

X17 **[**F336 30 In paragraph 17(2) of Schedule 7 to that Act (which relates to the confirmation of byelaws made by a water authority under section 5 of the Rivers (Prevention of Pollution) Act 1951) for the words "section 5 of the M79 Rivers (Prevention of Pollution) Act 1951" there shall be substituted the words "section 31(6) or 33(1) of the Control of Pollution Act 1974" and after the words "a stream" there shall be inserted the words "or the controlled waters (within the meaning of Part 11 of that Act)".**]**

Editorial Information

X17 The text of Sch. 3 paras 6, 19–21, 28, 30 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F336 Sch. 3 paras. 27-30 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

Marginal Citations

M79 1951 c. 64.

PROSPECTIVE

The Local Government (Scotland) Act 1973

F337 31 . . . . . .

Status: *Point in time view as at 07/08/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F337 Sch. 3 para. 31 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. X** Group 2

[X18] SCHEDULE 4

Section 108.

REPEALS

Editorial Information

X18 The text of Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short title	Extent of repeal
25 & 26 Vict. c. 97.	The Salmon Fisheries (Scotland) Act 1862.	Section 13.
38 & 39 Vict. c. 55.	The Public Health Act 1875.	Section 148, but not so as to affect any agreement in force under that section.
55 & 56 Vict. c.55	The Burgh Police (Scotland) Act 1892.	Sections 107 to 109.
		In section 110, the words from “and may place” to “or nuisance.”
		Sections 111 to 114.
		Section 116.
58 & 59 Vict. c. 42.	The Sea Fisheries Regulation (Scotland) Act 1895.	Section 8(1)(f).
[F338 60 & 61 Vict. c. 38.	The Public Health (Scotland) Act 1897.	In section 39, the first paragraph.]
3 Edw. 7. c. 33.	The Burgh Police (Scotland) Act 1903.	Section 23.
		In section 24, the words “the immediately preceding section o r under”.
6 Edw. 7. c. 14.	The Alkali, &c. Works Regulation Act 1906.	Sections 3, 4, 5 and 8.
		In section 9(1) the words “a cement work, or a smelting work”.

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		In section 11(b) the words "or with the treatment of alkali waste".
		Section 12(1)(d).
		Sections 14, 15 and 17.
		In section 18, in subsection (1) the words "other than an offence against a special rule" and subsection (4).
		Section 19.
		In section 20 the words "other than an offence against a special rule".
		In section 22(1) the words from "or that any alkali waste is deposited" to "contravention of this Act".
		In section 28, in paragraph (b) the words "offences against special rules and" and paragraph (c).
13 & 14 Geo. 5. c. 16.	The Salmon and Freshwater Fisheries Act 1923.	In section 9(5) the words from "and section 22(1)(a)" onwards.
24 & 25 Geo. 5. c. 40.	The Administration of Justice (Appeals) Act 1934.	In the Schedule the entry amending section 17(5) of the Alkali Act.
26 Geo. 5 & 1 Edw. 8. c. 49.	The Public Health Act 1936.	Sections 72 to 77, 79, 80 and 259(2).
1 Edw. 8 and 1 Geo. 6. c. 5.	The Trunk Roads Act 1936.	Section 6(6).
1 Edw. 8 and 1 Geo. 6. c. 40.	The Public Health (Drainage of Trade Premises) Act 1937.	Section 2(4), 3(2) and 4(1) to(3).
		In section 7(1), the proviso.
		Section 11.
		In section 14(1) the definition of "interested body".
8 & 9 Geo. 6. c. 42.	The Water Act 1945.	Section 18.
14 & 15 Geo. 6. c. 64.	The Rivers (Prevention of Pollution) Act 1951.	The whole Act.
14 & 15 Geo. 6. c. 66.	The Rivers (Prevention of Pollution) (Scotland) Act 1951.	The whole Act except sections 1, 6(1), 7, 9, 10(1), 12(1) to (3)and (4) (a) and (c), 13, 16, 17,

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		18(1) to (3), 19, 32(1), in section 35(1) the definitions of "contravention", "functions", "land", "local authority", "local water authority", "river purification authority", "river purification board", "stream" and "tidal waters", section 36(1) and (5) and Schedule 4.
1 & 2 Eliz. 2. c. 26.	The Local Government (Miscellaneous Provisions) Act 1953.	Section 8.
4 & 5 Eliz. 2. c. 52.	The Clean Air Act 1956.	In section 16(1), in the proviso, paragraph (i). In section 25, paragraphs (a) and (b). In section 26, the words "manufacturing process or". In Schedule 2, the amendments of sections 3, 8 and 18 of the Alkali Act.
7 & 8 Eliz. 2 c. 25.	The Highways Act 1959.	In section 228(9) the words "section one hundred and forty-eight of the Public Health Act 1875".
8 & 9 Eliz. 2. c. 34.	The Radioactive Substances Act 1960.	In Schedule 1, in paragraph 3 the words "seventy-nine", in paragraph 6 the word "eighteen" and paragraphs 7, 8A and 15.
8 & 9 Eliz. 2. c. 54.	The Clean Rivers (Estuaries & Tidal Waters) Act 1960.	The whole Act.
8 & 9 Eliz. 2. c. 68.	The Noise Abatement Act 1960.	The whole Act, but not so as to affect notices served by virtue of section 1 of the Act before the coming into force of section 58 of this Act.
9 & 10 Eliz. 2. c. 50.	The Rivers (Prevention of Pollution) Act 1961.	The whole Act except sections 10, 12, 13(1) and 15(1) and (3).
1961 c. 64.	The Public Health Act 1961.	Sections 55 to 58 and 63(5).
1963 c. 33.	The London Government Act 1963.	In section 40(4)(d), the reference to section 8 of the Local Govermnent (Miscellaneous Provisions)

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		Act 1953, and section 40(4)(g).
		In Part I of Schedule 11, paragraphs 14, 16 and 32.
1963 c. 38.	The Water Resources Act 1963.	Sections 72 to 76.
		In section 79, subsections (1), (2) and (7), in subsection (5) the words "by virtue of subsection (1) of this section or" and in subsection (8) the words from "(including" to "section)".
		In section 114, in subsection (1) the words from the first "or" to "section" and the words "or discharge", and subsections (2) and (4)(a).
		In section 115(1)(b) the words from "or" to "thereof".
		In section 135(8) the word "72".
		In Schedule 13, paragraphs 5, 6, 7, 11 and 14.
1965 c. 13.	The Rivers (Prevention of Pollution) (Scotland) Act 1965.	The whole Act except sections 10, 13(1), 15(1) and (4) and 17(1) to (3).
1965 c. 36.	The Gas Act 1965.	Section 4(5).
1966 c. 38.	The Sea Fisheries Regulation Act 1966.	Section 5(1)(c).
1967 c. 69.	The Civic Amenities Act 1967.	Section 23(6)(a).
1967 c. 80.	The Criminal Justice Act 1967.	In Schedule 3, the entry relating to section 114 of the Burgh Police (Scotland) Act 1892, in the entry relating to section 22 of the Public Health (Scotland) Act 1897, the words "(as extended by section 1(5) of the Noise Abatement Act 1960)" and the entries relating to sections 76(3), 94(2) and 95(1) (both as originally enacted and as applied by section 16(1) of the Clean Air Act 1956) of the Public Health Act 1936

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		and section 27(1) and (2) of the Clean Air Act 1956.
1968 c. 41.	The Countryside Act 1968.	Section 22(6)(c) and (8).
1972 c. 21.	The Deposit of Poisonous Waste Act 1972.	The whole Act.
1972 c. 70.	The Local Government Act 1972.	Section 180(3)(d) and (g).
		In section 236(2) the words "or 18".
		In Schedule 14 in paragraph 4 the words "79, 80" and paragraphs 5 to 8 and 49.
1973 c. 37.	The Water Act 1973.	Section 17(1) to (4).
		Paragraph 5 of Schedule 2.
		Paragraph 63 of Schedule 8.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In section 135(3), the words from "and the said areas" to the end.
		Section 136.
		In Schedule 16, paragraphs 7 to 9.
		In Schedule 28, paragraph 69.

Textual Amendments

F338 Sch. 4 entry repealed (S.) (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), **Sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

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