



Control of Pollution Act 1974

1974 CHAPTER 40

PART II

POLLUTION OF WATER

Consents for discharges

[^{F1}34] **Consents for discharges of trade and sewage effluent etc.**

- (1) An application to a river purification authority for consent in pursuance of this section for discharges of any effluent or other matter shall be accompanied or supplemented by all such information as the authority may reasonably require; and the authority may if it thinks fit treat an application for consent for discharges at two or more places as separate applications for consent for discharges at each of those places.
- (2) Subject to the following section, it shall be the duty of a river purification authority to which an application for consent is made in pursuance of this section—
 - (a) to give the consent either unconditionally or subject to conditions or to refuse it; and
 - (b) not to withhold the consent unreasonably;and if within the period of three months beginning with the date when an application for consent is received by the authority, or within such longer period as may at any time be agreed upon in writing between the authority and the applicant, the authority has neither given nor refused the consent nor informed the applicant that the application has been transmitted to the Secretary of State in pursuance of the following section, the authority shall be deemed to have refused the consent.
- (3) If it appears to the authority that a person has, without the authority's consent, caused or permitted matter to be discharged in its area in contravention of section 32(1) of this Act and that a similar contravention by that person is likely, the authority may if it thinks fit serve on him an instrument in writing giving its consent, subject to conditions specified in the instrument, for discharges of a kind so specified; but consent given in pursuance of this subsection shall not relate to any discharge which occurred before the instrument giving the consent was served on the recipient of the instrument.

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Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Cross Heading: Consents for discharges. (See end of Document for details)

- (4) The conditions subject to which the authority may give its consent in pursuance of this section shall be such reasonable conditions as the authority thinks fit; and without prejudice to the generality of the preceding provisions of this subsection those conditions may include reasonable conditions—
- (a) as to the places at which the discharges to which the consent relates may be made and as to the design and construction of any outlets for the discharges;
 - (b) as to the nature, origin, composition, temperature, volume and rate of the discharges and as to the period during which the discharges may be made;
 - (c) as to the provision of facilities for taking samples of the matter discharged and in particular as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;
 - (d) as to the provision, maintenance and testing of meters for measuring the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;
 - (e) as to the keeping of records of the nature, origin, composition, temperature, volume and rate of the discharges and in particular of records of readings of meters and other recording apparatus provided in accordance with any other condition attached to the consent;
 - (f) as to the making of returns and the giving of other information to the authority about the nature, origin, composition, temperature, volume and rate of the discharges; and
 - (g) as to the steps to be taken, in relation to the discharges or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising the polluting effects of the discharges on any controlled waters;

and it is hereby declared that consent may be given in pursuance of this section subject to different conditions in respect of different periods.

- (5) A person who, in an application for consent in pursuance of this section, 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 the statutory maximum or on conviction on indictment to a fine.]

Textual Amendments

- F1** 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)

- C1** Ss. 34, 35 extended by [S.I. 1984/863, reg. 3](#), [Sch. 1](#)
- C2** S. 34 extended (2.12.1991) by [S.I. 1991/2539, reg. 3](#), [Sch.](#)
S. 34 amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(3\)](#), [Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)

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[^{F2}35 Reference to Secretary of State of certain applications for consent.

- (1) The Secretary of State may, either in consequence of representations made to him or otherwise, direct a river purification authority to transmit to him for determination applications for consent in pursuance of the preceding section which are specified in the direction or are of a kind so specified, and it shall be the duty of the authority to comply with the direction and to inform each relevant applicant that his application has been transmitted to the Secretary of State.
- (2) Before determining an application transmitted to him by a river purification authority in pursuance of this section the Secretary of State may if he thinks fit, and shall if a request to be heard with respect to the application is made to him in accordance with regulations by the applicant or the authority, cause a local inquiry to be held in pursuance of section 96 of this Act into the application or afford to the applicant and the authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) Where in pursuance of the preceding subsection the Secretary of State affords to an applicant and a river purification authority an opportunity of appearing before and being heard by a person with respect to the application in question, it shall be the duty of the Secretary of State to afford an opportunity of appearing before and being heard by that person to any person who, in pursuance of subsection (1)(c) or (5) of the following section, has made representations relating to the application.
- (4) It shall be the duty of the Secretary of State to determine an application transmitted to him by a river purification authority in pursuance of this section by directing the authority to refuse its consent in pursuance of the preceding section in consequence of the application or to give the consent either unconditionally or subject to such conditions as are specified in the direction, and it shall be the duty of the authority to comply with the direction.]

Textual Amendments

F2 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)

C3 Ss. 34, 35 extended by S.I. 1984/863, reg. 3, **Sch. 1**

C4 S. 35 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**

S. 35 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

[^{F3}36 Provisions supplementary to ss. 34 and 35.

- (1) Where a river purification authority receives an application for consent in pursuance of section 34 of this Act or serves an instrument in pursuance of subsection (3) of that section, it shall be the duty of the authority, before deciding whether to give or refuse consent in pursuance of the application or, as the case may be, after serving the instrument—
 - (a) to publish in the prescribed form notice of the application or instrument in two successive weeks in a newspaper or newspapers circulating in—

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- (i) the area or areas in which the places are situated at which it is proposed in the application that the discharges should be made or, as the case may be, at which discharges are the subject of consent given by the instrument, and
 - (ii) the area or areas appearing to the authority to be in the vicinity of any controlled waters which the authority considers likely to be affected by the discharges,
- and, not earlier than the day following that on which the first publication of the notice is completed in all relevant areas in pursuance of the preceding provisions of this paragraph, to publish such a notice in the Edinburgh Gazette;
- (b) to send copies of the application or instrument to each local authority in whose area it is proposed in the application that a discharge should be made or in whose area a discharge is the subject of consent given by the instrument and, in the case of an application or instrument relating to coastal waters, relevant territorial waters or an application relating to waters outside the seaward limits of relevant territorial waters, to the Secretary of State; and
 - (c) to consider any written representations relating to the application or instrument which are made to the authority by any person within the period of six weeks beginning with the date on which the notice of the application or instrument is published in the Edinburgh Gazette.
- (2) For the purposes of subsection (1) above, “local authority” means a regional or district council, and any place at sea at which it is proposed in an application that a discharge should be made shall be treated as situated at the point on land nearest to that place.
- (3) Where notice of an application is published by a river purification authority in pursuance of subsection (1)(a) of this section, the authority shall be entitled to recover the cost of publication from the applicant.
- (4) A river purification authority shall be entitled to disregard the provisions of subsection (1) of this section in relation to an application (except so much of paragraph (b) of that subsection as requires copies of the application to be sent to the Secretary of State) if the authority proposes to give consent in pursuance of the application and considers that the discharges in question will have no appreciable effect on the water into which they are proposed to be made.
- (5) The preceding provisions of this section shall have effect with prescribed modifications in relation to an application which is the subject of a direction in pursuance of subsection (1) of the preceding section.
- (6) Where a river purification authority proposes to give consent in pursuance of section 34 of this Act in consequence of an application in respect of which representations have been made in pursuance of subsection (1)(c) of this section then—
- (a) it shall be the duty of the authority to serve notice of the proposal on the person who made the representations and to include in the notice a statement of the effect of the following paragraph; and
 - (b) that person may, within the period of twenty-one days beginning with the day on which the notice of the proposal is served on him, request the Secretary of State in accordance with regulations to give a direction in pursuance of subsection (1) of the preceding section in respect of the application; and
 - (c) it shall be the duty of the authority not to give consent in consequence of the application before the expiration of that period and, if within that period

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the said person makes a request in pursuance of the preceding paragraph and serves notice of the request on the authority, not to give consent in pursuance of the application unless the Secretary of State has given notice to the authority that he declines to comply with the request;

and in calculating in the case of any application the period of three months mentioned in section 34(2) of this Act or a longer period there mentioned there shall be disregarded any period during which the authority to which the application was made is prohibited by virtue of paragraph (c) of this subsection from giving consent in consequence of the application.

- (7) A consent for any discharges which is given in pursuance of section 34 of this Act is not limited to discharges by a particular person and accordingly extends to the discharges in question which are made by any person.]

Textual Amendments

F3 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)

C5 [S. 36](#) extended by [S.I. 1984/863, reg. 3, Sch. 1](#)

C6 [S. 36](#) extended (2.12.1991) by [S.I. 1991/2539, reg. 3, Sch.](#)

[S. 36](#) amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(3\), Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)

C7 [S. 36\(1\)-\(4\)](#) modified by [S.I. 1984/865, reg. 4\(1\)\(2\)](#)

[^{F4}37 **Revocation of consents and alteration and imposition of conditions.**

- (1) It shall be the duty of a river purification authority by which a consent is given in pursuance of section 34 of this Act to review from time to time the consent and the conditions, if any, to which the consent is subject; and subject to the following section the authority may, by a notice served on the person making a discharge in pursuance of the consent, revoke the consent if it is reasonable to do so or make reasonable modifications of the said conditions, or, in the case of an unconditional consent, provide that it shall be subject to reasonable conditions specified in the notice.
- (2) Subject to the following section, the Secretary of State may—
- for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party;
 - for the protection of public health or of flora and fauna dependent on an aquatic environment; or
 - in consequence of any representations made to him or otherwise,
- direct a river purification authority to serve a notice in pursuance of the preceding subsection containing such provisions as are specified in the direction and it shall be the duty of the authority to comply with the direction; and if the authority fails to serve the notice within such period as the Secretary of State may allow he may serve the notice on behalf of the authority, and it is hereby declared that for the purposes of this

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Part of the Act a notice served on behalf of an authority by virtue of this subsection is served by the authority.]

Textual Amendments

- F4** 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)

- C8** Ss. 37-40 extended by S.I. 1984/863, reg. 3, **Sch. 1**
C9 S. 37 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**
 S. 37 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

[^{F5}38 **Restriction on variation and revocation of consent and of previous variation.**

- (1) Each instrument signifying the consent of a river purification authority in pursuance of section 34 of this Act shall specify a period during which no notice in pursuance of subsection (1) or (2)(c) of the preceding section is to be served in respect of the consent without the written agreement of a person making a discharge in pursuance of the consent; and the said period shall be a reasonable period of not less than two years beginning with the day on which the consent takes effect.
- (2) Each notice served by a river purification authority in pursuance of subsection (1) or (2)(c) of the preceding section (except a notice which only revokes a consent or conditions) shall specify a period during which a subsequent notice in pursuance of that subsection which alters the effect of the first-mentioned notice is not to be served without the written agreement of a person making a discharge in pursuance of the consent to which the first-mentioned notice relates; and the said period shall be a reasonable period of not less than two years beginning with the day on which the first-mentioned notice is served.
- (3) The authority shall be liable to pay compensation to any person in respect of any loss or damage sustained by that person as a result of the authority's compliance with a direction given in relation to any consent by virtue of section 37(2)(b) of this Act if—
 - (a) in complying with that direction the authority does anything which, apart from that direction, it would be precluded from doing by a restriction imposed under subsection (1) or (2) above; and
 - (b) the direction is not shown to have been in consequence of—
 - (i) a change of circumstances which could not reasonably have been foreseen at the beginning of the period to which the restriction relates; or
 - (ii) consideration by the Secretary of State of material information which was not reasonably available to the authority at the beginning of that period;

and in this paragraph information is material, in relation to a consent, if it relates to any discharge made or to be made by virtue of the consent, to the interaction of any such discharge with any other discharge or to the combined effect of the matter discharged and any other matter.

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- (4) A restriction imposed under subsection (1) or (2) of this section shall not prevent the service by the authority of a notice by virtue of section 37(1) or (2)(c) of this Act in respect of a consent given under section 34(3) of this Act if—
- (a) the notice is served not more than three months after the beginning of the period specified in section 36(1)(c) of this Act for the making of representations with respect to the consent; and
 - (b) the authority or, as the case may be, the Secretary of State considers, in consequence of any representations received by it or him within that period, that it is appropriate for the notice to be served.]

Textual Amendments

F5 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)

C10 Ss. 37-40 extended by [S.I. 1984/863, reg. 3, Sch. 1](#)

C11 [S. 38](#) extended (2.12.1991) by 1991/2539, reg. 3, Sch.

[S. 38](#) amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(3\), Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)

VALID FROM 01/04/1996

[^{F6}38A General review of consents.

- (1) If it appears appropriate to the Secretary of State to do so he may at any time direct SEPA to review—
 - (a) the consents given under section 34 of this Act; or
 - (b) any description of such consents,and the conditions (if any) to which those consents are subject.
- (2) A direction given by virtue of subsection (1) above—
 - (a) shall specify the purpose for which; and
 - (b) may specify the manner in which,the review is to be conducted.
- (3) After carrying out the review, SEPA shall submit to the Secretary of State its proposals (if any) for—
 - (a) the modification of the conditions of any consent reviewed pursuant to the direction; or
 - (b) in the case of any such consent which is unconditional, subjecting the consent to conditions.
- (4) Where the Secretary of State has received any proposals under subsection (3) above in relation to any consent he may, if it appears appropriate to him to do so, direct SEPA, in relation to that consent—
 - (a) to make modifications of the conditions of the consent; or

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- (b) in the case of an unconditional consent, to subject the consent to conditions.
- (5) A direction given by virtue of subsection (4) above may direct SEPA to do, in relation to any such consent, only—
- (a) any such thing as SEPA has proposed should be done in relation to that consent; or
- (b) any such thing with such modifications as appear to the Secretary of State to be appropriate.]

Textual Amendments

F6 S. 38A inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(14)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F7}39 Appeals to the Secretary of State.

- (1) Any questions as to whether—
- (a) a river purification authority has unreasonably withheld its consent in pursuance of section 31(3) or 34 of this Act or regulations made by virtue of section 31(4) of this Act or has given its consent in pursuance of the said section 34 or such regulations subject to conditions which are unreasonable; or
- (b) a notice served in pursuance of section 37(1) of this Act contains terms (other than a term required by subsection (2) of the preceding section) which are unreasonable; or
- (c) the period specified in any instrument or notice in pursuance of subsection (1) or (2) of the preceding section is unreasonable,
- shall be determined for the purposes of this Part of this Act by the Secretary of State; but no question relating to a determination of the Secretary of State in pursuance of section 35(4) of this Act shall be referred to him in pursuance of this subsection and any such determination shall be final.
- (2) Provision may be made by regulations as to the manner in which and the time within which a question may be referred or a request may be made in pursuance of the preceding provisions of this section and as to the procedure for dealing with such a reference or request.
- (3) In any case where—
- (a) a question as to whether a river purification authority has unreasonably withheld its consent in pursuance of section 34 of this Act, or has given its consent in pursuance of that section subject to conditions which are unreasonable, is referred to the Secretary of State in pursuance of this section; and
- (b) representations relating to the application for the consent in question were made to the authority in pursuance of section 36(1)(c) of this Act,
- it shall be the duty of the Secretary of State, before he determines the question, to secure that the authority has served notice of the reference on the persons who made the representations and to take account of any further written representations relating to the application which are received by him from those persons within a prescribed period.

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- (4) Where a question is referred to the Secretary of State in pursuance of subsection (1) of this section and he determines that the consent in question was unreasonably withheld or that the conditions or terms or period in question are or is unreasonable, he shall give to the relevant river purification authority such a direction as he thinks fit with regard to the consent, conditions, terms or period and it shall be the duty of the authority to comply with the direction.
- (5) The withholding by a river purification authority of such a consent as is mentioned in subsection (1) of this section, the conditions subject to which such a consent is given and such terms and period as are so mentioned shall be treated as reasonable for the purposes of this Part of this Act until the contrary is determined in pursuance of subsection (1) of this section except that where a question as to the reasonableness of the conditions of a consent given in pursuance of regulations made by virtue of section 31(4) of this Act is referred to the Secretary of State in pursuance of this section the consent shall be treated for those purposes as unconditional while the reference is pending.
- (6) At any stage of the proceedings on a reference to the Secretary of State in pursuance of this section he may, and shall if so directed by the Court of Session, state in the form of a special case for the decision of the court any question of law arising in those proceedings.]

Textual Amendments

- F7** 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)

- C12** Ss. 37-40 extended by [S.I. 1984/863, reg. 3](#), [Sch. 1](#)
- C13** [S. 39](#) extended (2.12.1991) by [S.I. 1991/2539, reg. 3](#), [Sch.](#)
[S. 39](#) amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(3\)](#), [Sch. 3 Pt. II para. 16](#) (with ss. 42, 46)
- C14** [S. 39\(1\)](#): power to delegate functions conferred (1.4.1996) by [1995 c. 25, s. 114\(2\)\(b\)](#) (with ss. 115, 117); [S.I. 1996/186, art. 3](#)

[^{F8}40 Transitional provisions relating to consent.

- (1) Regulations may provide—
 - (a) for any consent for discharges which was given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 to have effect for any of the purposes of this Part of this Act as if given in pursuance of prescribed provisions of section 34 of this Act; and
 - (b) for any conditions to which such a consent was subject in pursuance of any of those enactments to have effect for any of those purposes as if attached to the consent in pursuance of prescribed provisions of this Part of this Act.
- (2) Regulations may provide for the terms of a consent for an outlet which was given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Act 1951 and for conditions to which such a consent was subject in pursuance of that Act or which were imposed with respect to the outlet in pursuance of section 28(4) of that Act—

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- (a) to have effect, with or without modifications, for any of the purposes of this Part of this Act as if the terms or conditions were conditions attached to a consent given in pursuance of section 34 of this Act for discharges from the outlet; or
- (b) to be treated, with or without modifications, for any of those purposes in such other manner as may be prescribed.
- (3) An application for such a consent as is mentioned in subsection (1) of this section which is pending immediately before the relevant day shall be treated on and after that day as an application for consent in pursuance of section 34 of this Act which was made on the day on which it was actually made.
- (4) Where an application for consent in pursuance of section 34 of this Act in respect of any discharge is duly made to a river purification authority before the relevant day and the discharge in question is not such as is mentioned in section 32(3)(a) of this Act and is substantially a continuation of a previous discharge which during the year ending with the 30th April 1974 was lawfully made without such consent as is so mentioned (any reduction of the temperature, volume or rate of the discharge as compared with that of the previous discharge being disregarded), the authority shall be deemed to have given unconditionally the consent applied for—
- (a) until the authority actually gives the consent unconditionally; or
- (b) if the authority decides to refuse consent or to give it subject to conditions, until the expiration of the period of three months beginning with the date when the authority serves on the applicant notice of the decision; or
- (c) if during that period the applicant appeals to the Secretary of State against the decision in pursuance of the preceding section, until the determination of the appeal.
- (5) Regulations may provide for any appeal which immediately before the relevant day is pending in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 to be treated on and after that day as an appeal in pursuance of prescribed provisions of this Part of this Act.
- (6) In this section “the relevant day” means 31st January 1985.]

Textual Amendments

F8 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)

C15 Ss. 37-40 extended by S.I. 1984/863, reg. 3, **Sch. 1**

C16 S. 40 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**

S. 40 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(3), **Sch. 3 Pt. II para. 16** (with ss. 42, 46)

Status:

Point in time view as at 01/02/1991. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Control of Pollution Act 1974, Cross Heading: Consents for discharges.