



Control of Pollution Act 1974

1974 CHAPTER 40

PART V

SUPPLEMENTARY PROVISIONS

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—
 - (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,

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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—
- (a) in subsection (1), any reference to this Act shall include a reference to the Rivers (Prevention of Pollution)^{M1}(Scotland) Act 1951;
 - (b) Any reference to a justice of the peace shall include a reference to the sheriff.

Modifications etc. (not altering text)

- C1** 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](#)
- C2** [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](#)

Marginal Citations

- M1** [1951 c. 66.](#)

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

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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 [^{F1}£100][^{F1}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

- F1** 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)

- C3** 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](#)
- C4** S. 92 extended (20.9.2000) by [2000 c. vii](#), [ss. 1\(1\)](#), 18
- C5** 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](#)
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](#)

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.
- (3) A person who—

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- (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 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 [^{F2}£400][^{F2}level 5 on the standard scale].

- (4) In the application of this section to Scotland, in subsection (1) the reference to this Act shall include a reference to the ^{M2}Rivers (Prevention of Pollution) (Scotland) Act 1951.

Textual Amendments

F2 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)

C6 [S. 93](#): certain functions transferred (7.8.1991) by [S.I. 1991/1773](#), art. 8(1)(3), [Sch. 2](#)
[S. 93](#) modified (7.8.1991) by [S.I. 1991/1773](#), art. 8(2)(3), [Sch. 2](#)

Marginal Citations

M2 [1951 c. 66](#).

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 [^{F3}£400][^{F3}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.
- (3) In the application of this section to Scotland, in subsection (1) the reference to this Act shall include a reference to the ^{M3}Rivers (Prevention of Pollution) (Scotland) Act 1951.

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Textual Amendments

- F3** 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)

- C7** [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**

Marginal Citations

- M3** [1951 c. 66](#).

[^{F4}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

- F4** [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 or noise at any place.
- (2) Subsections (2) to (5) of section 250 of the ^{M4}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 [^{F5}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 ^{M5}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 but as if the reference to a local authority in subsection (7) included a reference to a river purification authority.

Textual Amendments

- F5** 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**

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- (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)

- C8** 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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- C9** 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**

98 Interpretation of Part V.

In this Part of this Act—

“functions” includes powers and duties; and

“relevant authority” means—

- (a) in England and Wales, the Secretary of State, [^{F6}a water authority], a county council, . . . ^{F7}, 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 [^{F8}and, for the purposes of sections 91 to 93 of this Act, a sewerage undertaker]; and
- (b) in Scotland, the Secretary of State, a river purification authority, an islands council or a district council.

Textual Amendments

- F6** 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**
- F7** Words repealed by [Local Government Act 1985](#) (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F8** 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**

Modifications etc. (not altering text)

- C10** [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”
- C11** [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**

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