



Control of Pollution Act 1974

1974 CHAPTER 40

PART II

POLLUTION OF WATER

Miscellaneous

[^{F1} 46 Operations by river purification authorities to remedy or forestall pollution of water.

(1) [^{F2} Subject to subsection (1B) below,] Where it appears to a river purification authority that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or is or was present in, any controlled waters ^{F3} . . . , the authority may carry out ^{F3} . . . such operations as it considers appropriate—

- (a) in a case where the matter appears likely to enter such waters, for the purpose of preventing it from doing so; and
- (b) in a case where the matter appears to be or to have been present in such waters, for the purpose of removing or disposing of the matter or of remedying or mitigating any pollution caused by its presence in the waters or of restoring the waters (including the fauna and flora dependent on the aquatic environment of the waters), so far as it is reasonably practicable to do so, to the state in which they were immediately before the matter became present in the waters;

but nothing in this subsection empowers a river purification authority to impede or prevent the making of any discharge in pursuance of a consent given by any authority by virtue of section 34 of this Act.

[In either case mentioned in subsection (1) of this section, SEPA shall be entitled to ^{F4}(1A) carry out investigations for the purpose of establishing the source of the matter and the identity of the person who has caused or knowingly permitted it to be present in controlled waters or at a place from which it was likely, in the opinion of SEPA , to enter controlled waters.

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- (1B) Without prejudice to the power of SEPA to carry out investigations under subsection (1A) above, the power conferred by subsection (1) above to carry out operations shall be exercisable only in a case where—
- (a) SEPA considers it necessary to carry out forthwith any operations falling within paragraph (a) or (b) of subsection (1) above; or
 - (b) it appears to SEPA, after reasonable inquiry, that no person can be found on whom to serve a works notice under section 46A of this Act.]
- (2) Where a river purification authority carries out any operations^{F5} or investigations] in pursuance of this section the authority shall, subject to the following subsection, be entitled to recover the costs of doing so from any persons who caused or knowingly permitted the matter in question to be present at the place from which it was likely in the opinion of the authority to enter the controlled waters or, as the case may be, to be present in the controlled waters.
- (3) No such costs shall be payable by a person—
- (a) in so far as he satisfies the court in which it is sought to recover the costs that the costs were incurred unnecessarily; or
 - (b) for any operations^{F6} or investigations] in respect of water from an abandoned mine^{F7} or an abandoned part of a mine] which that person permitted to reach such a place as is mentioned in the preceding subsection or to enter the controlled waters.
- [Subsection (3)(b) of this section shall not apply to the owner or former operator of^{F8}(3A) any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.
- (3B) Subsections (5) and (6) of section 30J above shall apply in relation to subsections (3) and (3A) above as they apply in relation to subsections (3) and (4) of that section.]
- (4) In determining the damage which a person has suffered in consequence of pollution in respect of which operations have been or may be carried out in pursuance of this section, account shall be taken of the extent to which it is shown that the damage has been reduced by operations in pursuance of this section and of the extent to which it is shown that the damage is likely to be so reduced.]

Textual Amendments

- F1** S. 46 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**
- F2** Words in s. 46(1) inserted (S.) (1.4.2003) by [Environment Act 1995 \(c. 25\)](#), s. 125(3), **Sch. 22 para. 29(21)(a)(i)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)
- F3** Words in s. 46(1) repealed (1.4.1996) by [1995 c. 25](#), s. 120(1)(3), **Sch. 22 para. 29(21)(a)(ii)**, **Sch. 24** (with ss. 7(6), 115, 117); [S.I. 1996/186](#), **art. 3**
- F4** S. 46(1A)(1B) inserted (S.) (1.4.2003) by [Environment Act 1995 \(c. 25\)](#), s. 125(3), **Sch. 22 para. 29(21)(b)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)
- F5** Words in s. 46(2) inserted (S.) (1.4.2003) by [Environment Act 1995 \(c. 25\)](#), s. 125(3), **Sch. 22 para. 29(21)(c)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)
- F6** Words in s. 46(3)(b) inserted (S.) (1.4.2003) by [Environment Act 1995 \(c. 25\)](#), s. 125(3), **Sch. 22 para. 29(21)(d)(i)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)

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F7 Words in s. 46(3)(b) inserted (S.) (1.4.2003) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 29(21)(d)(ii)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)

F8 S. 46(3A)(3B) inserted (S.) (1.4.2003) by Environment Act 1995 (c. 25), s. 125(3), **Sch. 22 para. 29(21)(e)** (with ss. 7(6), 115, 117); S.S.I. 2003/206, art. 2(a)

Modifications etc. (not altering text)

C1 S. 46 extended (2.12.1991) by S.I. 1991/2539, reg. 3, **Sch.**

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

[^{F9}46A Notices requiring persons to carry out anti-pollution operations.

- (1) Subject to the following provisions of this section, where it appears to SEPA that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or to be or to have been present in, any controlled waters, SEPA shall be entitled to serve a works notice on any person who, as the case may be,—
 - (a) caused or knowingly permitted the matter in question to be present at the place from which it is likely, in the opinion of SEPA, to enter any controlled waters; or
 - (b) caused or knowingly permitted the matter in question to be present in any controlled waters.
- (2) For the purposes of this section, a “ works notice ” is a notice requiring the person on whom it is served to carry out such of the following operations as may be specified in the notice, that is to say—
 - (a) in a case where the matter in question appears likely to enter any controlled waters, operations for the purpose of preventing it from doing so; or
 - (b) in a case where the matter appears to be or to have been present in any controlled waters, operations for the purpose—
 - (i) of removing or disposing of the matter;
 - (ii) of remedying or mitigating any pollution caused by its presence in the waters; or
 - (iii) so far as it is reasonably practicable to do so, of restoring the waters, including any flora and fauna dependent on the aquatic environment of the waters, to their state immediately before the matter became present in the waters.
- (3) A works notice—
 - (a) must specify the periods within which the person on whom it is served is required to do each of the things specified in the notice; and
 - (b) is without prejudice to the powers of SEPA by virtue of section 46(1B)(a) of this Act.
- (4) Before serving a works notice on any person, SEPA shall reasonably endeavour to consult that person concerning the operations which are to be specified in the notice.
- (5) The Secretary of State may by regulations make provision for or in connection with—
 - (a) the form or content of works notices;
 - (b) requirements for consultation, before the service of a works notice, with persons other than the person on whom that notice is to be served;

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- (c) steps to be taken for the purposes of any consultation required under subsection (4) above or regulations made by virtue of paragraph (b) above; and
 - (d) any other steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a works notice.
- (6) A works notice shall not be regarded as invalid, or as invalidly served, by reason only of any failure to comply with the requirements of subsection (4) above or of regulations made by virtue of paragraph (b) of subsection (5) above.
- (7) Nothing in subsection (1) above shall entitle SEPA to require the carrying out of any operations which would impede or prevent the making of any discharge in pursuance of a consent given by SEPA by virtue of section 34 of this Act.
- (8) No works notice shall be served on any person requiring him to carry out any operations in respect of water from an abandoned mine or an abandoned part of a mine which that person permitted to reach such a place as is mentioned in subsection (1)(a) above or to enter any controlled waters.
- (9) Subsection (8) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.
- (10) Subsections (5) and (6) of section 30J of this Act shall apply in relation to subsections (8) and (9) above as they apply in relation to subsections (3) and (4) of that section.
- (11) Where SEPA —
- (a) carries out any such investigations as are mentioned in section 46(1A) of this Act, and
 - (b) serves a works notice on a person in connection with the matter to which the investigations relate,
- it shall (unless the notice is quashed or withdrawn) be entitled to recover the costs or expenses reasonably incurred in carrying out those investigations from that person.
- (12) The Secretary of State may, if he thinks fit in relation to any person, give directions to SEPA as to whether or how it should exercise its powers under this section.]

Textual Amendments

- F9** Ss. 46A-46D inserted (1.4.2003 for S. in so far as not already in force, 1.1.2005 for E.W. for specified purposes, 1.4.2015 for S. for specified purposes) by [Environment Act 1995 \(c. 25\), s. 125\(3\), Sch. 22 para. 29\(22\)](#); [S.S.I. 2003/206, art. 2\(a\)](#); [S.I. 2006/934, art. 2](#); [S.S.I. 2015/73, art. 2\(1\)](#)

[^{F9}46B Grant of, and compensation for, rights of entry etc.

- (1) A works notice may require a person to carry out operations in relation to any land or waters notwithstanding that he is not entitled to carry out those operations.
- (2) Any person whose consent is required before any operations required by a works notice may be carried out shall grant, or join in granting, such rights in relation to any land or waters as will enable the person on whom the works notice is served to comply with any requirements imposed by the works notice.

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- (3) Before serving a works notice, SEPA shall reasonably endeavour to consult every person who appears to it—
 - (a) to be the owner or occupier of any relevant land, and
 - (b) to be a person who might be required by subsection (2) above to grant, or join in granting, any rights,concerning the rights which that person may be so required to grant.
- (4) A works notice shall not be regarded as invalid, or as invalidly served, by reason only of any failure to comply with the requirements of subsection (3) above.
- (5) A person who grants, or joins in granting, any rights pursuant to subsection (2) above shall be entitled, on making an application within such period as may be prescribed and in such manner as may be prescribed to such person as may be prescribed, to be paid by the person on whom the works notice in question is served compensation of such amount as may be determined in such manner as may be prescribed.
- (6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5) above, regulations by virtue of that subsection may make such provision in relation to compensation under this section as may be made by regulations by virtue of subsection (4) of section 35A of the ^{M1}Environmental Protection Act 1990 in relation to compensation under that section.
- (7) In this section—
 - “relevant land” means—
 - (a) any land or waters in relation to which the works notice in question requires, or may require, operations to be carried out; or
 - (b) any land adjoining or adjacent to that land or those waters;
 - “works notice” means a works notice under section 46A of this Act.]

Textual Amendments

F9 Ss. 46A-46D inserted (1.4.2003 for S. in so far as not already in force, 1.1.2005 for E.W. for specified purposes, 1.4.2015 for S. for specified purposes) by [Environment Act 1995 \(c. 25\), s. 125\(3\), Sch. 22 para. 29\(22\)](#); [S.S.I. 2003/206, art. 2\(a\)](#); [S.I. 2006/934, art. 2](#); [S.S.I. 2015/73, art. 2\(1\)](#)

Marginal Citations

M1 1990 c. 43.

[^{F9}46C Appeals against works notices.

- (1) A person on whom a works notice is served may, within the period of twenty-one days beginning with the day on which the notice is served, appeal against the notice to the Secretary of State.
- (2) On any appeal under this section the Secretary of State—
 - (a) shall quash the notice, if he is satisfied that there is a material defect in the notice; but
 - (b) subject to that, may confirm the notice, with or without modification, or quash it.
- (3) The Secretary of State may by regulations make provision with respect to—

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- (a) the grounds on which appeals under this section may be made; or
 - (b) the procedure on any such appeal.
- (4) Regulations under subsection (3) above may (among other things)—
- (a) include provisions comparable to those in section 290 of the ^{M2}Public Health Act 1936 (appeals against notices requiring the execution of works);
 - (b) prescribe the cases in which a works notice is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;
 - (c) prescribe the cases in which the decision on an appeal may in some respects be less favourable to the appellant than the works notice against which he is appealing;
 - (d) prescribe the cases in which the appellant may claim that a works notice should have been served on some other person and prescribe the procedure to be followed in those cases;
 - (e) make provision as respects—
 - (i) the particulars to be included in the notice of appeal;
 - (ii) the persons on whom notice of appeal is to be served and the particulars, if any, which are to accompany the notice; or
 - (iii) the abandonment of an appeal.
- (5) In this section “ works notice ” means a works notice under section 46A of this Act.
- (6) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals).]

Textual Amendments

- F9** Ss. 46A-46D inserted (1.4.2003 for S. in so far as not already in force, 1.1.2005 for E.W. for specified purposes, 1.4.2015 for S. for specified purposes) by [Environment Act 1995 \(c. 25\), s. 125\(3\), Sch. 22 para. 29\(22\)](#); [S.S.I. 2003/206, art. 2\(a\)](#); [S.I. 2006/934, art. 2](#); [S.S.I. 2015/73, art. 2\(1\)](#)

Modifications etc. (not altering text)

- C2** Power to delegate functions conferred (1.4.1996) by [1995 c. 25, s. 114\(2\)\(a\)\(i\)](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186, art. 3](#)

Marginal Citations

- M2** [1936 c. 49.](#)

[^{F9}46D Consequences of not complying with a works notice.

- (1) If a person on whom SEPA serves a works notice fails to comply with any of the requirements of the notice, he shall be guilty of an offence.
- (2) A person who commits an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding [^{F10}£40,000] or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

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- (3) If a person on whom a works notice has been served fails to comply with any of the requirements of the notice, SEPA may do what that person was required to do and may recover from him any costs or expenses reasonably incurred by SEPA in doing it.
- (4) If SEPA is of the opinion that proceedings for an offence under subsection (1) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of a works notice, SEPA may take proceedings in any court of competent jurisdiction for the purpose of securing compliance with the notice.
- (5) In this section “ works notice ” means a works notice under section 46A of this Act.]

Textual Amendments

- F9** Ss. 46A-46D inserted (1.4.2003 for S. in so far as not already in force, 1.1.2005 for E.W. for specified purposes, 1.4.2015 for S. for specified purposes) by [Environment Act 1995 \(c. 25\), s. 125\(3\), Sch. 22 para. 29\(22\)](#); [S.S.I. 2003/206, art. 2\(a\)](#); [S.I. 2006/934, art. 2](#); [S.S.I. 2015/73, art. 2\(1\)](#)
- F10** Word in s. 46D(2)(a) substituted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\), s. 145\(2\), Sch. 2 para. 2\(3\)](#); [S.S.I. 2004/420, art. 3, Sch. 1](#)

[^{F11}47 Duty of water authorities to deal with waste from vessels etc.

- (1) It shall be the duty of each water authority—
 - (a) to arrange for the collection and disposal of waste from vessels ^{F12} . which appears to ^{F13}[SEPA] to need collection in consequence of the provisions of section 33 of this Act; and
 - (b) to arrange for the provision of facilities for the washing out of prescribed appliances from vessels. . . ^{F12}
- (2) A water authority may arrange for the provision of facilities by way of water closets, urinals and wash basins for the use of persons from vessels. . . ^{F12}
- (3) A port health authority shall have power to make arrangements with a water authority for the purposes of any of the preceding provisions of this section.

Textual Amendments

- F11** 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)
- F12** Words in s. 47(1)(a)(2) repealed (1.4.1996) by [1995 c. 25, s. 120\(1\)\(3\), Sch. 22 para. 29\(23\), Sch. 24](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F13** Words in s. 47 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](#)

[^{F14}48 Power of water authorities to exclude unregistered vessels from rivers etc.

- (1) Where it appears to a water authority to be appropriate to do so for the purpose of preventing the pollution of streams. . . ^{F15}, ^{F16}[SEPA] may make byelaws providing that vessels shall not be on any such streams which are specified in the byelaws unless the vessels are registered by ^{F16}[SEPA] in accordance with the byelaws or are exempted by the byelaws from registration; and a person who causes or knowingly permits a vessel to be on a stream in contravention of byelaws made by virtue of this subsection

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shall be guilty of an offence and liable on summary conviction to a fine not exceeding [F17£50][F17level 3 on the standard scale].

- (2) Byelaws made by a water authority in pursuance of the preceding subsection may authorise [F16SEPA] to make reasonable charges in respect of the registration of vessels in pursuance of the byelaws; and no charges shall be payable, by persons in or from vessels registered by [F16SEPA] in pursuance of the byelaws, in respect of the use by those persons of facilities provided in pursuance of the preceding section by or by arrangement with [F16SEPA].

Textual Amendments

- F14** S. 48 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)
- F15** Words in s. 48(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 29(1)(24), **Sch. 24** (with ss. 17(6), 15, 117); S.I. 1996/186, **art. 3**
- F16** Words in s. 48(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**
- F17** Words “level 3 on the standard scale” substituted (11.4.1983) for words “£50” 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**)

[F1849 Deposits and vegetation in rivers etc.

- (1) If without the consent of the relevant [F19SEPA], which shall not be unreasonably withheld,—
- (a) a person removes from any part of the bottom, channel or bed of any inland waters a deposit accumulated by reason of any dam, weir or sluice holding back the waters and does so by causing the deposit to be carried away in suspension in the waters; or
 - (b) any substantial amount of vegetation cut or uprooted in any inland waters, or so near to any such waters that it falls into it, is allowed to remain in the waters by the wilful default of any person,
- then, subject to the following subsection, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) Nothing in paragraph (a) of the preceding subsection applies to anything done in the exercise of statutory powers conferred by or under any enactment relating to land drainage, flood prevention or navigation.
- (3) Regulations may provide that any reference to inland waters in subsection (1) of this section shall be construed as including a reference to such coastal waters as are prescribed for the purposes of that subsection.
- (4) Any question as to whether the consent of [F19SEPA] in pursuance of subsection (1) of this section is unreasonably withheld shall be determined by the Secretary of State; and any consent given in pursuance of section 24 of the Rivers (Prevention of Pollution) (Scotland) Act ^{M3}1951 (which is superseded by this section) shall be treated for the purposes of this section as given in pursuance of this section.
- [F20(5) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals).]

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Textual Amendments

- F18** S. 49 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**
- F19** Words in s. 49 substituted (S.) (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**
- F20** S. 49(5) added (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(25)** (with ss. 7(6), 115, 117);, S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

- C3** S. 49(4): power to delegate functions conferred (1.4.1996) by 1995 c. 25, s. **114(3)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

- M3** [1951 c.64\(46:4\)](#).

[^{F21} 49A Enforcement notices as respects discharge consents.

- (1) If SEPA is of the opinion that the holder of a relevant consent is contravening any condition of the consent, or is likely to contravene any such condition, it may serve on him a notice (an “ enforcement notice ”).
- (2) An enforcement notice shall—
 - (a) state that SEPA is of the said opinion;
 - (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise;
 - (c) specify the steps that must be taken to remedy the contravention or, as the case may be, to remedy the matters making it likely that the contravention will arise; and
 - (d) specify the period within which those steps must be taken.
- (3) Any person who fails to comply with any requirement imposed by an enforcement notice shall be guilty of an offence and liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding [^{F22}£40,000] or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) If SEPA is of the opinion that proceedings for an offence under subsection (3) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice, SEPA may take proceedings in any court of competent jurisdiction for the purpose of securing compliance with the notice.
- (5) The Secretary of State may, if he thinks fit in relation to any person, give to SEPA directions as to whether it should exercise its powers under this section and as to the steps which must be taken.
- (6) In this section—

“ relevant consent ” means a consent for the purposes of section 30J(7)(a), 34 or 49(1) of this Act; and

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“ the holder ”, in relation to a relevant consent, is the person who has the consent in question.]

Textual Amendments

- F21** Ss. 49A and 49B inserted (S.) (1.1.2001) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(26)** (with ss. 7(6), 115, 117); S.S.I. 2000/433, **art. 2**
- F22** Word in s. 49A(3)(a) substituted (28.10.2004) by **Antisocial Behaviour etc. (Scotland) Act 2004** (asp 8), s. 145(2), **Sch. 2 para. 2(4)**; S.S.I. 2004/420, art. 3, Sch. 1

[^{F23}49B Appeals against enforcement notices.

- (1) A person upon whom an enforcement notice has been served under section 49A of this Act may appeal to the Secretary of State.
- (2) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc.).
- (3) An appeal under this section shall, if and to the extent a requirement to do so is prescribed, be advertised in the manner prescribed.
- (4) If either party to the appeal so requests or the Secretary of State so decides, an appeal shall be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held, or held to any extent, in private).
- (5) On the determination of an appeal under this section, the Secretary of State may either quash or affirm the enforcement notice and, if he affirms it, may do so either in its original form or with such modifications as he may in the circumstances think fit.
- (6) The bringing of an appeal under this section shall not have the effect of suspending the operation of the notice appealed against.
- (7) The period within which and the manner in which appeals under this section are to be brought and the manner in which they are to be considered shall be as prescribed.]

Textual Amendments

- F23** Ss. 49A and 49B inserted (S.) (1.1.2001) by 1995 c. 25, s. 120(1), **Sch. 22 para. 29(26)** (with ss. 7(6), 115, 117); S.S.I. 2000/433, **art. 2**

Modifications etc. (not altering text)

- C4** S. 49B: power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[^{F24}50] Investigation of water pollution problems arising from closure of mines.

[^{F25}SEPA] shall have power to carry out studies for the purpose of ascertaining—

- (a) what problems relating to the pollution of controlled waters may arise or have arisen in consequence of the abandonment of any mine. . . ^{F26} or might arise if any such mine were abandoned; and

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- (b) what steps are likely to be appropriate for the purpose of dealing with the problems and what the cost of taking those steps would be.

Textual Amendments

- F24** S. 50 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**
- F25** Words in s. 50(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](#)
- F26** Words in s. 50 repealed (S.) (1.4.1996) by [1995 c. 25, s. 120\(1\)\(3\)](#), Sch. 22 para. 29(27), **Sch. 24** (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

[^{F27}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—
- giving practical guidance to persons engaged in agriculture with respect to activities that may affect controlled waters; and
 - 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 [^{F28}a river purification 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

- F27** 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
- F28** 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)

- C5** S. 51 extended by [S.I. 1985/708, art. 3, Sch. 1](#)

[^{F29}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 ^{M4}Water Act 1973 (which among

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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 ^{M5}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 ^{M6}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.]

Textual Amendments

F29 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

- M4** 1973 c. 37.
- M5** 1937 c. 40.
- M6** 1961 c. 64.

^{F30}**53**

Textual Amendments

F30 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**

^{F31}**54**

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Textual Amendments

F31 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**

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