



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### PART VI

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **99 Alteration of penalties**

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).

#### **100 Power to prohibit or restrict the importation and use etc of injurious substances**

- (1) The Secretary of State may by regulations prohibit or restrict—
- (a) the importation into and the landing and unloading in the United Kingdom ; or
  - (b) the use in connection with any trade or business or manufacturing process; or
  - (c) the supply for any purpose,
- of any substance specified in the regulations (whether natural or artificial and whether in a solid or liquid or other form) if he considers it appropriate to do so for the purpose of preventing the substance from causing damage to persons, animals or plants or pollution of air, water or land.
- (2) It shall be the duty of the Secretary of State before he makes any regulations in pursuance of the preceding subsection—
- (a) to consult persons appearing to him to represent persons whose activities are likely to be prohibited or restricted by the proposed regulations ; and
  - (b) to publish in the London Gazette, and in any other publication which he considers appropriate, a notice indicating the effect of the proposed regulations and specifying—

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- (i) the date on which it is proposed that the regulations should come into force, and
  - (ii) a place where a draft of the proposed regulations may be inspected free of charge by members of the public during office hours, and
  - (iii) a period of not less than fourteen days, beginning with the date on which the notice is first published, during which representations in writing may be made to the Secretary of State about the proposed regulations; and
- (c) to consider any representations which are made to him in accordance with the notice.
- (3) The preceding subsection shall have effect in its application to Northern Ireland as if for the reference to the London Gazette there were substituted a reference to the Belfast Gazette.
- (4) The Secretary of State may, after performing the duty imposed on him by subsection (2) of this section with respect to any proposed regulations, make the regulations either—
- (a) in the form of the draft mentioned in subsection (2)(2)(ii) of this section ; or
  - (b) in that form with such modifications as he considers appropriate;
- but the Secretary of State shall not make any regulations by virtue of paragraph (b) of this subsection unless he is of opinion that it is appropriate for the requirements of subsection (2) of this section to be disregarded in relation to the regulations.
- (5) Regulations made in pursuance of this section may provide that a person who contravenes a specified provision of the regulations shall be guilty of an offence and may prescribe 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); but no proceedings for an offence against the regulations shall be brought in England and Wales except by or with the consent of the Director of Public Prosecutions.

#### **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.

### **103 Adaption of enactments to metric units**

- (1) The Secretary of State may by regulations amend—
  - (a) any provision of the Alkali Act or the Clean Air Acts 1956 and 1968 ; or
  - (b) any provision of an instrument made or having effect under any of those Acts, by substituting an amount expressed in metric units for an amount not so expressed.
- (2) Any amendments made in pursuance of the preceding subsection shall be such as to preserve the effect of the provisions mentioned in that subsection except to such extent as in the opinion of the Secretary of State is necessary to obtain amounts expressed in convenient and suitable terms.

#### *General*

### **104 Orders and regulations**

- (1) Any power conferred by this Act (except sections 59, 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
  - (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 section 33(4), 44(5), 52, 53 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 or 53 of this Act unless a draft of the regulations or order has been approved by a resolution of each House of Parliament.
- (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;

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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.

## 105 Interpretation etc-general

### (1) In this Act—

" the Alkali Act " means the Alkali, &c. Works Regulation Act 1906;

" county " and " district ", except in relation to Scotland, have the same meanings as in the Local Government Act 1972;

" mine " and " quarry " have the same meanings as in the 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;

" 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 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 Hovercraft Act 1968.

### (2) Except so far as this Act expressly provides otherwise and subject to the provisions of section 33 of the Interpretation Act 1889 (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 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 subsection (7) of section 266 of the Town and Country Planning Act 1971 or, in relation to Scotland, subsection (7)

of section 253 of the Town and Country Planning (Scotland) Act 1972 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.

## **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.
- (2) For any reference in this Act to a water authority there shall, unless the contrary intention appears, be substituted a reference to a river purification authority; and the reference in this subsection, and any reference in any other provision of this Act, to a river purification authority is a reference to a river purification authority within the meaning of the Rivers (Prevention of Pollution) (Scotland) Act 1951.
- (3) In this Act " region ", " district ", " regional council ", " islands council " and " district council " have respectively the same meanings as in the Local Government (Scotland) Act 1973.
- (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.
- (7) For any reference in this Act to a port health authority there shall be substituted a reference to a port local authority constituted under Part X of the Public Health (Scotland) Act 1897.
- (8) For any reference in this Act to the London Gazette there shall be substituted a reference to the Edinburgh Gazette.
- (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.

## **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.

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### **108 Minor and consequential amendments of enactments, and repeals**

- (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).
- (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.

### **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 75, 77, 100 and 101 and this section, does not extend to Northern Ireland.